

**Laws = New Jersey  
2005**

**New Jersey State Library**



**ACTS**  
OF THE  
**Second Annual Session**  
OF THE  
**Two Hundred and Eleventh Legislature**  
OF THE  
STATE OF NEW JERSEY



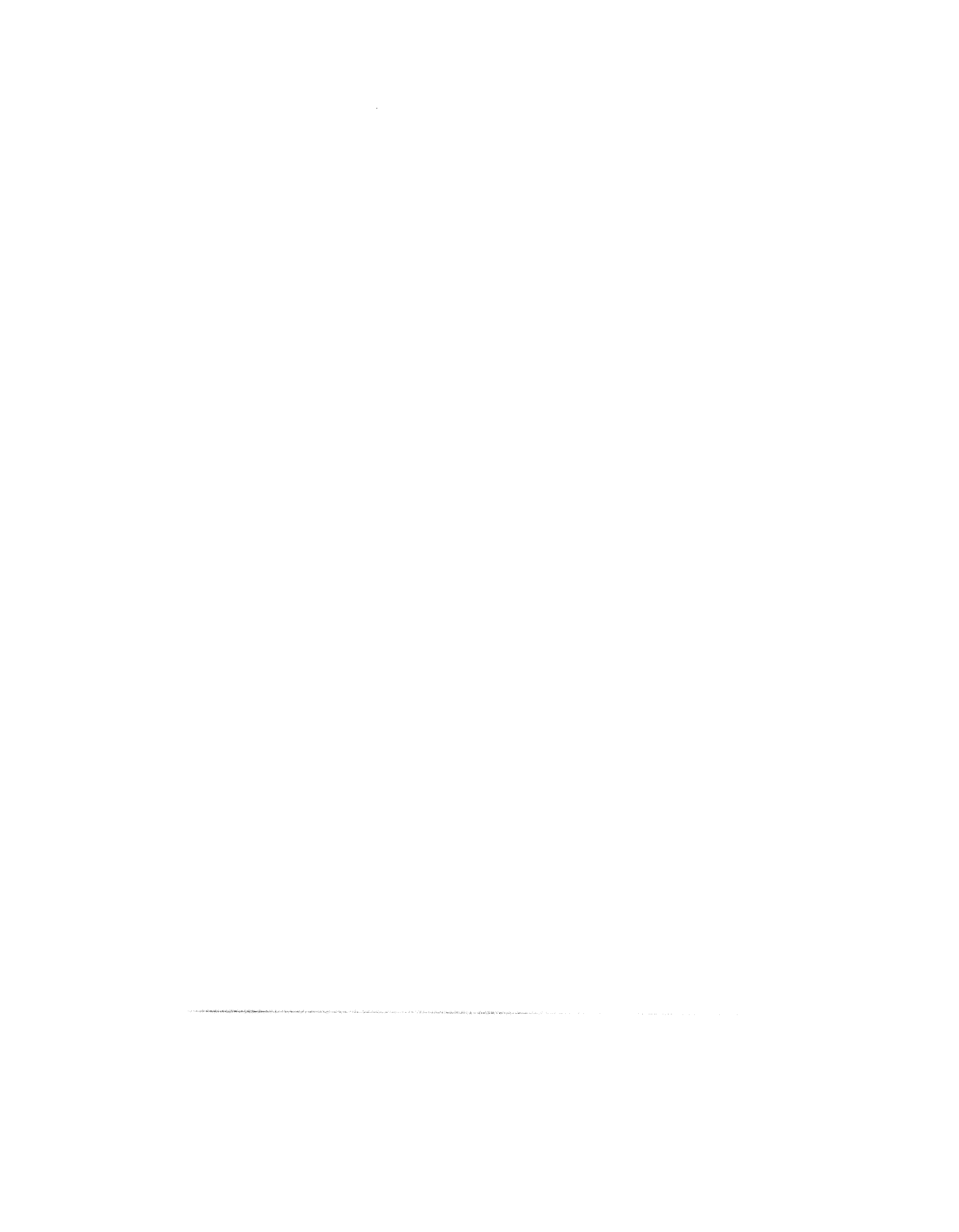
**2005**

**New Jersey State Library**



The following laws, enacted by the Second Annual Session of the Two Hundred and Eleventh Legislature, and an index of the laws are published in accordance with R.S. 1:3-1 et seq.

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<sup>1</sup>Resigned 9/8/05

<sup>2</sup>Sworn in 11/10/05 after 11/8/05  
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DAVID C. RUSSO

<sup>1</sup>Died 10/17/05.

<sup>2</sup>Sworn in 12/12/05.

<sup>3</sup>Resigned 1/9/06.

<sup>4</sup>Resigned 11/10/05.



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# LAWS

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# ACTS

ENACTED BY THE

## Second Annual Session

OF THE

## Two Hundred and Eleventh Legislature

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### CHAPTER 1

AN ACT concerning luring or enticing another 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:13-7 Luring, enticing an adult, certain circumstances, third degree crime.**

1. A person commits a crime of the third degree if he attempts, via electronic or any other means, to lure or entice a person into a motor vehicle, structure or isolated area, or to meet or appear at any place, with a purpose to commit a criminal offense with or against the person lured or enticed or against any other person.

"Electronic means" as used in this section includes, but is not limited to, the Internet. "Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks. "Structure" shall have the meaning set forth in P.L.1993, c.291 (C.2C:13-6).

Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for attempted kidnapping under the provisions of N.J.S.2C:13-1 or for any other crime or offense.

Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a conviction under this section shall not merge with a conviction of any other criminal offense, nor shall such other conviction merge with a conviction under this section, and the court shall impose separate sentences upon each violation of this section and any other criminal offense. The court may not suspend or make any other non-custodial disposition of any person sentenced pursuant to this section.

2. This act shall take effect immediately.

Approved January 18, 2005.

## CHAPTER 2

AN ACT concerning assault and amending N.J.S.2C:12-1.

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

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

**Assault.**

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

- (1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or
  - (2) Negligently causes bodily injury to another with a deadly weapon;
- or
- (3) Attempts by physical menace to put another in fear of imminent serious bodily injury.

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

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

- (1) Attempts to cause serious bodily injury to another, or causes such injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury; or
- (2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or
- (3) Recklessly causes bodily injury to another with a deadly weapon; or
- (4) Knowingly under circumstances manifesting extreme indifference to the value of human life points a firearm, as defined in section 2C:39-1f., at or in the direction of another, whether or not the actor believes it to be loaded; or

(5) Commits a simple assault as defined in subsection a. (1), (2) or (3) of this section upon:

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

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

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



identifiable as being engaged in the performance of emergency first-aid or medical services; or

(d) Any school board member, school administrator, teacher, school bus driver or other employee of a school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a member or employee of a school board or any school bus driver employed by an operator under contract to a school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a school bus driver; or

(e) Any employee of the Division of Youth and Family Services while clearly identifiable as being engaged in the performance of his duties or because of his status as an employee of the division; or

(f) Any justice of the Supreme Court, judge of the Superior Court, judge of the Tax Court or municipal judge while clearly identifiable as being engaged in the performance of judicial duties or because of his status as a member of the judiciary; or

(g) Any operator of a motorbus or the operator's supervisor or any employee of a rail passenger service while clearly identifiable as being engaged in the performance of his duties or because of his status as an operator of a motorbus or as the operator's supervisor or as an employee of a rail passenger service; or

(h) Any Department of Corrections employee, county corrections officer, juvenile corrections officer, State juvenile facility employee, juvenile detention staff member, juvenile detention officer, probation officer or any sheriff, undersheriff, or sheriff's officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority; or

(i) Any employee, including any person employed under contract, of a utility company as defined in section 2 of P.L.1971, c.224 (C.2A:42-86) or a cable television company subject to the provisions of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in the performance of his duties in regard to connecting, disconnecting or repairing or attempting to connect, disconnect or repair any gas, electric or water utility, or cable television or telecommunication service; or

(6) Causes bodily injury to another person while fleeing or attempting to elude a law enforcement officer in violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this subsection upon proof of a violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10 which resulted in bodily injury to another person; or

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

(8) Causes bodily injury by knowingly or purposely starting a fire or causing an explosion in violation of N.J.S.2C:17-1 which results in bodily injury to any emergency services personnel involved in fire suppression activities, rendering emergency medical services resulting from the fire or explosion or rescue operations, or rendering any necessary assistance at the scene of the fire or explosion, including any bodily injury sustained while responding to the scene of a reported fire or explosion. For purposes of this subsection, "emergency services personnel" shall include, but not be limited to, any paid or volunteer fireman, any person engaged in emergency first-aid or medical services and any law enforcement officer. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this paragraph upon proof of a violation of N.J.S.2C:17-1 which resulted in bodily injury to any emergency services personnel; or

(9) Knowingly, under circumstances manifesting extreme indifference to the value of human life, points or displays a firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer; or

(10) Knowingly points, displays or uses an imitation firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer with the purpose to intimidate, threaten or attempt to put the officer in fear of bodily injury or for any unlawful purpose; or

(11) Uses or activates a laser sighting system or device, or a system or device which, in the manner used, would cause a reasonable person to believe that it is a laser sighting system or device, against a law enforcement officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority. As used in this paragraph, "laser sighting system or device" means any system or device that is integrated with or affixed to a firearm and emits a laser light beam that is used to assist in the sight alignment or aiming of the firearm.

Aggravated assault under subsections b. (1) and b. (6) is a crime of the second degree; under subsections b. (2), b. (7), b. (9) and b. (10) is a crime of the third degree; under subsections b. (3) and b. (4) is a crime of the fourth degree; and under subsection b. (5) is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree. Aggravated assault under subsection b.(8) is a crime of the third degree if the victim suffers bodily injury; if the victim suffers significant bodily injury or serious bodily injury it is a crime of the second degree. Aggravated assault under subsection b.(11) is a crime of the third degree.

c. (1) A person is guilty of assault by auto or vessel when the person drives a vehicle or vessel recklessly and causes either serious bodily injury or bodily injury to another. Assault by auto or vessel is a crime of the fourth degree if serious bodily injury results and is a disorderly persons offense if bodily injury results.

(2) Assault by auto or vessel is a crime of the third degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily injury results and is a crime of the fourth degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

(3) Assault by auto or vessel is a crime of the second degree if serious bodily injury results from the defendant operating the auto or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

(a) on any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 1,000 feet of such school property;

(b) driving through a school crossing as defined in R.S.39:1-1 if the municipality, by ordinance or resolution, has designated the school crossing as such; or

(c) driving through a school crossing as defined in R.S.39:1-1 knowing that juveniles are present if the municipality has not designated the school crossing as such by ordinance or resolution.

Assault by auto or vessel is a crime of the third degree if bodily injury results from the defendant operating the auto or vessel in violation of this paragraph.

A map or true copy of a map depicting the location and boundaries of the area on or within 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under subparagraph (a) of paragraph (3) of this section.

It shall be no defense to a prosecution for a violation of subparagraph (a) or (b) of paragraph (3) of this subsection that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be a defense to a prosecution under subparagraph (a) or (b) of paragraph (3) of this subsection that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.

As used in this section, "vessel" means a means of conveyance for travel on water and propelled otherwise than by muscular power.

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

e. (Deleted by amendment, P.L.2001, c.443).

f. A person who commits a simple assault as defined in paragraph (1), (2) or (3) of subsection a. of this section in the presence of a child under 16 years of age at a school or community sponsored youth sports event is guilty of a crime of the fourth degree. The defendant shall be strictly liable upon proof that the offense occurred, in fact, in the presence of a child under 16 years of age. It shall not be a defense that the defendant did not know that the child was present or reasonably believed that the child was 16 years of age or older. The provisions of this subsection shall not be construed to create any liability on the part of a participant in a youth sports event or to abrogate any immunity or defense available to a participant in a youth sports event. As used in this act, "school or community sponsored youth sports event" means a competition, practice or instructional event involving one or more interscholastic sports teams or youth sports teams organized pursuant to a nonprofit or similar charter or which are member teams in a youth league organized by or affiliated with a county or municipal recreation department and shall not include collegiate, semi-professional or professional sporting events.

2. This act shall take effect immediately.

Approved January 19, 2005.

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### CHAPTER 3

AN ACT concerning hazardous materials emergency response, and amending and supplementing P.L.1977, c.443 (C.26:3A2-21 et seq.).

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

1. Section 2 of P.L.1977, c.443 (C.26:3A2-22) is amended to read as follows:

**C.26:3A2-22 Findings, declarations relative to hazardous materials emergency response.**

2. The Legislature finds that environmental health programs for the control of air pollution, solid waste, hazardous waste, noise, pesticides,

radiation, and water pollution and to protect workers and the public from hazardous substances and toxic catastrophes are inherently regional in nature and that the existing county health departments have experience administering environmental health programs on a regional basis and that they are among the most efficient health units in the State.

The Legislature declares that it is the policy of this State to provide for the administration of environmental health services by county departments of health throughout the State in a manner which is consistent with certain overall performance standards to be promulgated by the Department of Environmental Protection. The environmental health services shall include the monitoring and enforcement of environmental health standards, the operation of a technical resource center and the enactment and enforcement of environmental health ordinances to control air pollution, solid waste, hazardous waste, noise, pesticides, radiation, and water pollution, to protect workers and the public from hazardous substances and toxic catastrophes, and to protect against other threats to environmental health.

The Legislature further declares that the burdens placed upon the existing system of emergency and hazardous materials response programs require the implementation of measures to improve the coordination between the Department of Environmental Protection, the Department of Health and Senior Services, the State Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety, and county health departments in order to provide comprehensive Statewide planning and supervision of all emergency management emergency response activities by these departments, and to provide for the Statewide standardization of the necessary and appropriate levels of planning, training, exercising, and equipment availability and usage for each county for the protection of the public health and the environment, and to properly prepare to respond to a terrorist incident involving chemical, biological, radiological, nuclear, or explosive weapons.

**C.26:3A2-36 Plan for standardization, coordination of hazardous materials emergency response programs.**

2. a. The Department of Environmental Protection, with the concurrence of the Department of Health and Senior Services and the State Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety, shall develop a comprehensive plan for the standardization and coordination of county hazardous material response programs to effectively address all incidents involving hazardous materials, including, but not limited to, chemical, biological, radiological, nuclear, or explosive incidents.

The plan shall include procedures for State, county, and local response to incidents involving hazardous materials, including, but not limited to, chemical, biological, radiological, nuclear, or explosive incidents, and planning, training, exercising, and equipment requirements designed to assure that local responders have the capacity, competency and capability to protect the public from exposure to those materials, and shall include the adoption of environmental health performance standards and standards of administrative procedures for county hazardous materials response.

b. The certified local health agency in each county shall develop, in consultation with their county office of emergency management, a comprehensive, coordinated county-wide emergency response program for incidents involving hazardous materials, including, but not limited to, chemical, biological, radiological, nuclear, or explosive incidents for the county that is consistent with the plan developed by the department pursuant to subsection a. of this section.

c. In any county in which there is no certified local health agency, the board of chosen freeholders shall designate a local health agency from the county to develop, in consultation with the county office of emergency management and the Department of Health and Senior Services, a comprehensive, coordinated county-wide emergency response program for incidents involving hazardous materials, including, but not limited to, chemical, biological, radiological, nuclear, or explosive incidents for the county that is consistent with the plan developed by the department pursuant to subsection a. of this section.

**C.26:3A2-37 Grants to local health agencies for hazardous materials emergency response programs.**

3. The Commissioner of Environmental Protection, in accordance with the rules and regulations adopted pursuant to section 4 of P.L.2005, c.3 (C.26:3A2-38), to the extent that State or federal funding is available for the purpose, shall make grants available to certified local health agencies, or local health agencies designated by the board of chosen freeholders, as appropriate, for the costs, including the costs of training, equipment and personnel, associated with developing and maintaining an emergency response program for incidents involving hazardous materials, including, but not limited to, chemical, biological, radiological, nuclear, or explosive incidents, that is consistent with the plan developed by the department pursuant to subsection a. of section 2 of P.L.2005, c.3 (C.26:3A2-36).

**C.26:3A2-38 Rules, regulations relative to grant awards, performance standards, interlocal agreements.**

4. a. The Department of Environmental Protection, with the concurrence of the Department of Health and Senior Services and the State Office of

Emergency Management in the Division of State Police in the Department of Law and Public Safety, and in consultation with representatives of certified local health agencies, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations that:

(1) establish criteria and procedures for the award of grants to certified local health agencies, or local health agencies, as appropriate, pursuant to section 3 of P.L.2005, c.3 (C.26:3A2-37);

(2) establish environmental health performance standards and standards of administrative procedures for county hazardous materials response for incidents involving hazardous materials, including, but not limited to, chemical, biological, radiological, nuclear, or explosive incidents; and

(3) establish criteria and procedures for the development of inter-local agreements to facilitate the creation of a Statewide mutual aid network for responding to incidents involving hazardous materials, including, but not limited to, chemical, biological, radiological, nuclear, or explosive incidents

b. Prior to the adoption of rules and regulations pursuant to subsection a. of this section, and notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Environmental Protection may, immediately upon filing the proper notice with the Office of Administrative Law, adopt such temporary rules and regulations as the commissioner determines are necessary to implement the provisions of P.L.2005, c.3 (C.26:3A2-36 et al.). The temporary rules and regulations shall be in effect for a period not to exceed 270 days after the date of the filing, except that in no case shall the temporary rules and regulations be in effect one year after the effective date of P.L.2005, c.3 (C.26:3A2-36 et al.). The temporary rules and regulations shall thereafter be amended, adopted or readopted by the commissioner as the commissioner determines is necessary in accordance with the requirements of the "Administrative Procedure Act."

5. This act shall take effect immediately.

Approved January 19, 2005.

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#### CHAPTER 4

AN ACT concerning liability for contaminated property, supplementing P.L.1976, c.141 (C.58:10-23.11 et seq.), and amending P.L.1997, c.278 and P.L.2001, c.154.

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

**C.58:10-23.11f22 Owners of certain contaminated real property, immunity from liability.**

1. a. The provisions of any other law, or any rule or regulation adopted pursuant thereto to the contrary notwithstanding, a person, who owns real property acquired on or after the effective date of P.L.1997, c.278 (C.58:10B-1.1 et al.), shall not be liable for the payment of compensation for damage to, or the loss of, natural resources, or for the restoration of natural resources on or off the property in connection with the discharge of a hazardous substance at the property, pursuant to any statutory or civil common law, to any person, or to the State, provided that:

(1) the person acquired the real property after the discharge of that hazardous substance at the real property;

(2) the person did not discharge the hazardous substance, is not in any way responsible for the hazardous substance, and is not a corporate successor to the discharger or to any person in any way responsible for the hazardous substance or to anyone liable for cleanup and removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g); and

(3) the person has not, by contract, using the term of art "natural resource damages," expressly assumed the liability for the payment of compensation for damage to, or loss of, natural resources, or for the restoration of natural resources, that were injured by a discharge of a hazardous substance at the property.

b. The provisions of any other law, or any rule or regulation adopted pursuant thereto to the contrary notwithstanding, a person, who owns real property acquired on or after the effective date of P.L.1997, c.278 (C.58:10B-1.1 et al.), shall not be liable for cleanup and removal costs for the discharge of a hazardous substance that has migrated from the property provided that:

(1) the person acquired the real property after the discharge of that hazardous substance at the real property;

(2) the person did not discharge the hazardous substance, is not in any way responsible for the hazardous substance, and is not a corporate successor to the discharger or to any person in any way responsible for the hazardous substance or to anyone liable for cleanup and removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g);

(3) the person can demonstrate through the performance of a remedial investigation that the contamination identified on nearby or adjoining property, which is similar or identical to contamination on the property, originates from more than one source;



(4) the person can demonstrate through the performance of a remedial investigation that a remedial action for the contamination off the property is not necessary to limit the risk to the public health and the environment from that contamination; and

(5) the person has not, by contract, voluntarily assumed the liability from the person liable for cleanup and removal costs, for addressing the risks to public health and the environment from a discharge of a hazardous substance on the property that has migrated from the property prior to that person's acquisition of the property.

Only the person who is liable to clean up and remove the contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g) and who does not have a defense to liability pursuant to subsection d. of that section shall be liable for any additional remediation costs or cleanup and removal costs necessary.

2. Section 5 of P.L.2001, c.154 (C.58:10B-17.1) is amended to read as follows:

**C.58:10B-17.1 Commencement of civil action within three years, limitations provision; definitions.**

5. a. (1) Except where a limitations provision expressly and specifically applies to actions commenced by the State or where a longer limitations period would otherwise apply, and subject to any statutory provisions or common law rules extending limitations periods, any civil action concerning the remediation of a contaminated site or the closure of a sanitary landfill facility commenced by the State pursuant to the State's environmental laws shall be commenced within three years next after the cause of action shall have accrued.

(2) For purposes of determining whether a civil action subject to the limitations periods specified in paragraph (1) of this subsection has been commenced within time, no cause of action shall be deemed to have accrued prior to January 1, 2002 or until the contaminated site is remediated or the sanitary landfill has been properly closed, whichever is later.

b. (1) Except where a limitations provision expressly and specifically applies to actions commenced by the State or where a longer limitations period would otherwise apply, and subject to any statutory provisions or common law rules extending limitations periods, any civil action concerning the payment of compensation for damage to, or loss of, natural resources due to the discharge of a hazardous substance, commenced by the State pursuant to the State's environmental laws, shall be commenced within four years next after the cause of action shall have accrued.

(2) For purposes of determining whether a civil action subject to the limitations periods specified in paragraph (1) of this subsection has been commenced within time, no cause of action shall be deemed to have accrued prior to January 1, 2002 or until the completion of the remedial investigation of the contaminated site or the sanitary landfill facility, whichever is later.

c. As used in this section:

"State's environmental laws" means the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21 et seq.), the "Brownfield and Contaminated Site Remediation Act," P.L.1997, c.278 (C.58:10B-1.1 et al.), the "Industrial Site Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 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 "Regional Low-Level Radioactive Waste Disposal Facility Siting Act," P.L.1987, c.333 (C.13:1E-177 et seq.), or any other law or regulation by which the State may compel a person to perform remediation activities on contaminated property; and

"State" means the State, its political subdivisions, any office, department, division, bureau, board, commission or agency of the State or one of its political subdivisions, and any public authority or public agency, including, but not limited to, the New Jersey Transit Corporation and the University of Medicine and Dentistry of New Jersey.

3. Section 6 of P.L.1997, c.278 (C.58:10B-13.1) is amended to read as follows:

**C.58:10B-13.1 No further action letter; covenant not to sue.**

6. a. Whenever after the effective date of P.L.1997, c.278 (C.58:10B-1.1 et al.) the Department of Environmental Protection issues a no further action letter pursuant to a remediation, it shall also issue to the person performing the remediation a covenant not to sue with respect to the real property upon which the remediation has been conducted. A covenant not to sue shall be executed by the person performing the remediation and by the department in order to become effective. The covenant not to sue shall be consistent with any conditions and limitations contained in the no further action letter. The covenant not to sue shall be for any area of concern remediated and may apply to the entire real property if the remediation included a preliminary assessment and, if necessary, a site investigation of the entire real property,

and any other necessary remedial actions. The covenant remains effective only for as long as the real property for which the covenant was issued continues to meet the conditions of the no further action letter. Upon a finding by the department that real property or a portion thereof to which a covenant not to sue pertains, no longer meets with the conditions of the no further action letter, the department shall provide notice of that fact to the person responsible for maintaining compliance with the no further action letter. The department may allow the person a reasonable time to come into compliance with the terms of the original no further action letter. If the property does not meet the conditions of the no further action letter and if the department does not allow for a period of time to come into compliance or if the person fails to come into compliance within the time period, the department may invoke the provisions of the covenant not to sue permitting revocation of the covenant not to sue.

Except as provided in subsection e. of this section, a covenant not to sue shall contain the following, as applicable:

(1) a provision releasing the person who undertook the remediation from all civil liability to the State to perform any additional remediation, to pay compensation for damage to, or loss of, natural resources, for the restoration of natural resources in connection with the discharge on the property or for any cleanup and removal costs;

(2) for a remediation that involves the use of engineering or institutional controls:

(a) a provision requiring the person, or any subsequent owner, lessee, or operator during the person's period of ownership, tenancy, or operation, to maintain those controls, conduct periodic monitoring for compliance, and submit to the department, on a biennial basis, a certification that the engineering and institutional controls are being properly maintained and continue to be protective of public health and safety and of the environment. The certification shall state the underlying facts and shall include the results of any tests or procedures performed that support the certification; and

(b) a provision revoking the covenant if the engineering or institutional controls are not being maintained or are no longer in place; and

(3) for a remediation that involves the use of engineering controls but not for any remediation that involves the use of institutional controls only, a provision barring the person or persons whom the covenant not to sue benefits, from making a claim against the New Jersey Spill Compensation Fund and the Sanitary Landfill Facility Contingency Fund for any costs or damages relating to the real property and remediation covered by the covenant not to sue. The covenant not to sue shall not bar a claim by any person against the New Jersey Spill Compensation Fund and the Sanitary Landfill Contingency Fund for any remediation that involves only the use of institu-

tional controls if, after a valid no further action letter has been issued, the department orders additional remediation, except that the covenant shall bar such a claim if the department ordered additional remediation in order to remove the institutional control.

b. Unless a covenant not to sue issued under this section is revoked by the department, the covenant shall remain effective. The covenant not to sue shall apply to all successors in ownership of the property and to all persons who lease the property or who engage in operations on the property.

c. If a covenant not to sue is revoked, liability for any additional remediation shall not be applied retroactively to any person for whom the covenant remained in effect during that person's ownership, tenancy, or operation of the property.

d. A covenant not to sue and the protections it affords shall not apply to any discharge that occurs subsequent to the issuance of the no further action letter which was the basis of the issuance of the covenant, nor shall a covenant not to sue and the protections it affords relieve any person of the obligations to comply in the future with laws and regulations.

e. The covenant not to sue may be issued to any person who obtains a no further action letter as provided in subsection a. of this section. The covenant not to sue shall not provide relief from any liability, either under statutory or common law, to any person who is liable for cleanup and removal costs pursuant to subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), and who does not have a defense to liability pursuant to subsection d. of that section.

4. This act shall take effect immediately.

Approved January 19, 2005.

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## CHAPTER 5

AN ACT concerning continuing education for dental hygienists and amending P.L.1979, c.46.

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

1. Section 9 of P.L.1979, c.46 (C.45:6-56) is amended to read as follows:

**C.45:6-56 Requirement of continuing education.**

9. a. (1) Every two years, at the time of license renewal, each person licensed to practice dental hygiene in this State shall provide the board with

a certified statement, upon a form issued and distributed by the board, that such licensed person has attended, or participated in not less than 20 hours of continuing education in dental hygiene as follows: lectures or study club sessions dealing with clinical subjects, college post-graduate courses, scientific sessions of conventions, research on clinical subjects, service as a clinician or any other such evidence of continuing education which the board may approve.

(2) Every two years, at the time of registration renewal, each person registered as a registered dental assistant or limited registered dental assistant in this State shall provide the board with a certified statement, upon a form issued and distributed by the board, that such registered person has attended, or participated in not less than 10 hours of continuing education in dental assisting as follows: lectures or study club sessions dealing with clinical subjects, college post-graduate courses, scientific sessions of conventions, research on clinical subjects, service as a clinician or any other such evidence of continuing education which the board may approve.

b. The board shall notify each licensed or registered person of any failure to comply with this requirement, and shall further notify said person that upon continued failure to comply for a period of three months from the date of notice, the board may, at its discretion take action pursuant to section 11 of this act.

c. The board, in its discretion, may waive any of the requirements of this section in cases of certified illness or undue hardship to be determined on an individual basis.

2. This act shall take effect immediately.

Approved January 19, 2005.

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## CHAPTER 6

AN ACT concerning the retirement of administrative law judges and judges of compensation, amending P.L.1978, c.67 and R.S.34:15-49.

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

1. Section 4 of P.L.1978, c.67 (C.52:14F-4) is amended to read as follows:

**C.52:14F-4 Administrative law judges; appointment, terms; compensation; recall.**

4. Permanent administrative law judges shall be appointed by the Governor with the advice and consent of the Senate to initial terms of one year. During this initial term, each judge shall be subject to a program of evaluation as delineated in section 5 of P.L.1978, c.67 (C.52:14F-5). First reappointment of a judge after this initial term shall be by the Governor for a term of four years and until the appointment and qualification of the judge's successor.

Administrative law judges nominated by the Governor before July 1, 1981 shall, upon their confirmation by the Senate, serve for terms of five years and until the appointment and qualification of their successors.

Subsequent reappointments of a judge shall be by the Governor with the advice and consent of the Senate to terms of five years and until the appointment and qualification of the judge's successor. The advice and consent of the Senate, as provided in this section, shall be exercised within 45 days after a nomination for appointment has been submitted to the Senate, and if no action has been taken within the 45-day period, the nomination shall be deemed confirmed. This 45-day period shall not apply to any person nominated by the Governor for the position of administrative law judge prior to July 1, 1981.

The annual salary for an administrative law judge during the initial term of one year shall be equal to 75% of the annual salary of a Judge of the Superior Court. The annual salary for a judge during the first year of the first reappointment shall be increased to 78 2/3 % of the annual salary of a Judge of the Superior Court. Upon receipt of satisfactory annual evaluations, the annual salary for a judge shall be increased to 81 2/3 % of the annual salary of a Judge of the Superior Court for the second year of the first reappointment and to 85% of the annual salary of a Judge of the Superior Court for the third year of the first reappointment. The annual salary shall be 85% of the annual salary of a Judge of the Superior Court for the fourth year of the first reappointment and for each year of subsequent reappointments thereafter.

In addition to salary, an administrative law judge regularly assigned as an assignment judge shall receive \$2,500 annually as additional compensation, and a judge regularly assigned other administrative or supervisory duties shall receive \$1,500 annually as additional compensation.

All administrative law judges, including the Chief Administrative Law Judge, shall be retired upon attaining the age of 70 years, except that any administrative law judge who has retired on pension or retirement allowance may, with the judge's consent, be recalled by the Director/Chief Administrative Law Judge of the Office of Administrative Law for service as a recalled

judge in the Office of Administrative Law. No recalled judge shall serve beyond his 80th birthday.

Upon such recall the retired judge shall have all the powers of an administrative law judge and shall be paid a per diem allowance fixed by the Director/ Chief Administrative Law Judge. In addition the recalled judge shall be reimbursed for reasonable expenses actually incurred by him in connection with his assignment and shall be provided with such facilities as may be required in the performance of his duties. Such per diem compensation and expenses shall be paid by the State. Payment for services and expenses shall be made in the same manner as payment is made to the judges of the Office of Administrative Law from which he retired.

2. Section 5 of P.L.1978, c.67 (C.52:14F-5) is amended to read as follows:

**C.52:14F-5 Powers, duties of Director and Chief Administrative Law Judge.**

5. The Director and Chief Administrative Law Judge of the Office of Administrative Law shall:

- a. Administer and cause the work of the office to be performed in such manner and pursuant to such program as may be required or appropriate;
- b. Organize and reorganize the office, and establish such bureaus as may be required or appropriate;
- c. Except as otherwise provided in subsections l. and t., below, appoint, pursuant to the provisions of Title 11A of the New Jersey Statutes, such clerical assistants and other personnel as may be required for the conduct of the office;
- d. Assign and reassign personnel to employment within the office;
- e. Develop uniform standards, rules of evidence, and procedures, including but not limited to standards for determining whether a summary or plenary hearing should be held to regulate the conduct of contested cases and the rendering of administrative adjudications;
- f. Promulgate and enforce such rules for the prompt implementation and coordinated administration of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as may be required or appropriate;
- g. Administer and supervise the procedures relating to the conduct of contested cases and the making of administrative adjudications, as defined by section 2 of P.L.1968, c.410 (C.52:14B-2);
- h. Advise agencies concerning their obligations under the Administrative Procedure Act, subject to the provisions of subsections b. and e. of section 4 of P.L.1944, c.20 (C.52:17A-4);

i. Assist agencies in the preparation, consideration, publication and interpretation of administrative rules required or appropriate pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.);

j. Employ the services of the several agencies and of the employees thereof in such manner and to such extent as may be agreed upon by the director and the chief executive officer of such agency;

k. Have access to information concerning the several agencies to assure that they properly promulgate all rules required by law;

l. Assign permanent administrative law judges at supervisory and other levels who are qualified in the field of administrative law or in subject matter relating to the hearing functions of a State agency.

Administrative law judges shall receive such salaries as provided by section 4 of P.L.1978, c.67 (C.52:14F-4), as amended by P.L.1999, c.380, shall not engage in the practice of law and shall devote full time to their judicial duties.

Administrative law judges appointed after the effective date of this amendatory act shall have been attorneys-at-law of this State for a minimum of five years. An administrative law judge appointed prior to the effective date of this amendatory act shall not be required to be an attorney or, if an attorney, shall not be required to have been an attorney-at-law for five years in order to be reappointed;

m. Appoint additional administrative law judges, qualified in the field of administrative law or in a subject matter relating to the hearing functions of a State agency, on a temporary or case basis as may be necessary during emergency or unusual situations for the proper performance of the duties of the office, pursuant to a reasonable fee schedule established in advance by the director. Administrative law judges appointed pursuant to this procedure shall have the same qualifications for appointment as permanent administrative law judges;

n. Assign administrative law judges to conduct contested cases as required by sections 9 and 10 of P.L.1968, c.410 (C.52:14B-9 and 52:14B-10). Proceedings shall be scheduled for suitable locations, either at the offices of the Office of Administrative Law or elsewhere in the State, taking into consideration the convenience of the witnesses and parties, as well as the nature of the cases and proceedings;

o. Assign an administrative law judge or other personnel, if so requested by the head of an agency and if the director deems appropriate, to any agency to conduct or assist in administrative duties and proceedings other than those related to contested cases or administrative adjudications, including but not limited to rule-making and investigative hearings;

p. Assign an administrative law judge not engaged in the conduct of contested cases to perform other duties vested in or required of the office;



q. Secure, compile and maintain all reports of administrative law judges issued pursuant to this act, and such reference materials and supporting information as may be appropriate;

r. Develop and maintain a program for the continuing training and education of administrative law judges and agencies in regard to their responsibilities under this act;

s. Develop and implement a program of judicial evaluation to aid himself in the performance of his duties, and to assist in the making of reappointments under section 4 of P.L.1978, c.67 (C.52:14F-4). This program of evaluation shall focus on three areas of judicial performance: competence, productivity, and demeanor. It shall include consideration of: industry and promptness in adhering to schedules, making rulings and rendering decisions; tolerance, courtesy, patience, attentiveness, and self-control in dealing with litigants, witnesses and counsel, and in presiding over contested cases; legal skills and knowledge of the law and new legal developments; analytical talents and writing abilities; settlement skills; quantity, nature and quality of caseload disposition; impartiality and conscientiousness. The director shall develop standards and procedures for this program, which shall include taking comments from selected litigants and lawyers who have appeared before a judge. The methods used by the judge but not the result arrived at by the judge in any case may be used in evaluating a judge. Before implementing any action based on the findings of the evaluation program, the director shall discuss the findings and the proposed action with the affected judge. The evaluation by the director and supporting data shall be submitted to the Governor at least 90 days before the expiration of any term. These documents shall remain confidential and shall be exempted from the requirements of P.L.1963, c.73 (C.47:1A-1 et seq.);

t. Promulgate and enforce rules for reasonable sanctions, including assessments of costs and attorneys' fees which may be imposed on a party, and attorney or other representative of a party who, without just excuse, fails to comply with any procedural order or with any standard or rule applying to a contested case and including the imposition of a fine not to exceed \$1,000.00 for misconduct which obstructs or tends to obstruct the conduct of contested cases;

u. Have power in connection with contested case hearings (1) to administer oaths to any and all persons, (2) to compel by subpoena the attendance of witnesses and the production of books, records, accounts, papers, and documents of any person or persons, (3) to entertain objections to subpoenas, and (4) to rule upon objections to subpoenas except, that any orders of administrative law judges regarding these objections may be reviewed by the agency head before the completion of the contested case in accordance with procedural rules, adopted by the Director and Chief Admin-

istrative Law Judge of the Office of Administrative Law. Misconduct by any party, attorney or representative of a party or witness which obstructs or tends to obstruct the conduct of a contested case or the failure of any witness, when duly subpoenaed to attend, give testimony or produce any record, or the failure to pay any sanction assessed pursuant to subsection t. of this section, shall be punishable by the Superior Court in the same manner as such failure is punishable by such court in a case pending therein; and

v. Assign any judge recalled pursuant to section 4 of P.L.1978, c.67 (C.52:14F-4) and fix the per diem allowance.

3. R.S.34:15-49 is amended to read as follows:

**Jurisdiction of division; salaries, qualifications, tenure of judges, etc.**

34:15-49. a. The Division of Workers' Compensation shall have the exclusive original jurisdiction of all claims for workers' compensation benefits under this chapter. The judges of the Division of Workers' Compensation shall hereinafter be appointed on a bipartisan basis by the Governor, with the advice and consent of the Senate, to initial terms of three years at an annual salary, for the first year, in an amount equal to 75% of the annual salary of a Judge of the Superior Court. During the initial three-year term, each judge shall be subject to a program of evaluation developed by the Director of the Division of Workers' Compensation. Upon receipt of a satisfactory annual evaluation from the director, the annual salary of a nontenured judge shall be increased to 78 2/3% of the annual salary of a Judge of the Superior Court after one year; 81 2/3% of the annual salary of a Judge of the Superior Court after two years; and, after three years and upon tenure as provided pursuant to the provisions of this section, the annual salary of a tenured judge of compensation shall be 85% of the annual salary of a Judge of the Superior Court. Reappointment of a judge shall be by the Governor, with the advice and consent of the Senate. The director's evaluations shall be made available to the Senate Judiciary Committee if the candidate has been renominated by the Governor. Upon confirmation after the initial three-year term, a judge of the Division of Workers' Compensation shall have tenure, and shall serve during good behavior. All judges of compensation appointed prior to the effective date of P.L.1991, c.513 shall continue to have tenure and shall continue to serve during good behavior. The annual salary of the director shall be 89% of the annual salary of a Judge of the Superior Court. The Chief Judge of Compensation shall be the Director of the Division of Workers' Compensation and may be known as the Director/Chief Judge of the division.

In addition to salary, a judge of compensation regularly assigned as an administrative supervisory judge of compensation by the director shall

receive additional compensation of \$2,500 per annum during the period of such assignment; and a judge of compensation regularly assigned as a supervising judge of compensation by the director shall receive additional compensation of \$1,500 per annum during the period of such assignment.

Judges of compensation shall not engage in the practice of law, shall devote full time to their judicial duties, and shall have been licensed attorneys in the State of New Jersey for 10 years prior to their appointments. The director of the division shall have the same qualifications for appointment and be subject to the same restrictions as a judge of compensation.

All judges of compensation shall be retired upon attaining the age of 70 years, except that any judge of compensation who has retired on pension or retirement allowance may, with the judge's consent, be recalled by the Director /Chief Judge of the Division of Workers' Compensation for service as a recalled judge in the Division of Workers' Compensation. No recalled judge shall serve beyond his 80th birthday.

Upon such recall the retired judge shall have all the powers of a judge of compensation and shall be paid a per diem allowance fixed by the Director/Chief Judge of the Division of Workers' Compensation. In addition the recalled judge shall be reimbursed for reasonable expenses actually incurred by him in connection with his assignment and shall be provided with such facilities as may be required in the performance of his duties. Such per diem compensation and expenses shall be paid by the State. Payment for services and expenses shall be made in the same manner as payment is made to the judges of the Division of Workers' Compensation from which he retired.

b. An increase in an annual salary of a judge or the director under subsection a. of this section that results due to the increase in the salary of a Judge of the Superior Court provided in N.J.S.2B:2-4 as amended in section 1 of P.L.1995, c.424 (N.J.S.2B:2-4) shall not be granted until July 1, 1996.

4. This act shall take effect immediately.

Approved January 19, 2005.

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## CHAPTER 7

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund," and appropriating and reappropriating certain other moneys, to assist local government units to acquire or develop lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), the sum of \$28,092,800 to provide grants or loans, or both, to assist local government units to develop lands for recreation and conservation purposes. The following projects to develop lands for recreation and conservation purposes located in municipalities eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), either as of June 30, 2004 or the effective date of this act, are eligible for funding with the moneys appropriated pursuant to this subsection:

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Pemberton Twp	Burlington	Presidential Lakes Community Center Dev	\$494,600
Camden County	Camden	Cooper River Boat House Dev (Pennsauken Twp)	350,700
Camden County	Camden	Camden Waterfront Urban Park Dev (Camden City)	710,000
Gloucester Twp	Camden	Hickstown Road Dev	1,000,000
Winslow Twp	Camden	Peter Volpa Memorial Park Dev	370,000
Vineland City	Cumberland	Vineland Multi-Park Dev	756,000
Essex County	Essex	Multi-Parks Improvement Dev (Bloomfield Twp East Orange City Irvington Twp Newark City Orange City Twp)	1,500,000
Bloomfield Twp	Essex	Clark's Pond Restoration Dev	1,000,000
Bloomfield Twp	Essex	Halcyon Park Redevelopment	70,100
East Orange City	Essex	Multi Parks Redevelopment	1,000,000
Newark City	Essex	Urban Envir. & Ecological Center Dev	500,000
Woodbury City	Gloucester	Woodbury H.S.Stadium Complex Dev	1,000,000
Hudson County	Hudson	Bayonne/Gregg Park Dev (Bayonne City)	1,500,000
Hudson County	Hudson	Multi Parks Playgrounds Dev (Bayonne City Harrison Town Jersey City Kearny Town Union City)	1,500,000
Hoboken City	Hudson	Hoboken Cove Park Dev	1,000,000
Hoboken City	Hudson	Multi Parks Dev	1,000,000

Union City	Hudson	17th Street Playground Improvements Dev	110,000
West New York Town	Hudson	Pier 8 Park Dev	560,000
Trenton City	Mercer	Cadwalader Park Dev	1,000,000
Trenton City	Mercer	Calhoun St Park Renovation Dev	1,000,000
Middlesex County	Middlesex	New Brunswick Landing Dev (New Brunswick City)	1,250,000
Carteret Boro	Middlesex	Arthur Kill Waterfront Rec Facility Phase II Dev	740,000
Carteret Boro	Middlesex	Carteret Park Dev	516,000
New Brunswick City	Middlesex	New Brunswick Landing Dev	1,000,000
Perth Amboy City	Middlesex	Perth Amboy Bayview Park Dev	1,000,000
Woodbridge Twp	Middlesex	Woodbridge Twp Skateboard Park Dev	250,000
Long Branch City	Monmouth	Multi Parks Dev 2	1,000,000
Neptune Twp	Monmouth	Bradley Park Dev	462,000
Neptune Twp	Monmouth	Multi Parks Dev	1,000,000
Brick Twp	Ocean	Drum Point Rec Complex II Dev	1,000,000
Passaic County	Passaic	Garret Mtn Park Barbour Pond Restor. Dev (Paterson City West Paterson Boro)	1,203,400
Paterson City	Passaic	ATP/Haines Overlook Park Riverwalk Ext. Dev	1,000,000
Paterson City	Passaic	Great Falls and Pocket Parks Phase I Dev	1,000,000
Phillipsburg Town	Warren	Delaware Heights Park Phase I Dev	<u>250,000</u>
<b>TOTAL</b>			<b><u>\$28,092,800</u></b>

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2005, c.8, P.L.2005, c.9, P.L.2005, c.10, or section 2, 3, or 4 of this act, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

2. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), the sum of \$10,125,500 to provide grants or loans, or both, to assist local government units to develop lands for recreation and conservation purposes. The following projects to develop lands for recreation and conservation purposes, located in densely or highly populated municipalities or sponsored by densely populated counties or highly populated counties, are eligible for funding with the moneys appropriated pursuant to this subsection:

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Atlantic City	Atlantic	Rehabilitation of Uptown Park Dev	\$750,000
Little Ferry Boro	Bergen	Boys Club Field Renovations Dev	118,200
Rutherford Boro	Bergen	Wall Field Park Improvements Dev	250,000
Mount Laurel Twp	Burlington	Trotter's Crossing Dev	750,000
Essex County	Essex	Conservation & Natural Resource Center Dev (Roseland Boro)	1,500,000
Hudson County	Hudson	Laurel Hill Park Dev (Secaucus Town)	700,000
Mercer County	Mercer	Baldpate Mountain Dev	1,250,000
Keansburg Boro	Monmouth	Keansburg Skate Park Dev	131,200
Keyport Boro	Monmouth	Ralph Pier Replacement Dev	750,000
Middletown Twp	Monmouth	Banfield Park Dev	250,000
Berkeley Twp	Ocean	Toms River Park Rec. Fac. Dev	500,000
Berkeley Twp	Ocean	Veteran's Park Rec. Facilities Dev	250,000
Dover Twp	Ocean	Sports Complex Expansion Dev	369,400
Manchester Twp	Ocean	Soccer Complex Improvements Dev	500,000
Seaside Heights Boro	Ocean	Seasonal Stage at Hiering Tract Dev	189,300
Wayne Twp	Passaic	Barbour Pond Park Athletic Field Dev	250,000
Franklin Twp	Somerset	Middlebush Park Improvements Dev	267,400
Union County	Union	Meisel Ave Park Dev (Springfield Twp)	1,100,000
Linden City	Union	Playground Replacement Project Dev	<u>250,000</u>
<b>TOTAL</b>			<b><u>\$10,125,500</u></b>

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved

pursuant to P.L.2005, c.8, P.L.2005, c.9, P.L.2005, c.10, or section 1, 3, or 4 of this act, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. For the purposes of this section:

"Densely or highly populated municipality" means a municipality with a population density of at least 5,000 persons per square mile, or a population of at least 35,000 persons, according to the latest federal decennial census;

"Densely populated county" means a county with a population density of at least 5,000 persons per square mile according to the latest federal decennial census;

"Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354; and

"Highly populated county" means a county with a population density of at least 1,000 persons per square mile according to the latest federal decennial census.

3. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), the sum of \$10,715,000 to provide grants or loans, or both, to assist local government units to acquire lands for recreation and conservation purposes. The following projects to acquire lands for recreation and conservation purposes located in municipalities eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), either as of June 30, 2004 or the effective date of this act, are eligible for funding with the moneys appropriated pursuant to this subsection:

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Garfield City	Bergen	Passaic River Historic Park Acq	\$290,000
Pemberton Twp	Burlington	North Pemberton Railroad Station Acq	800,000
Camden City	Camden	New Roosevelt Park Acq	800,000
Gloucester Twp	Camden	Open Space Acq	800,000
Essex County	Essex	Riverfront Park and Rec. Facility Acq (Newark City)	1,200,000
Glassboro Boro	Gloucester	Downtown Green Space Acq	800,000
Hoboken City	Hudson	Northwest Quadrant Acq	700,000
Jersey City	Hudson	Harsimus Stem Embankment Acq	800,000
Weehawken Twp	Hudson	Boulevard East Acq	475,000
Weehawken Twp	Hudson	Pershing Road Acq	250,000
Carteret Boro	Middlesex	Arthur Kill Waterfront Property Acq	600,000
Old Bridge Twp	Middlesex	Cedar Ridge II Acq	800,000
Long Branch City	Monmouth	Manahasset Creek Acq	800,000

Neptune Twp	Monmouth	South Riverside Drive Waterfront Acq	800,000
Clifton City	Passaic	Dundee Island Acq	<u>800,000</u>
<b>TOTAL</b>			<b><u>\$10,715,000</u></b>

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2005, c.8, P.L.2005, c.9, P.L.2005, c.10, or section 1, 2, or 4 of this act, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

4. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), the sum of \$21,718,500 to provide grants or loans, or both, to assist local government units to acquire lands for recreation and conservation purposes. The following projects to acquire lands for recreation and conservation purposes, located in densely or highly populated municipalities or sponsored by densely populated counties or highly populated counties, are eligible for funding with the moneys appropriated pursuant to this subsection:

*(1) Planning Incentive Acquisition Projects*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Bergen County	Bergen	Open Space Plan Acq	\$1,250,000
Evesham Twp	Burlington	Planning Incentive Acq	600,000
Mount Laurel Twp	Burlington	Mt Laurel Acq Plan	600,000
Camden County	Camden	Open Space Plan Acq	1,000,000
West Orange Twp	Essex	West Orange Twp Open Space Acq	600,000
Washington Twp	Gloucester	Open Space & Rec Project Acq	600,000
Mercer County	Mercer	Mercer County Planning Incentive Acq	1,000,000
Hamilton Twp	Mercer	Hamilton Twp Open Space Acq	600,000



Middlesex County	Middlesex	Middlesex County Open Space Acq	1,000,000
East Brunswick Twp	Middlesex	Open Space Plan Acq	600,000
North Brunswick Twp	Middlesex	North Brunswick Plan Acq	600,000
South Brunswick Twp	Middlesex	Open Space Acq	600,000
Monmouth County	Monmouth	Planning Incentive Acq	1,000,000
Marlboro Twp	Monmouth	Marlboro Open Space Acq	600,000
Middletown Twp	Monmouth	Middletown Twp Planning Incentive Acq	600,000
Morris County	Morris	Morris County Planning Incentive Acq	1,250,000
Parsippany-Troy Hills Twp	Morris	Parsippany-Troy Hills Open Space Acq	775,000
Dover Twp	Ocean	Open Space and Recreation Plan Acq	600,000
Jackson Twp	Ocean	Jackson Twp Open Space Acq Plan	600,000
Manchester Twp	Ocean	Planning Incentive Acq	400,000
Passaic County	Passaic	Open Space Plan Acq	1,250,000
Bridgewater Twp	Somerset	Bridgewater Open Space Plan	600,000
Franklin Twp	Somerset	Open Space Plan Acq	600,000
Union County	Union	Open Space & Recreation Plan Acq	1,200,000

**SUBTOTAL****\$18,525,000***(2) Site Specific Incentive Acquisition Projects*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Edgewater Boro	Bergen	Grand Cove Marina Acq	<u>\$600,000</u>
<b>SUBTOTAL</b>			<b><u>\$600,000</u></b>

*(3) Standard Acquisition Projects*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Atlantic City	Atlantic	Altman Playground Acq	\$510,000
Ridgefield Park Village	Bergen	McGowan Park Addition Acq	82,000
Rutherford Boro	Bergen	Rutherford Memorial Park Bike Path Acq	67,000
Audubon Boro	Camden	Open Space Preservation Acq	334,500
Piscataway Twp	Middlesex	Piscataway Open Space Acq	600,000
South Amboy Boro	Middlesex	Open Space Acq	600,000
Wayne Twp	Passaic	St Joseph's Hospital at Wayne Acq	<u>400,000</u>
<b>SUBTOTAL</b>			<b><u>\$2,593,500</u></b>
<b>TOTAL</b>			<b><u>\$21,718,500</u></b>

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2005, c.8, P.L.2005, c.9, P.L.2005, c.10, or section 1, 2, or 3 of this act, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. For the purposes of this section:

"Densely or highly populated municipality" means a municipality with a population density of at least 5,000 persons per square mile, or a population of at least 35,000 persons, according to the latest federal decennial census;

"Densely populated county" means a county with a population density of at least 5,000 persons per square mile according to the latest federal decennial census;

"Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354; and

"Highly populated county" means a county with a population density of at least 1,000 persons per square mile according to the latest federal decennial census.

5. Of the monies appropriated pursuant to section 5 of P.L.2003, c.238, the sum of \$50,000 shall be allocated for the Department of Environmental Protection to purchase and provide playground equipment to the City of Trenton under the Community Playgrounds Initiative pilot program established by the department in accordance with that section. Notwithstanding any provision of section 5 of P.L.2003, c.238 to the contrary, the allocation required pursuant to this section shall not require the approval of the Joint Budget Oversight Committee or its successor.

6. a. There is reappropriated to the Department of Environmental Protection the unexpended balances, due to project withdrawals, cancellations, or cost savings, of the amounts appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund to assist local government units to acquire or develop lands for recreation and conservation purposes, for the purposes of providing:

(1) grants or loans, or both, to assist local government units to acquire or develop lands for recreation and conservation purposes, for projects approved as eligible for such funding pursuant to P.L.2005, c.8, P.L.2005, c.9, P.L.2005, c.10, or sections 1 through 4 of this act; and

(2) additional funding, as determined by the Department of Environmental Protection, to any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes or that receives funding approved pursuant to P.L.2005, c.8, P.L.2005, c.9, P.L.2005, c.10, or sections 1 through 4 of this act, subject to the approval of the Joint Budget Oversight Committee or its successor. Any such additional funding provided from a Green Acres bond act may include administrative costs.

b. There is appropriated to the Department of Environmental Protection such sums as may be, or may become, available on or before June 30, 2005, due to interest earnings or loan repayments in any "Green Trust Fund" established pursuant to a Green Acres bond act or in the "Garden State Green Acres Preservation Trust Fund," for the purpose of providing:

(1) grants or loans, or both, to assist local government units to acquire or develop lands for recreation and conservation purposes, for projects approved as eligible for such funding pursuant to P.L.2005, c.8, P.L.2005, c.9, P.L.2005, c.10, or sections 1 through 4 of this act; and

(2) additional funding, as determined by the Department of Environmental Protection, to any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes or that receives funding approved pursuant to P.L.2005, c.8, P.L.2005, c.9, P.L.2005, c.10, or sections 1 through 4 of this act, subject to the approval of the Joint Budget Oversight Committee or its successor. Any such additional funding provided from a Green Acres bond act may include administrative costs.

c. For the purposes of this section:

"Garden State Green Acres Preservation Trust Fund" means the fund established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19); and

"Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

7. This act shall take effect immediately.

Approved January 19, 2005.

## CHAPTER 8

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund" to assist local government units in northern New Jersey to acquire or develop lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), the sum of \$22,468,700 to provide grants or loans, or both, to assist local government units in northern New Jersey to acquire or develop lands for recreation and conservation purposes. The following projects to acquire or develop lands for recreation and conservation purposes are eligible for funding with the moneys appropriated pursuant to this subsection:

(1) *Planning Incentive Acquisition Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Cresskill Boro	Bergen	Cresskill Open Space Acq	\$400,000
Montvale Boro	Bergen	Park Acq	400,000
Oakland Boro	Bergen	Open Space & Recreation Plan Acq	575,000
Park Ridge Boro	Bergen	Open Space Plan Acq	400,000
Ridgewood Village	Bergen	Open Space Project Acq	400,000
Livingston Twp	Essex	Livingston Twp Open Space Acq	400,000
Chatham Boro	Morris	Chatham Boro Open Space Acq	400,000
Chester Twp	Morris	Chester Twp Open Space Acq	575,000
Denville Twp	Morris	Denville Open Space Acq	575,000
East Hanover Twp	Morris	East Hanover Twp PI Acq	400,000
Florham Park Boro	Morris	Open Space Acq	400,000
Hanover Twp	Morris	Open Space Acq	575,000
Harding Twp	Morris	Harding Open Space Acq	500,000
Jefferson Twp	Morris	Jefferson Acq Plan	575,000
Madison Boro	Morris	Madison Boro Open Space Acq	400,000
Mendham Boro	Morris	Mendham Boro Open Space Program Acq	500,000
Mine Hill Twp	Morris	Open Space Acq	575,000
Morris Twp	Morris	Morris Twp Open Space Acq	575,000
Mount Olive Twp	Morris	Mt. Olive Greenway Acq	575,000
Pequannock Twp	Morris	Planning Incentive Acq	575,000
Randolph Twp	Morris	Randolph Acq Program	575,000
Ringwood Boro	Passaic	Ringwood Boro Open Space Acq	575,000

Wanaque Boro	Passaic	Wanaque Boro Open Space Acq	500,000
Sussex County	Sussex	Planning Incentive Grant Acq	1,050,000
Byram Twp	Sussex	Byram Open Space Plan Acq	575,000
Frankford Twp	Sussex	Frankford Twp Planning Incentive Acq	400,000
Fredon Twp	Sussex	Fredon Twp Planning Incentive Acq	400,000
Green Twp	Sussex	Green Twp Planning Incentive Acq	575,000
Vernon Twp	Sussex	Planning Incentive Acq	575,000
Allamuchy Twp	Warren	Allamuchy Twp Open Space Acq	500,000
Greenwich Twp	Warren	Greenwich Twp Planning Incentive Acq	575,000
Knowlton Twp	Warren	Knowlton Twp Open Space Acq	400,000
<b>SUBTOTAL</b>			<b><u>\$16,475,000</u></b>

*(2) Site Specific Incentive Acquisition Projects:*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
River Vale Twp	Bergen	Watershed Property Acq	\$400,000
Waldwick Boro	Bergen	Open Space Plan Acq	400,000
Woodcliff Lake Boro	Bergen	Woodcliff Lake Historic Park Acq	400,000
Chester Boro	Morris	Chester Open Space Acq	575,000
Pompton Lakes Boro	Passaic	Feinbloom and Sherman Acq	43,000
West Milford Twp	Passaic	Apple Acres Acq	<u>302,500</u>
<b>SUBTOTAL</b>			<b><u>\$2,120,500</u></b>

*(3) Standard Acquisition Projects:*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Franklin Lakes Boro	Bergen	Woodside Avenue Acq	\$400,000
Secaucus Town	Hudson	Waterfront Acq	400,000
Riverdale Boro	Morris	Van Ness House Acq	575,000
Oxford Twp	Warren	Hissim Property Acq	<u>575,000</u>
<b>SUBTOTAL</b>			<b><u>\$1,950,000</u></b>

*(4) Development Projects:*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Park Ridge Boro	Bergen	Memorial Field Improvements Dev	\$500,000

Wharton Boro	Morris	Multi Park Rehabilitation Dev	175,000
Bloomingtondale Boro	Passaic	Recreation Redevelopment Project	400,000
Ringwood Boro	Passaic	Ringwood Skateboard Park Dev	65,000
West Paterson Boro	Passaic	Morris Canal Park Restoration Dev	250,000
Byram Twp	Sussex	C.O. Johnson Park Rec. Expansion Dev	250,000
Washington Boro	Warren	Municipal Pool Renovation Dev	<u>283,200</u>
<b>SUBTOTAL</b>			<b><u>\$1,923,200</u></b>
<b>GRAND TOTAL ALL CATEGORIES</b>			<b><u>\$22,468,700</u></b>

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2005, c.7, P.L.2005, c.9, or P.L.2005, c.10, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

2. This act shall take effect immediately.

Approved January 19, 2005.

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## CHAPTER 9

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund" to assist local government units in central New Jersey to acquire or develop lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," estab-

lished pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), the sum of \$16,181,750 to provide grants or loans, or both, to assist local government units in central New Jersey to acquire or develop lands for recreation and conservation purposes. The following projects to acquire or develop lands for recreation and conservation purposes are eligible for funding with the moneys appropriated pursuant to this subsection:

(1) *Planning Incentive Acquisition Projects:*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Hunterdon County	Hunterdon	County Open Space Acq	\$1,050,000
Bethlehem Twp	Hunterdon	Open Space Plan Implementation Acq	575,000
Delaware Twp	Hunterdon	Open Space Acq	400,000
High Bridge Boro	Hunterdon	Open Space Acq	500,000
Holland Twp	Hunterdon	Musconetcong Highlands Greenway Acq	575,000
Lebanon Twp	Hunterdon	Open Space Plan Acq	500,000
Readington Twp	Hunterdon	Greenway Incentive Plan Acq	400,000
Tewksbury Twp	Hunterdon	Recreation & Open Space Plan Acq	575,000
West Amwell Twp	Hunterdon	Sourlands/Open Space Acq	400,000
East Windsor Twp	Mercer	East Windsor Open Space Acq	400,000
Hopewell Twp	Mercer	Hopewell Open Space Acq	400,000
Pennington Boro	Mercer	Pennington Greenbelt Planning Incentive Acq	400,000
Princeton Twp	Mercer	Princeton Open Space Acq	400,000
West Windsor Twp	Mercer	West Windsor Planning Inc. Acq	400,000
Cranbury Twp	Middlesex	Cranbury Twp Acq	400,000
Monroe Twp	Middlesex	Thompson Park III Acq	400,000
Plainsboro Twp	Middlesex	Plainsboro Preservation Acq	400,000
Freehold Twp	Monmouth	Freehold Acq Plan	600,000
Holmdel Twp	Monmouth	Holmdel Planning Incentive Acq	400,000
Little Silver Boro	Monmouth	Open Space Acq	194,250
Manasquan Boro	Monmouth	Manasquan Boro Open Space Acq	400,000
Ocean Twp	Monmouth	Ocean Twp Planning Incentive Acq	400,000
Somerset County	Somerset	County Open Space Acq	1,050,000
Bernardsville Boro	Somerset	Bernardsville Boro Open Space Acq	100,000
Branchburg Twp	Somerset	Branchburg Open Space & Greenway Acq	400,000
Montgomery Twp	Somerset	Open Space Acq 5	400,000
Peapack-Gladstone Boro	Somerset	Open Space Acq	575,000
Warren Twp	Somerset	Warren Twp Planning Incentive Acq	400,000
<b>SUBTOTAL</b>			<b><u>\$13,094,250</u></b>

(2) *Standard Acquisition Projects:*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Frenchtown Boro	Hunterdon	Nishisakawick Watershed Phase I Acq	\$400,000
Stockton Boro	Hunterdon	Stockton Boro Open Space Project Acq	<u>200,000</u>
<b>SUBTOTAL</b>			<b><u>\$600,000</u></b>

(3) *Development Projects:*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Princeton Twp	Mercer	Coventry Farm Park Dev	\$500,000
Princeton Twp	Mercer	Greenway Meadow Park Dev	500,000
Freehold Twp	Monmouth	Opatut Park Dev	500,000
Holmdel Twp	Monmouth	Phillips/Veterans Park Dev	237,500
Rumson Boro	Monmouth	Riverside Park Dev	500,000
Union Beach Boro	Monmouth	Scholer Park Dev	<u>250,000</u>
<b>SUBTOTAL</b>			<b><u>\$2,487,500</u></b>
<b>GRAND TOTAL ALL CATEGORIES</b>			<b><u>\$16,181,750</u></b>

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2005, c.7, P.L.2005, c.8, or P.L.2005, c.10, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

2. This act shall take effect immediately.

Approved January 19, 2005.



## CHAPTER 10

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund" to assist local government units in southern New Jersey to acquire or develop lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), the sum of \$17,623,600 to provide grants or loans, or both, to assist local government units in southern New Jersey to acquire or develop lands for recreation and conservation purposes. The following projects to acquire or develop lands for recreation and conservation purposes are eligible for funding with the moneys appropriated pursuant to this subsection:

(1) *Planning Incentive Acquisition Projects:*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Atlantic County	Atlantic	Atlantic County Open Space Acq	\$800,000
Burlington County	Burlington	Planning Incentive Acq	800,000
Bordentown Twp	Burlington	Bordentown Twp Open Space Acq	400,000
Eastampton Twp	Burlington	Planning Incentive Acq	400,000
Lumberton Twp	Burlington	Open Space Acq	400,000
Medford Twp	Burlington	Open Space Incentive Acq	400,000
Moorestown Twp	Burlington	Open Space Preservation Plan Acq	400,000
Westampton Twp	Burlington	Planning Incentive Acq	400,000
Gibbsboro Boro	Camden	Greenway Acq	400,000
Voorhees Twp	Camden	Planning Incentive Grant Acq	400,000
Gloucester County	Gloucester	Open Space Plan Acq	800,000
Ocean County	Ocean	Planning Incentive Grant Acq	800,000
Barnegat Twp	Ocean	Planning Incentive Acq	400,000
Little Egg Harbor Twp	Ocean	Planning Incentive Acq	348,000
Plumsted Twp	Ocean	Planning Incentive Acq	400,000
Stafford Twp	Ocean	Stafford Twp Planning Incentive Program Acq	<u>400,000</u>
<b>SUBTOTAL</b>			<b><u>\$7,948,000</u></b>

(2) *Site Specific Incentive Acquisition Projects:*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Cape May City	Cape May	Cape May City Open Space Acq	<u>\$400,000</u>
<b>SUBTOTAL</b>			<b><u>\$400,000</u></b>

*(3) Standard Acquisition Projects:*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Brigantine City	Atlantic	Brigantine Golf Club Acq	\$150,000
Bordentown City	Burlington	Black's Creek/Crosswicks Creek Greenway Acq	150,000
Burlington Twp	Burlington	Tillinghast Property Acq	400,000
Southampton Twp	Burlington	Goode Farm Acq	400,000
Middle Twp	Cape May	Park Acq	250,000
Ocean City	Cape May	Park Acq	400,000
Pittsgrove Twp	Salem	Pittsgrove Twp Acq	<u>200,000</u>
<b>SUBTOTAL</b>			<b><u>\$1,950,000</u></b>

*(4) Development Projects:*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Brigantine City	Atlantic	Waterfront Improvements Dev	\$500,000
Hammontown Town	Atlantic	Hammonton Recreation Complex Dev	400,000
Mullica Twp	Atlantic	Recreation Field Expansion - Phase II Dev	50,000
Bordentown Twp	Burlington	Northern Community Park Dev	500,000
Cinnaminson Twp	Burlington	Multi Park Dev	368,200
Berlin Boro	Camden	Franklin Avenue Field Dev	250,000
Somerdale Boro	Camden	Recreation Facility Dev	162,000
Avalon Boro	Cape May	Avalon Recreation Area Dev	500,000
Cape May			
Point Boro	Cape May	Outdoor Rec/Educational Park Dev	95,000
Lower Twp	Cape May	Multi Parks Dev	500,000
Sea Isle City	Cape May	48th Street Recreation Area Dev	500,000
Deptford Twp	Gloucester	Fasola Park Dev	250,000
Logan Twp	Gloucester	Logan Municipal Park Dev	150,000
Bay Head Boro	Ocean	Twilight Lake Waterfront Imp. Dev	147,400
Island Heights Boro	Ocean	River Ave Boardwalk Improvements Dev	100,000
Little Egg			
Harbor Twp	Ocean	Municipal Recreation Complex VI Dev	250,000
Ocean Twp	Ocean	Recreation Area Dev	500,000

Pine Beach Boro	Ocean	Admiral Farragut Main Dev	500,000
Point Pleasant Beach Boro	Ocean	Oceanfront Broadwalk Reconstruction Dev	203,000
Seaside Park Boro	Ocean	Bayview Avenue Walkway II Dev	500,000
Stafford Twp	Ocean	Manahawkin Lake II Dev	400,000
Stafford Twp	Ocean	Nautilus Park Dev	<u>500,000</u>
<b>SUBTOTAL</b>			<b><u>\$7,325,600</u></b>
<b>GRAND TOTAL ALL CATEGORIES</b>			<b><u>\$17,623,600</u></b>

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2005, c. 7, P.L.2005, c.8, or P.L.2005, c.9, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

2. This act shall take effect immediately.

Approved January 19, 2005.

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## CHAPTER 11

AN ACT appropriating \$75,000,000 from the "Garden State Green Acres Preservation Trust Fund," and reappropriating certain other moneys, for the acquisition or development of lands by the State for recreation and conservation purposes.

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

1. a. There is appropriated from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), to the Department of Environmental Protection the sum of \$71,000,000 for the acquisition of lands by the State for recreation and conservation purposes. This sum shall be allocated as follows:

Project	County	Municipality	Amount
(1) BARNEGAT BAY WATERSHED GREENWAY			\$ 3,000,000
		<i>Barnegat Bay Greenway</i>	
	Monmouth	Freehold Twp Howell Twp	
	Ocean	Barnegat Twp Berkeley Twp Brick Twp Dover Twp Eagleswood Twp Jackson Twp Lacey Twp Lakewood Twp Little Egg Harbor Twp Ocean Twp Stafford Twp	
(2) CAPE MAY PENINSULA			5,000,000
		<i>Cape May Peninsula</i>	
	Cape May	Cape May City Cape May Point Boro Dennis Twp Lower Twp Middle Twp Sea Isle City Upper Twp West Cape May Boro Woodbine Boro	
(3) CROSSROADS OF AMERICAN REVOLUTION			2,000,000
		<i>Princeton Battlefield to Monmouth</i>	
	Mercer	East Windsor Twp Hamilton Twp Lawrence Twp Washington Twp West Windsor Twp	
	Middlesex	Cranbury Twp Monroe Twp Plainsboro Twp	

Monmouth	South Brunswick Twp Allentown Boro Englishtown Boro Freehold Twp Manalapan Twp Marlboro Twp Millstone Twp Roosevelt Boro Upper Freehold Twp
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*Princeton to Morristown*

Morris	Chester Boro Harding Twp Long Hill Twp Mendham Boro Mendham Twp Morris Twp Morristown Town Randolph Twp
Somerset	Bedminster Twp Bernards Twp Bernardsville Boro Bound Brook Boro Branchburg Twp Bridgewater Twp Franklin Twp Hillsborough Twp Manville Boro Montgomery Twp Raritan Boro Somerville Boro Warren Twp

*Washington Crossing to Princeton Battlefield*

Hunterdon	East Amwell Twp West Amwell Twp
Mercer	Hopewell Twp Princeton Twp Trenton City

## (4) DELAWARE &amp; RARITAN CANAL GREENWAY

3,000,000

Hunterdon	Delaware Twp Kingwood Twp Lambertville City Stockton Boro West Amwell Twp
Mercer	Ewing Twp Hamilton Twp Hopewell Twp Lawrence Twp

	Middlesex	Princeton Twp Trenton City New Brunswick City Plainsboro Twp South Brunswick Twp	
	Somerset	Franklin Twp	
(5) DELAWARE BAY WATERSHED GREENWAY			4,000,000
		<i>Alloways Creek Greenway</i>	
	Salem	Alloway Twp Elsinboro Twp Lower Alloways Creek Twp Pilesgrove Twp Quinton Twp Upper Pittsgrove Twp	
		<i>Cape May Tributaries</i>	
	Cape May	Dennis Twp Lower Twp Middle Twp Upper Twp	
		<i>Cohansey River Greenway</i>	
	Cumberland	Bridgeton City Fairfield Twp Greenwich Twp Hopewell Twp Lawrence Twp Shiloh Boro Upper Deerfield Twp	
	Salem	Alloway Twp	
		<i>Dividing/ Nantuxent/ Cedar/ Back Creeks Greenway</i>	
	Cumberland	Commercial Twp Downe Twp Fairfield Twp Lawrence Twp	
		<i>Maurice River Greenway</i>	
	Atlantic	Buena Boro Buena Vista Twp	
	Cape May	Dennis Twp	
	Cumberland	Commercial Twp Deerfield Twp Maurice River Twp Millville City Vineland City	

Gloucester	Clayton Boro Elk Twp Franklin Twp Glassboro Boro Monroe Twp Newfield Boro
Salem	Elmer Boro Pittsgrove Twp Upper Pittsgrove Twp

*Salem River/ Mannington Greenway*

Salem	Carneys Point Twp Elsinboro Twp Mannington Twp Oldmans Twp Pennsville Twp Pilesgrove Twp Upper Pittsgrove Twp Woodstown Boro
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*Stow Creek Greenway*

Cumberland	Greenwich Twp Stow Creek Twp
Salem	Alloway Twp Lower Alloways Creek Twp Quinton Twp

(6) DELAWARE RIVER WATERSHED GREENWAY 4,000,000

*Big Timber Creek*

Camden	Clementon Boro Gloucester Twp Lindenwold Boro Pine Hill Boro
Gloucester	Deptford Twp Westville Boro

*Cooper River Greenway*

Camden	Berlin Twp Camden City Gibbsboro Boro Haddon Twp Lindenwold Boro Voorhees Twp
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*Crosswicks Creek Watershed*

Burlington	Bordentown City Bordentown Twp
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	Chesterfield Twp
	Mansfield Twp
	North Hanover Twp
Mercer	Hamilton Twp
	Trenton City
Monmouth	Millstone Twp
	Upper Freehold Twp
Ocean	Jackson Twp
	Plumsted Twp

*Delaware River Bluffs*

Hunterdon	Delaware Twp
	Frenchtown Boro
	Kingwood Twp
	Lambertville City
	Stockton Boro
	West Amwell Twp
Mercer	Ewing Twp
	Hopewell Twp

*Oldmans Creek Greenway*

Gloucester	Logan Twp
	South Harrison Twp
	Woolwich Twp
Salem	Oldmans Twp
	Pilesgrove Twp
	Upper Pittsgrove Twp

*Raccoon Creek Greenway*

Gloucester	Elk Twp
	Harrison Twp
	Logan Twp
	Woolwich Twp

*Rancocas Creek Greenway*

Burlington	Cinnaminson Twp
	Delanco Twp
	Delran Twp
	Eastampton Twp
	Hainesport Twp
	Lumberton Twp
	Medford Twp
	Moorestown Twp
	Mount Holly Twp
	Mount Laurel Twp
	Pemberton Twp
	Riverside Twp
	Southampton Twp
	Springfield Twp



		Westampton Twp Willingboro Twp	
	<i>Woodbury Creek Watershed</i>		
	Gloucester	National Park Boro West Deptford Twp	
(7)	GREAT EGG HARBOR WATERSHED		1,000,000
	Atlantic	Corbin City Egg Harbor Twp Estell Manor City Folsom Boro Hamilton Twp Weymouth Twp	
	Camden Cape May Gloucester	Winslow Twp Upper Twp Franklin Twp Monroe Twp	
(8)	HARBOR ESTUARY		2,000,000
	Bergen	Carlstadt Boro East Rutherford Boro Emerson Boro Haworth Boro Lyndhurst Twp North Arlington Boro Old Tappan Boro Oradell Boro Ridgefield Boro Ridgefield Park Village River Vale Twp Westwood Boro	
	Hudson	Jersey City Kearny Town North Bergen Twp Secaucus Town	
	Middlesex	Carteret Boro East Brunswick Twp Edison Twp Highland Park Boro Monroe Twp New Brunswick City Old Bridge Twp Perth Amboy City Sayreville Boro South Amboy City South River Boro Woodbridge Twp	
	Monmouth	Aberdeen Twp Atlantic Highlands Boro	

	Hazlet Twp Keansburg Boro Keyport Boro Matawan Boro Middletown Twp Ocean Twp Union Beach Boro Clark Twp Linden City Rahway City	
	Union	
(9) HIGHLANDS GREENWAY		25,000,000
	Bergen	Mahwah Twp Oakland Boro
	Hunterdon	Alexandria Twp Bethlehem Twp Bloomsbury Boro Califon Boro Clinton Town Clinton Twp Glen Gardner Boro Hampton Boro High Bridge Boro Holland Twp Lebanon Boro Lebanon Twp Milford Boro Tewksbury Twp
	Morris	Union Twp Boonton Town Boonton Twp Butler Boro Chester Boro Chester Twp Denville Twp Dover Town Hanover Twp Harding Twp Jefferson Twp Kinnelon Boro Mendham Boro Mendham Twp Mine Hill Twp Montville Twp Morris Plains Boro Morris Twp Morristown Town Mount Arlington Boro Mount Olive Twp Mountain Lakes Boro Netcong Boro Parsippany-Troy Hills Twp

	Pequannock Twp
	Randolph Twp
	Riverdale Boro
	Rockaway Boro
	Rockaway Twp
	Roxbury Twp
	Victory Gardens Boro
	Washington Twp
	Wharton Boro
Passaic	Bloomington Boro
	Pompton Lakes Boro
	Ringwood Boro
	Wanaque Boro
	West Milford Twp
Somerset	Bedminster Twp
	Bernards Twp
	Bernardsville Boro
	Far Hills Boro
	Peapack-Gladstone Boro
Sussex	Byram Twp
	Franklin Boro
	Green Twp
	Hamburg Boro
	Hardyston Twp
	Hopatcong Boro
	Ogdensburg Boro
	Sparta Twp
	Stanhope Boro
	Vernon Twp
Warren	Allamuchy Twp
	Alpha Boro
	Belvidere Town
	Franklin Twp
	Frelinghuysen Twp
	Greenwich Twp
	Hackettstown Town
	Harmony Twp
	Hope Twp
	Independence Twp
	Liberty Twp
	Lopatcong Twp
	Mansfield Twp
	Oxford Twp
	Phillipsburg Town
	Pohatcong Twp
	Washington Boro
	Washington Twp
	White Twp

(10) HISTORIC RESOURCES

1,000,000

*Allaire State Park*

Monmouth	Howell Twp Wall Twp
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*Battlefields/ Encampments*

Middlesex	Edison Twp
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*Monmouth Battlefield*

Monmouth	Freehold Twp Manalapan Twp
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*New Bridge Landing*

Bergen	New Milford Boro River Edge Boro
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*Princeton Battlefield*

Mercer	Princeton Twp
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*Register Eligible Sites*

Cape May Gloucester	Lower Twp East Greenwich Twp Woolwich Twp
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*Washington Crossing State Park*

Mercer	Ewing Twp Hopewell Twp
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*Waterloo Village*

Sussex	Byram Twp Stanhope Boro
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## (11) NATURAL AREAS

2,000,000

*Bill Henry Pond*

Atlantic	Egg Harbor Twp
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*Budd Lake Bog*

Morris	Mount Olive Twp
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*Campus Swamp*

Camden	Gloucester Twp
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*Cheesequake State Park*

Middlesex	Old Bridge Twp
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*Crossley Preserve*

Ocean	Berkeley Twp Manchester Twp
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*Five Acre Pond*

Atlantic	Estell Manor City
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*Great Piece Meadows/ Troy Meadows*

Essex	Fairfield Twp Roseland Boro West Caldwell Twp
Morris	East Hanover Twp Hanover Twp Lincoln Park Boro Montville Twp
Passaic	Parsippany-Troy Hills Twp Wayne Twp

*Hidden Lake*

Camden	Gloucester Twp
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*High Mountain*

Passaic	North Haledon Boro Wayne Twp
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*Limestone Ridge*

Warren	Blairstown Twp
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*Long-A-Coming Branch*

Camden	Winslow Twp
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*Milford Bluffs*

Hunterdon	Holland Twp
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*Mountain Lake Bog*

Warren	White Twp
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*Ogdensburg Fen*

Sussex	Ogdensburg Boro
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*Oswego River Natural Area*

Burlington	Washington Twp
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*Phone-In-Fen*

Warren	Hardwick Twp
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*Ramapo Lake Natural Area*

Bergen Passaic	Oakland Boro Ringwood Boro Wanaque Boro
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*Sourland Mountains*

Hunterdon	East Amwell Twp West Amwell Twp
Mercer Somerset	Hopewell Twp Hillsborough Twp Montgomery Twp

*Strawberry Hill*

Mercer	Hopewell Twp
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*Sunfish Pond*

Warren	Hardwick Twp
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*Utertown Bog*

Passaic	West Milford Twp
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*Wetlands Habitat/ Bog Turtle*

Sussex	Frankford Twp Wantage Twp
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*Whale Pond*

Monmouth	Ocean Twp
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## (12) NON-PROFIT CAMPS

1,000,000

*Youth Camps*

Bergen Burlington	Mahwah Twp Evesham Twp Medford Twp Tabernacle Twp
Cumberland	Greenwich Twp Hopewell Twp

Gloucester	Franklin Twp	
Hunterdon	East Amwell Twp	
Monmouth	Wall Twp	
Morris	Kinnelon Boro	
	Rockaway Boro	
Ocean	Ocean Twp	
Passaic	Ringwood Boro	
	West Milford Twp	
Salem	Alloway Twp	
Somerset	Franklin Twp	
Sussex	Byram Twp	
	Hampton Twp	
	Sandyston Twp	
	Sparta Twp	
	Stillwater Twp	
	Vernon Twp	
	Wantage Twp	
Warren	Hardwick Twp	
	Independence Twp	
	Mansfield Twp	
(13) PINELANDS		8,000,000
Atlantic	Brigantine City	
	Buena Boro	
	Buena Vista Twp	
	Corbin City	
	Egg Harbor City	
	Egg Harbor Twp	
	Estell Manor City	
	Folsom Boro	
	Galloway Twp	
	Hamilton Twp	
	Hammonton Town	
	Mullica Twp	
	Port Republic City	
	Weymouth Twp	
Burlington	Bass River Twp	
	Evesham Twp	
	Medford Lakes Boro	
	Medford Twp	
	New Hanover Twp	
	North Hanover Twp	
	Pemberton Twp	
	Shamong Twp	
	Southampton Twp	
	Springfield Twp	
	Tabernacle Twp	
	Washington Twp	
	Woodland Twp	
Camden	Wrightstown Boro	
	Berlin Boro	
	Berlin Twp	

	Chesilhurst Boro	
	Waterford Twp	
	Winslow Twp	
Cape May	Dennis Twp	
	Middle Twp	
	Upper Twp	
	Woodbine Boro	
Cumberland	Maurice River Twp	
	Vineland City	
Gloucester	Franklin Twp	
	Monroe Twp	
Ocean	Barnegat Twp	
	Beachwood Boro	
	Berkeley Twp	
	Dover Twp	
	Eagleswood Twp	
	Jackson Twp	
	Lacey Twp	
	Lakehurst Boro	
	Little Egg Harbor Twp	
	Manchester Twp	
	Ocean Twp	
	Plumsted Twp	
	South Toms River Boro	
	Stafford Twp	
	Tuckerton Boro	
(14) RARITAN RIVER WATERSHED GREENWAY		3,000,000
	Hunterdon	
	Bethlehem Twp	
	Clinton Twp	
	East Amwell Twp	
	Franklin Twp	
	High Bridge Boro	
	Lebanon Twp	
	Raritan Twp	
	Readington Twp	
	Tewksbury Twp	
	Union Twp	
	Middlesex	
	East Brunswick Twp	
	Milltown Boro	
	New Brunswick City	
	North Brunswick Twp	
	Piscataway Twp	
	South Brunswick Twp	
	Morris	
	Chester Twp	
	Harding Twp	
	Long Hill Twp	
	Mendham Boro	
	Mendham Twp	
	Mount Olive Twp	
	Washington Twp	



	Somerset	Bedminster Twp Bernards Twp Branchburg Twp Bridgewater Twp Far Hills Boro Franklin Twp Hillsborough Twp Manville Boro Montgomery Twp Peapack-Gladstone Boro Somerville Boro Warren Twp	
(15)	RIDGE AND VALLEY GREENWAY		4,000,000
	Sussex	Andover Boro Andover Twp Branchville Boro Frankford Twp Fredon Twp Green Twp Hampton Twp Lafayette Twp Montague Twp Newton Town Sandyston Twp Stillwater Twp Sussex Boro Walpack Twp Wantage Twp	
	Warren	Blairstown Twp Frelinghuysen Twp Hackettstown Town Hardwick Twp Hope Twp Knowlton Twp Liberty Twp	
(16)	TRAILS		3,000,000
		<i>Appalachian Trail Easements</i>	
	Passaic Sussex	West Milford Twp Vernon Twp Wantage Twp	
		<i>Capitol to the Coast</i>	
	Mercer	Hamilton Twp Trenton City Washington Twp West Windsor Twp	
	Monmouth	Freehold Twp	

	Ocean	Howell Twp Manasquan Boro Millstone Twp Roosevelt Boro Spring Lake Boro Spring Lake Heights Boro Upper Freehold Twp Wall Twp Jackson Twp
<i>Rails to Trails</i>		
	Burlington	Burlington City Burlington Twp Chesterfield Twp Mansfield Twp North Hanover Twp Pemberton Boro Pemberton Twp Southampton Twp Springfield Twp Westampton Twp Willingboro Twp
	Mercer	East Windsor Twp Hightstown Boro Washington Twp West Windsor Twp
	Ocean Sussex	Plumsted Twp Andover Boro Andover Twp Franklin Boro Green Twp Hamburg Boro Newton Town Ogdensburg Boro Sparta Twp Sussex Boro
	Warren	Vernon Twp Allamuchy Twp Belvidere Town Franklin Twp Independence Twp Knowlton Twp Liberty Twp Washington Twp White Twp
<i>Warren County Trail</i>		
	Warren	Franklin Twp Harmony Twp Lopatcong Twp Mansfield Twp

Oxford Twp  
 Phillipsburg Town  
 Washington Twp  
 White Twp

**TOTAL** **\$71,000,000**

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any State project that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to section 2 of this act, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1989, c.183.

2. a. There is appropriated from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), to the Department of Environmental Protection the sum of \$4,000,000 for the acquisition or development of lands by the State for recreation and conservation purposes. This sum shall be allocated as follows:

Project	County	Municipality	Amount
URBAN PARKS			\$4,000,000
	Camden	Camden City	
	Essex	Newark City	
	Hudson	Jersey City	
	Mercer	Trenton City	
	Middlesex	Edison Twp	
	Passaic	Paterson City	
<b>TOTAL</b>			<b>\$4,000,000</b>

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any State project that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to section 1 of this act, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1989, c.183.

3. a. There is reappropriated to the Department of Environmental Protection the unexpended balances, due to project cancellations or cost savings, of the amounts appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for State projects to acquire lands for recreation and conservation purposes, for the purpose of providing additional funding, as determined by the Department of Environmental Protection, to any State project that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes or that receives funding approved pursuant to either section 1 or section 2 of this act, subject to the approval of the Joint Budget Oversight Committee or its successor. Any such additional funding provided from a Green Acres bond act may include administrative costs.

b. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1989, c.183.

4. This act shall take effect immediately.

Approved January 19, 2005.

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## CHAPTER 12

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund" to provide grants to assist qualifying tax exempt nonprofit organizations to acquire or develop lands for recreation and conservation purposes.

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

1. a. (1) There is appropriated from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), to the Department of Environmental Protection the sum of \$11,805,500 for the purpose of providing grants to assist qualifying tax exempt nonprofit organizations to acquire lands for recreation and conservation purposes. The following projects are eligible for funding with the moneys appropriated pursuant to this paragraph:

<b>Nonprofit Organization</b>	<b>Project</b>	<b>County</b>	<b>Municipality</b>	<b>Approved Amount</b>
(a) Canal Society of New Jersey	Morris Canal Greenway	Morris	Mount Olive Twp	\$400,000
		Sussex	Roxbury Twp Stanhope Boro	
(b) Conservation Fund	Cape May Conservation Fund Acq	Cape May	Middle Twp	400,000
(c) Delaware and Raritan Greenway, Inc.	Greenway Acq			800,000
	Central Stony Brook Greenway	Hunterdon	Delaware Twp East Amwell Twp	
		Mercer	Hopewell Twp Lawrence Twp Pennington Boro Princeton Twp	
	Delaware River Tributaries Acq	Middlesex	Cranbury Twp	
		Burlington	Bordentown City Bordentown Twp Chesterfield Twp	
		Mercer	Hamilton Twp Hopewell Twp Lawrence Twp Washington Twp West Windsor Twp Trenton City	
	Griggstown Canal Acq	Middlesex	Monroe Twp	
		Monmouth	Upper Freehold Twp	
	Sourlands Mountain Acq	Middlesex	Highland Park Boro	
Somerset		Franklin Twp Rocky Hill Boro		
Upper Millstone Greenway	Hunterdon	East Amwell Twp Lambertville City West Amwell Twp		
	Mercer	Hopewell Twp		
	Somerset	Branchburg Twp Hillsborough Twp Montgomery Twp		
	Mercer	West Windsor Twp		
	Middlesex	Cranbury Twp Highland Park Boro		

(d) East Windsor Green Space, Inc.	Millstone River-Rocky Brook Acq	Monmouth Mercer	Monroe Twp Plainsboro Twp South Brunswick Twp Millstone Twp East Windsor Twp	200,000
(e) Friends of Holmdel Open Space	Holmdel Open Space Acq	Monmouth	Holmdel Twp	100,000
(f) Friends of Hopewell Valley Open Space	Hopewell Valley Park Acq	Mercer	Hopewell Boro Hopewell Twp Lawrence Twp	400,000
(g) Friends of West Windsor Open Space	Duck Pond Run-Greenway Initiative	Mercer	West Windsor Twp	400,000
(h) Harding Land Trust	Open Spaces & Natural Places of Harding Twp	Morris	Harding Twp	500,000
(i) Helping People Help Themselves	Open Space Acq	Bergen Monmouth Ocean Passaic	Paramus Boro Howell Twp Wall Twp Jackson Twp South Toms River Boro Clifton City Paterson City Princeton Twp	82,500
(j) Historical Society of Princeton	Udike Farm Acq	Mercer	Princeton Twp	248,000
(k) Hunterdon Land Trust Alliance	Hunterdon Open Space	Hunterdon	All municipalities	575,000
(l) Metuchen-Edison YMCA	Oakcrest Swim Club	Middlesex	Edison Twp	50,000
(m) Monmouth Conservation Foundation	Open Space Plans 2	Monmouth	All municipalities	400,000
(n) Montgomery Friends of Open Space	Montgomery Conservation Plan	Somerset	Montgomery Twp	400,000
(o) Morris Land Conservancy	Priority Areas Acq	Bergen Essex Morris	Oakland Boro Livingston Twp West Orange Twp Chatham Boro Chatham Twp Denville Twp East Hanover Twp Florham Park Boro Hanover Twp Jefferson Twp Kinnelon Boro Madison Boro Mine Hill Twp Montville Twp	575,000

			Morris Twp	
			Mount Olive Twp	
			Parsippany-Troy Hills Twp	
			Pequannock Twp	
			Randolph Twp	
			Rockaway Twp	
			Roxbury Twp	
			Washington Twp	
		Passaic	Ringwood Boro	
		Somerset	Peapack-Gladstone Boro	
		Sussex	Byram Twp	
			Frankford Twp	
			Fredon Twp	
			Green Twp	
			Hampton Twp	
			Vernon Twp	
		Warren	Greenwich Twp	
(p) National Biodiversity Parks, Inc.	Priority Areas Acq			575,000
	Hamburg	Sussex	Franklin Boro	
	Foothills		Hardyston Twp	
	Pine Barrens	Burlington	New Hanover Twp	
	Northern Fringe Area		North Hanover Twp	
		Ocean	Jackson Twp	
			Plumsted Twp	
(q) Natural Lands Trust	Delaware Estuaries Acq	Cumberland	Commercial Twp	400,000
			Downe Twp	
			Maurice River Twp	
			Millville City	
			Stow Creek Twp	
		Salem	Alloway Twp	
			Lower Alloways Creek Twp	
			Quinton Twp	
(r) Nature Preservation Council, Inc.	Bass River/Egg Harbor Wildlife & Nature Preserve	Atlantic	Egg Harbor Twp	400,000
(s) New Jersey Conservation Foundation	Priority Area Aquisitions	Burlington	Bass River Twp	975,000
	Arcadia Lake	Passaic	West Milford Twp	
	Arthur Kill	Middlesex	Edison Twp	
	Greenway	Union	Linden City	
			Springfield Twp	
			Union Twp	
	Black River Greenway/ N. Branch of Raritan	Hunterdon	Readington Twp	
			Tewksbury Twp	
		Morris	Mendham Twp	
		Somerset	Bedminster Twp	
			Bernardsville Boro	
			Far Hills Boro	
			Peapack-Gladstone Boro	

	Burden Hill Forest Protection Initiative	Cumberland	Stow Creek Twp	
		Salem	Alloway Twp Lower Alloways Creek Twp Quinton Twp Camden City	
	Camden Parks & Greenways	Camden		
	Forked River Mountain Add	Ocean	Lacey Twp	
	Pequannock Watershed	Passaic	West Milford Twp	
	Scotts Mtn Acq	Warren	Franklin Twp Harmony Twp Lopatcong Twp Washington Twp White Twp Jefferson Twp	
	Sparta Mountain Greenway	Morris		
		Sussex	Byram Twp Sparta Twp Wantage Twp	
	Wickecheoke Creek Acq	Hunterdon	Delaware Twp Kingwood Twp Raritan Twp	
(t) New York - New Jersey Trail Conference	Green Corridors	Morris	Jefferson Twp	500,000
		Passaic	Ringwood Boro West Milford Twp	
		Sussex	Sparta Twp Vernon Twp	
		Warren	Hope Twp Liberty Twp	
(u) Passaic River Coalition	Passaic River Preservation Project			575,000
	Central Passaic Basin Protection	Essex	Fairfield Twp Roseland Boro West Caldwell Twp	
		Morris	East Hanover Twp Florham Park Boro Hanover Twp Montville Twp Parsippany-Troy Hills Twp	
	Clinton Woods Liberty Corner/Upper Passaic River Greenway	Passaic	West Milford Twp	
		Essex	Livingston Twp	
		Morris	Chatham Boro Chatham Twp Long Hill Twp	
		Somerset	Bernards Twp Bernardsville Boro	
		Union	Warren Twp Berkeley Heights Twp	



Lower Passiac River Greenway	Bergen	New Providence Boro
		Summit City
		Elmwood Park Boro
		Fair Lawn Boro
		Garfield City
	Essex Passaic	Lyndhurst Twp
		Rutherford Boro
		Wallington Boro
		Newark City
		Clifton City
Pequannock/ Pompton Greenway	Morris	Hawthorne Boro
		Passaic City
		Paterson City
		Butler Boro
		Jefferson Twp
	Passaic	Kinnelon Boro
		Lincoln Park Boro
		Pequannock Twp
		Riverdale Boro
		Rockaway Boro
Ramapo Greenway	Bergen	Bloomingtondale Boro
		Pompton Lakes Boro
	Passaic	Wayne Twp
		West Milford Twp
		Mahwah Twp
Russia Brook/ Rockaway River Greenway	Morris	Oakland Boro
		Bloomingtondale Boro
	Sussex	Pompton Lakes Boro
		Wanaque Boro
		Denville Twp
Saddle River Watershed	Bergen	Rockaway Twp
		Hardyston Twp
		Sparta Twp
		Allendale Boro
		Fair Lawn Boro
Upper Passaic Watershed Protection	Morris	Garfield City
		Ho-Ho-Kus Boro
	Somerset	Ridgewood Village
		Saddle River Boro
		Upper Saddle River Boro
Urban Passaic Watershed	Essex	Mendham Boro
		Mendham Twp
	Passaic	Morris Twp
		Bernards Twp
		Bernardsville Boro
Wanaque River Greenway/	Passaic	Cedar Grove Twp
		Verona Twp
		Little Falls Twp
		Totowa Boro
		West Paterson Boro
		Bloomingtondale Boro
		Pompton Lakes Boro

	Greenwood Lake		Ringwood Boro Wanaque Boro West Milford Twp West Milford Twp	
	Wyanokie Highlands	Passaic		
(v) South Jersey Land Trust	Mantua Creek	Gloucester	West Deptford Twp	400,000
(w) Stony Brook Millstone Watershed Assoc.	Watershed Connectors	Mercer	Hopewell Twp	400,000
(x) Tewksbury Land Trust	Land Acq	Hunterdon	Tewksbury Twp	575,000
(y) Trust For Public Land	Project Priority Areas			975,000
	Atlantic Balanced Communities Acq	Atlantic	Egg Harbor Twp Galloway Twp Hamilton Twp All municipalities	
	Bergen Co. Open Space Partnership	Bergen		
	Beyond the Century Plan - Barnegat Bay Initiative	Monmouth	Freehold Twp	
		Ocean	Barneгат Light Boro Berkeley Twp Brick Twp Dover Twp Eagleswood Twp Jackson Twp Lacey Twp Little Egg Harbor Twp Long Beach Twp Manchester Twp Ocean Twp Stafford Twp Tuckerton Boro	
	Camden Balanced Communities Acq	Camden	Berlin Boro Cherry Hill Twp Clementon Boro Gloucester Twp Haddon Twp Lindenwold Boro Voorhees Twp	
	Congress Hall Lawn Acq	Cape May	Cape May City	
	Delaware River Inland	Burlington	Mansfield Twp Mount Laurel Twp Springfield Twp	
	Essex Co. Open Space Harbor Estuary Acq	Essex Bergen Hudson	All municipalities East Rutherford Boro Jersey City Secaucus Town	

	Middlesex	Carteret Boro Old Bridge Twp Woodbridge Twp
	Monmouth	Aberdeen Twp Atlantic Highlands Boro Fair Haven Boro Hazlet Twp Highlands Boro Keansburg Boro Keyport Boro Matawan Boro Middletown Twp Rumson Boro Union Beach Boro
	Union	Linden City Rahway City
Hudson Co. Open Space	Hudson	All municipalities
Hunterdon Co. Open Space Partnership	Hunterdon	Alexandria Twp Bethlehem Twp Califon Boro Clinton Town Clinton Twp Glen Gardner Boro Hampton Boro High Bridge Boro Holland Twp Lebanon Boro Lebanon Twp Readington Twp Tewksbury Twp Union Twp Washington Twp
Long Valley Open Space Acq	Morris	
Metedeconk Watershed Protection	Monmouth	Freehold Twp Howell Twp Millstone Twp Wall Twp
	Ocean	Brick Twp Jackson Twp Lakewood Twp
Morris Open Space Acq	Morris	Harding Twp Jefferson Twp Mount Olive Twp Rockaway Twp Roxbury Twp
Sparta Open Space	Sussex	Sparta Twp
Upper Delaware River Watershed	Hunterdon	Alexandria Twp Bethlehem Twp Bloomsbury Boro Glen Gardner Boro Hampton Boro

			Holland Twp	
			Lebanon Boro	
			Lebanon Twp	
		Morris	Mount Arlington Boro	
			Mount Olive Twp	
			Netcong Boro	
			Roxbury Twp	
			Washington Boro	
		Sussex	Andover Boro	
			Andover Twp	
			Branchville Boro	
			Byram Twp	
			Frankford Twp	
			Fredon Twp	
			Green Twp	
			Hampton Twp	
			Hardyston Twp	
			Hopatcong Boro	
			Lafayette Twp	
			Montague Twp	
			Newton Town	
			Sandyston Twp	
			Sparta Twp	
			Stanhope Boro	
			Stillwater Twp	
			Walpack Twp	
			Wantage Twp	
		Warren	All municipalities	
		Bergen	Mahwah Twp	
	Wanaque Gap Acq			
	Minebrook Watershed Protection	Passaic Somerset	Ringwood Boro Bernardsville Boro	500,000
(z) Upper Raritan Watershed Association				
<b>TOTAL</b>				<b>\$11,805,500</b>

(2) There is appropriated from the Garden State Green Acres Preservation Trust Fund to the Department of Environmental Protection the sum of \$11,101,100 to provide grants to assist qualifying tax exempt nonprofit organizations to develop lands for recreation and conservation purposes. The following projects are eligible for funding with the moneys appropriated pursuant to this paragraph:

Nonprofit Organization	Project	County	Municipality	Approved Amount
Bayshore Economic Dev. Corp.	Popamora Point	Monmouth	Atlantic Highlands Boro Highlands Boro	\$452,600
Branch Brook Park Alliance	Branch Brook Park Renovations	Essex	Newark City	500,000

Cooper's Ferry Development Association	Camden Waterfront Urban Park	Camden	Camden City	500,000
Delaware and Raritan Greenway, Inc.	Hamilton-Trenton - Bordentown Marsh	Mercer	Hamilton Twp Trenton City	250,000
Down Neck Sports Community Group	Independence Park Improvements	Essex	Newark City	500,000
Essex County Parks Foundation	Belleville Park Improvements	Essex	Belleville Twp	500,000
Friends of Essex County Parks	South Mountain Reservation Improvements	Essex	Maplewood Twp Millburn Twp South Orange Village Twp	500,000
Future City, Inc.	Keighry Head Community Land Banking Project	Union	Elizabeth City	67,000
Greater Newark Conservancy	Urban Environmental & Ecological Center Renovations	Essex	Newark City	500,000
Green Fields Foundation	Anderson Park Improvement Project	Essex	Montclair Twp	500,000
Grover Cleveland Park Conservancy	Grover Cleveland Park Restoration Project	Essex	Caldwell Boro Essex Fells Twp	500,000
Irvington Amateur Radio Team	Irvington Park Rehabilitation Project	Essex	Irvington Twp	500,000
Ivy Hill Neighborhood Association	Ivy Hill Park Improvements	Essex	Newark City South Orange Village Twp	500,000
Liga Roberto Clemente De Newark, Inc	Branch Brook Park Middle Div. Sports Complex	Essex	Newark City	500,000
Love Thy Neighbor	Calhoun St. Park Renovation	Mercer	Trenton City	500,000
Montclair Grass Roots, Inc.	Glenfield Park Improvements	Essex	Montclair Twp	500,000
North Ward Center	Branch Brook Park Middle Div. Sports Complex	Essex	Newark City	500,000
Passaic River Coalition	Restoration of Mary Ellen Kramer Park	Passaic	Passaic City	126,500
SPARK-Friends of Riverbank Park	Riverbank Park Improvements	Essex	Newark City	255,000

Teaneck Creek Conservancy	Outdoor Classroom & Boardwalk	Bergen	Teaneck Twp	450,000
Trust for Public Land	Multi Park Improvements	Essex	Newark City	500,000
Watsessing Park Conservancy	Watsessing Park Improvements	Essex	Bloomfield Twp East Orange City	500,000
Weequahic Park Association	Weequahic Lake Restoration	Essex	Newark City	500,000
West Side Park Conservancy	West Side Park Field House Restroom Reconstruction	Essex	Newark City	500,000
Zoological Society of NJ, Inc.	Turtle Back Zoo Enhancements	Essex	West Orange Twp	500,000
<b>TOTAL</b>				<b>\$11,101,100</b>

(3) Any transfer of any funds, or change in project sponsor, site, or type, listed in this subsection shall require the approval of the Joint Budget Oversight Committee or its successor.

b. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a qualifying tax exempt nonprofit organization that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

c. There is reappropriated to the Department of Environmental Protection the unexpended balances, due to project withdrawals, cancellations, or cost savings, of the amounts appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund to assist qualifying tax exempt nonprofit organizations to acquire or develop lands for recreation and conservation purposes, for the purpose of providing additional funding, as determined by the Department of Environmental Protection, to any project of a qualifying tax exempt nonprofit organization that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, subject to the approval of the Joint Budget Oversight Committee or its successor. Any such additional funding provided from a Green Acres bond act may include administrative costs.

d. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1989, c.183.

2. This act shall take effect immediately.

Approved January 19, 2005.

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CHAPTER 13

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund" to provide grants to assist qualifying tax exempt nonprofit organizations to develop lands for recreation and conservation purposes.

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

1. a. (1) There is appropriated from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), to the Department of Environmental Protection the sum of \$120,000 for the purpose of providing grants to assist qualifying tax exempt nonprofit organizations to develop lands for recreation and conservation purposes. The following project is eligible for funding with the moneys appropriated pursuant to this paragraph:

<b>Nonprofit Organization</b>	<b>Project</b>	<b>County</b>	<b>Municipality</b>	<b>Approved Amount</b>
Save Ellis Island, Inc.	Pedestrian Walkway Restoration	Hudson	Jersey City	\$120,000
<b>TOTAL</b>				<b>\$120,000</b>

(2) Any transfer of any funds, or change in project sponsor, site, or type, listed in this subsection shall require the approval of the Joint Budget Oversight Committee or its successor.

b. To the extent that moneys remain available after the project listed in subsection a. of this section is offered funding pursuant thereto, any project of a qualifying tax exempt nonprofit organization that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes shall be eligible

to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor. For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1989, c.183.

2. This act shall take effect immediately.

Approved January 19, 2005.

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CHAPTER 14

AN ACT appropriating \$39,800,000 from the "Garden State Farmland Preservation Trust Fund" for farmland preservation purposes, and canceling certain prior appropriations for withdrawn farmland preservation projects.

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

1. a. There is appropriated to the State Agriculture Development Committee the following sums for the purpose of providing grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland for projects approved as eligible for such funding pursuant to subsection b. of this section, provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements:

(1) \$34,800,000 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20); and

(2) \$5,000,000 from the "Garden State Farmland Preservation Trust Fund," made available due to project withdrawals and canceled obligations.

The total expenditure by the State Agriculture Development Committee from the list of eligible projects in subsection b. of this section totaling \$46,250,000 shall not exceed \$39,800,000.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

<b>Project (Farm)</b>	<b>County</b>	<b>Municipality</b>	<b>Acres (+/-)</b>	<b>Amount of Grant Not to Exceed</b>
Demarest, G. & E.	Bergen	Hillsdale Boro	11	\$2,050,000
Burlington County/ Bunting, C. & R.	Burlington	Chesterfield Twp	29	150,000



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Burlington County/ Puglia, W. & E.	Burlington	Chesterfield Twp	72	225,000
Burlington County/ Reeder, G. & E.	Burlington	Florence Twp	103	200,000
Burlington County/ Durr, L. & C. (East)	Burlington	Mansfield Twp	26	100,000
Burlington County/ Durr, L. & C. (West)	Burlington	Mansfield Twp	58	300,000
Burlington County/ B. Roger Kirby & Sons, Inc.	Burlington	Mansfield Twp	158	1,025,000
Burlington County/ Van Istendal Estate	Burlington	Southampton Twp	137	500,000
Burlington County/ Bauma, J. & R.	Burlington	Springfield Twp	90	425,000
Burlington County/ Columbus Farmers Market, LLC	Burlington	Springfield Twp	30	250,000
Cape May County/ Nuessle, W. & B.	Cape May	Lower Twp	10	100,000
USDA/ FSA/ Myers & Robbins	Cape May	Middle Twp	71	225,000
Cape May County/ Cedar Villas, Inc.	Cape May	Upper Twp	27	250,000
Cape May County/ Roth	Cape May	Upper Twp	23	525,000
Cape May County/ Wilde, B. & Bray, M.	Cape May	West Cape May Boro	36	625,000
Fisher, G.	Cumberland	Fairfield Twp	25	75,000
Halpern, R. & M.	Cumberland	Fairfield Twp	15	75,000
Bell, K. & P.	Cumberland	Greenwich Twp	24	75,000
McCutcheon, E.	Cumberland	Greenwich Twp	60	100,000
Naples, S. & I.	Cumberland	Greenwich Twp	44	100,000
Trull, G. & A.	Cumberland	Hopewell Twp	6	50,000
Ansink, C.	Cumberland	Upper Deerfield Twp	13	75,000
Palischak, M., Sr.	Cumberland	Upper Deerfield Twp	31	125,000
Sloat, R.	Cumberland	Upper Deerfield Twp	54	175,000
Milebach, C. & C.	Gloucester	East Greenwich Twp	21	100,000
Gloucester County/ Leone, J. & S.	Gloucester	East Greenwich Twp/ Mantua Twp	262	1,725,000
Visalli, C. & M.	Gloucester	Elk Twp	18	100,000
Totoro, J. & Machulsky, A.	Gloucester	Franklin Twp	33	150,000
McKendry, F & J.	Gloucester	Harrison Twp	12	100,000

Pontano, E.	Gloucester	Monroe Twp	6	50,000
Keefer, F. & B.	Gloucester	South Harrison Twp	59	325,000
Putorti, A.	Gloucester	Woolwich Twp	29	225,000
Hunterdon County/ Daley, F. & P.	Hunterdon	Alexandria Twp	32	175,000
Canright, M. & Hansen, A.	Hunterdon	Bethlehem Twp	37	225,000
Clinton Twp/ Herr, Ryman, & Cowles	Hunterdon	Clinton Twp	172	825,000
Connolly, R. & Ashby, I.	Hunterdon	Delaware Twp	71	425,000
Harrison, H. (Living Trust)	Hunterdon	East Amwell Twp	101	525,000
Henssler, S.	Hunterdon	East Amwell Twp	133	650,000
Gunther, J.	Hunterdon	Franklin Twp	60	275,000
Furlong, B.	Hunterdon	Franklin Twp/ Alexandria Twp	49	275,000
Hunterdon County/ Rey, H. & M.	Hunterdon	Kingwood Twp	61	300,000
Kocsis, F. & Mott-Kocsis, M.	Hunterdon	Kingwood Twp	34	200,000
Grossman, N. & Wolfe, N.	Hunterdon	Lebanon Twp	52	450,000
Sekel, C. and Heede, M.	Hunterdon	Lebanon Twp	106	425,000
Moreira Family LLC	Hunterdon	Raritan Twp	85	1,200,000
Readington Twp/ Kappus, R.	Hunterdon	Readington Twp	50	150,000
Ward, J. & C.	Mercer	East Windsor Twp	30	225,000
Huebner, C. & L.	Mercer	Hopewell Twp	56	600,000
Patricelli, G. & D.	Mercer	Hopewell Twp	26	375,000
Budrewicz, E.	Middlesex	Monroe Twp	29	475,000
Gasko, J. & E.	Middlesex	Monroe Twp	37	250,000
Barclay, B. & G.	Middlesex	South Brunswick Twp	23	600,000
Co-Trustees John H. Barclay Trust	Middlesex	South Brunswick Twp	149	2,150,000
Sigle, D.	Middlesex	South Brunswick Twp	14	875,000
Trapani, A. & A.	Monmouth	Millstone Twp	18	225,000
Estate of R. Menzel	Morris	Harding Twp	73	1,075,000
Koven, J.	Morris	Harding Twp	15	1,075,000
Cianfrocca, J. & H.	Morris	Washington Twp	23	300,000
E. G. Jewett, L.P.	Morris	Washington Twp	128	900,000

Messina, J. & M.	Morris	Washington Twp	87	450,000
Ort, H. & E.	Morris	Washington Twp	17	300,000
Strawder, P. & E.	Ocean	Jackson Twp	11	100,000
Dwulet, M.	Ocean	Lakewood Twp	55	3,400,000
Bryant, J.	Ocean	Plumsted Twp	16	175,000
Mascher, P. & W.	Ocean	Plumsted Twp	10	75,000
Kuehm, G. & I.	Passaic	Wayne Twp	42	4,725,000
Haines, S.	Salem	Lower Alloways Creek Twp/ Elsinboro Twp	39	125,000
Catalano, J.	Salem	Mannington Twp	147	475,000
Crystal, S.	Salem	Pittsgrove Twp	30	175,000
Cimprich, J. & R.	Salem	Upper Pittsgrove Twp	66	200,000
Devivo, A.	Salem	Upper Pittsgrove Twp	125	425,000
Garlic, G. & K.	Salem	Upper Pittsgrove Twp	39	175,000
Hitchner, R. & S.	Salem	Upper Pittsgrove Twp	105	425,000
Weisensee, L.	Salem	Upper Pittsgrove Twp	23	125,000
Cunningham, W.	Somerset	Hillsborough Twp	60	725,000
Heflich Family LLC	Somerset	Hillsborough Twp	46	675,000
Young, C.	Somerset	Hillsborough Twp	28	175,000
Jordan, L.	Sussex	Andover Twp	40	175,000
Sadlon, C.	Sussex	Frankford Twp	113	350,000
Nilsen, E.	Sussex	Fredon Twp	35	175,000
Luckey, J. & N.	Sussex	Green Twp	83	250,000
Fairclough, J. & B. #1	Sussex	Hampton Twp	32	150,000
Fairclough, J. & B. #2	Sussex	Hampton Twp	44	175,000
Fairclough, J. & B. #3	Sussex	Hampton Twp	40	175,000
Komar, J. & N.	Sussex	Hampton Twp	35	175,000
Sussex County/ Fairclough, A. #1	Sussex	Hampton Twp	47	175,000
Sussex County/ Fairclough, A. #2	Sussex	Hampton Twp	53	175,000
Sussex County/ Lewis, S. #1	Sussex	Hampton Twp	68	225,000
Sussex County/ Lewis, S. #2	Sussex	Hampton Twp	58	200,000
Takacs, K.	Sussex	Sparta Twp	75	525,000

Roof, L. & G.	Sussex	Stillwater Twp	95	350,000
Bina, P.	Sussex	Wantage Twp	27	100,000
De Groat, W. & E.	Sussex	Wantage Twp	80	225,000
Havens, W. & D.	Sussex	Wantage Twp	57	150,000
Paladino, S.	Sussex	Wantage Twp	46	125,000
Ringier, B. & A.	Sussex	Wantage Twp	63	175,000
Warren County/ Ervey, J.	Warren	Allamuchy Twp	232	750,000
Schnetzer, A.	Warren	Franklin Twp	57	225,000
Gurba, S.	Warren	Frelinghuysen Twp/ Allamuchy Twp	112	350,000
Warren County/ Estate of Elizabeth Rinehart	Warren	Greenwich Twp	68	400,000
Hengst, L.	Warren	Harmony Twp	65	225,000
Rohsler, B.	Warren	Hope Twp	61	125,000
Rohsler, H. M.	Warren	Hope Twp	70	150,000
Knowlton Twp/ Hillyerd	Warren	Knowlton Twp	78	250,000
McGarry, W. & C.	Warren	Mansfield Twp	75	250,000
McGarry, W. & C.	Warren	Mansfield Twp	87	425,000
Enz, K.	Warren	Washington Twp/ White Twp	81	325,000

2. Of the moneys appropriated or reappropriated pursuant to P.L.1999, c.138, from the "Garden State Preservation Trust Fund Account," and pursuant to P.L.2000, c.49, P.L.2000, c.50, P.L.2000, c.51, P.L.2000, c.176, P.L.2001, c.181, P.L.2003, c.80, P.L.2003, c.83, and P.L.2003, c.271 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), a sum of \$5,000,000 is canceled due to project withdrawals.

3. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.) and P.L.1983, c.32 (C.4:1C-11 et seq.), as appropriate.

4. This act shall take effect immediately.

Approved January 19, 2005.

## CHAPTER 15

AN ACT appropriating \$8,000,000 from the "Garden State Farmland Preservation Trust Fund" for farmland preservation purposes in the pinelands area.

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

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$8,000,000 for the purpose of providing grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland located in the pinelands area for projects approved as eligible for such funding pursuant to subsection b. of this section, provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

<b>Project (Farm)</b>	<b>County</b>	<b>Municipality (+/-)</b>	<b>Acres</b>
Cappuccio, J.	Atlantic	Hammonton Town	30
Gerber, T. & C.	Burlington	Medford Twp	680
Karlberg, E. & N.	Burlington	Pemberton Twp	147
Conte, J. & L.	Burlington	Tabernacle Twp	143
Cramer, D. & C.	Burlington	Tabernacle Twp	39
Lee Brothers, Inc.	Burlington	Tabernacle Twp	1,815
		Washington Twp	
		Woodland Twp	
Moore, S., Jr. & N.	Burlington	Tabernacle Twp	140
Moore, S., Jr. & N.	Burlington	Tabernacle Twp	475
Wilk, M.	Burlington	Tabernacle Twp	22
Francis Mick & Son, Inc.	Burlington	Washington Twp	509
Bates Run Farms, LLC	Camden	Winslow Twp	56

Iuliucci, P. &amp; J.

Camden

Winslow  
Twp

42

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.), and P.L.1983, c.32 (C.4:1C-11 et seq.), as appropriate.

3. This act shall take effect immediately.

Approved January 19, 2005.

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CHAPTER 16

AN ACT appropriating \$25,000,000 from the "Garden State Farmland Preservation Trust Fund" for farmland preservation purposes.

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

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$25,000,000 for the purpose of providing planning incentive grants to municipalities and counties pursuant to the provisions of P.L.1999, c.180 (C.4:1C-43.1 et seq.).

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

<b>Applicant</b>	<b>County</b>	<b>Municipality</b>	<b>Amount of Grant Not To Exceed</b>
Burlington County - Berry Production Project Area	Burlington	Pemberton Twp Tabernacle Twp Washington Twp & Woodland Twp	\$1,500,000
Burlington County - Pinelands Edge Project Area	Burlington	Pemberton Twp & Southampton Twp	547,275
Burlington County - Rancocas Project Area	Burlington	Pemberton Twp & Southampton Twp	1,311,270
Burlington County - Route 206 South Project Area	Burlington	Medford Twp Shamong Twp Springfield Twp & Tabernacle Twp	1,500,000
North Hanover Twp	Burlington	North Hanover Twp	545,407
Bethlehem Twp -	Hunterdon	Bethlehem Twp	136,706

Charlestown Road Area			
Delaware Twp - Covered Bridge/ Dilts Corner Project Area	Hunterdon	Delaware Twp & Kingwood Twp	345,342
Delaware Twp - Sandbrook Headquarters District	Hunterdon	Delaware Twp	317,510
East Amwell Twp	Hunterdon	East Amwell Twp	1,500,000
Holland Twp	Hunterdon	Holland Twp	134,221
Lebanon Twp	Hunterdon	Lebanon Twp	308,700
Readington Twp - Phase I (Central)	Hunterdon	Readington Twp	242,385
Readington Twp - Phase II (South)	Hunterdon	Readington Twp	266,564
Readington Twp - Phase III (East)	Hunterdon	Readington Twp	256,327
Tewksbury Twp - NW Area	Hunterdon	Tewksbury Twp	626,235
Tewksbury Twp - Oldwick Area East	Hunterdon	Tewksbury Twp	316,710
Tewksbury Twp - Oldwick NW Area	Hunterdon	Tewksbury Twp	149,400
Tewksbury Twp - Pottersville Project Area (#4)	Hunterdon	Tewksbury Twp	304,725
West Amwell Twp - Rocktown-Rte 179 Corridor	Hunterdon	West Amwell Twp	251,682
Hopewell Twp	Mercer	Hopewell Twp	1,000,000
Monmouth County - Roosevelt Boro/ Millstone Twp	Monmouth	Roosevelt Boro & Millstone Twp	300,000
Holmdel Twp	Monmouth	Holmdel Twp	359,710
Howell Twp - Manasquan Reservoir Southeast Project Area	Monmouth	Howell Twp	100,000
Manasquan Reservoir West Project Area	Monmouth	Howell Twp	1,222,250
Howell Twp - North Central Project Area	Monmouth	Howell Twp	1,222,250
Manalapan Twp - Manalapan Brook Headwaters Project Area	Monmouth	Manalapan Twp	750,000
Manalapan Brook Watershed East Project Area	Monmouth	Manalapan Twp	750,000

Manalapan Brook Watershed West Project Area			
Matchaponix Brook Watershed Project Area			
Upper Freehold Twp Morris County	Monmouth	Upper Freehold Twp	1,162,334
Morris County - Fairmount Black River Project Area	Morris	Chester Twp	1,500,000
Morris County - Long Valley Project Area	Morris	Washington Twp	500,000
Morris County - Mendham Valley Project Area	Morris	Washington Twp	1,000,000
Morris County - Rockaway Valley Project Area	Morris	Mendham Boro & Mendham Twp	457,057
Pilesgrove Twp - ADA I Northern Project Area	Morris	Boonton Twp Denville Twp & Rockaway Twp	457,057
ADA II Route 40 East Project Area	Salem	Pilesgrove Twp	441,822
ADA III Commissioners Pike Southeast Project Area			
Pittsgrove Twp - Buck-Porchtown Rd Project Area	Salem	Pittsgrove Twp	106,284
Bedminster Twp - Black River Corridor Project Area	Somerset	Bedminster Twp	348,000
Bedminster Twp - Lamington Road East Project Area	Somerset	Bedminster Twp	892,462
Branchburg Twp - Neshanic Valley Project Area	Somerset	Branchburg Twp	345,993
Franklin Twp - Project Area I (Central)	Somerset	Franklin Twp	500,000
Franklin Twp - Project Area II (South)	Somerset	Franklin Twp	375,000
Hillsborough Twp - Mill Lane Project Area	Somerset	Hillsborough Twp	675,000
Montgomery Twp	Somerset	Montgomery Twp	457,057
Blairstown Twp - North Project Area Central Project Area South Project Area	Warren	Blairstown Twp	392,761



Knowlton Twp - Project Area 2	Warren	Blairstown Twp & Knowlton Twp	400,000
Pohatcong Twp - Valleys & Ridge ADA	Warren	Pohatcong Twp	525,236
White Twp	Warren	White Twp	171,518

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999, c.180 (C.4:1C-43.1 et seq.), as appropriate.

3. This act shall take effect immediately.

Approved January 19, 2005.

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CHAPTER 17

AN ACT appropriating \$2,500,000 from the "Garden State Farmland Preservation Trust Fund" for grants to qualifying tax exempt nonprofit organizations for farmland preservation purposes.

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

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$2,500,000 for the purpose of providing grants to qualifying tax exempt nonprofit organizations listed in subsection b. of this section for up to 50% of the cost of acquisition of development easements on farmland or for up to 50% of the cost of acquisition of fee simple titles to farmland for resale or lease with agricultural deed restrictions approved by the committee.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

<b>Applicant (Farm)</b>	<b>County</b>	<b>Municipality</b>	<b>Acres (+/-)</b>
New Jersey Conservation Foundation (Circle D Farm)	Cumberland	Upper Deerfield Twp	28
Hunterdon Land Trust (Kingwood Twp Project)	Hunterdon	Kingwood Twp	482

Delaware & Raritan Greenway Inc (Hopewell Twp Project)	Mercer	Hopewell Twp	186
Friends of Hopewell Valley Open Space (Rosenthal/ Saaz Farm)	Mercer	Hopewell Twp	196
Delaware & Raritan Greenway Inc (Cranbury Twp Project)	Middlesex	Cranbury Twp	442
Morris Land Conservancy (Lillis Farm)	Morris	Washington Twp	155

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.), and P.L.1983, c.32 (C.4:1C-11 et seq.), as appropriate.

3. This act shall take effect immediately.

Approved January 19, 2005.

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## CHAPTER 18

AN ACT appropriating \$52,432,378 from the "Garden State Farmland Preservation Trust Fund" for farmland preservation purposes, and canceling certain prior appropriations for withdrawn farmland preservation projects.

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

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the following sums for the purpose of providing for the cost of acquisition by the committee of development easements on farmland for projects approved as eligible for such funding pursuant to subsection b. of this section:

(1) \$25,800,000 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20); and

(2) \$3,700,000 from the "Garden State Farmland Preservation Trust Fund," made available due to project withdrawals and canceled obligations.

b. The following projects are eligible for funding with the moneys appropriated pursuant to subsection a. of this section:

<b>Project (Farm)</b>	<b>County</b>	<b>Municipality</b>	<b>Acres (+/-)</b>
B & B Farms	Atlantic	Galloway Twp	18
Lanza, R. & T.	Atlantic	Galloway Twp	80
Cappuccio, J.	Atlantic	Hammonton Town	7
Bruch, J.	Burlington	Chesterfield Twp	61
EC Jennings Assoc	Burlington	Medford Twp	96
Foulks, R. & V.	Burlington	Shamong Twp	91
Ernest, R.	Cumberland	Deerfield Twp	31
Ruske, R., M., C., B., & Wiltiw, V.	Cumberland	Fairfield Twp/ Millville City	284
Apel, S.	Cumberland	Upper Deerfield Twp	36
Modica, J. & C.	Hunterdon	Bethlehem Twp	73
Teets, W.	Hunterdon	Clinton Twp	36
Albin, L.	Hunterdon	Clinton Twp/ Lebanon Twp	35
Brooks, R.	Hunterdon	Delaware Twp	33
Cane Poultry Farm	Hunterdon	Delaware Twp	43
Cane Poultry Farm, Inc	Hunterdon	Delaware Twp	26
Dugger, E.	Hunterdon	Delaware Twp	56
Mickelsen, P. & B.	Hunterdon	Delaware Twp	51
Pontecorvo, G. & C.	Hunterdon	Delaware Twp	36
Reimer, S.	Hunterdon	Delaware Twp	72
Vaughan Feary	Hunterdon	Delaware Twp	49
Wheaton, M.	Hunterdon	Delaware Twp	37
Wheaton, M.	Hunterdon	Delaware Twp	22
Wiley, J. & P.	Hunterdon	Delaware Twp	27
Crisafulli, K.	Hunterdon	East Amwell Twp	26
Isabella, G. & P.	Hunterdon	East Amwell Twp	32
Peabody, T. & K.	Hunterdon	East Amwell Twp	46
Skinner, D. & Kramer, K.	Hunterdon	East Amwell Twp	93
Thompson Realty Co. (Zeng)	Hunterdon	East Amwell Twp	77
Franklin Twp/ Cherryville Farms	Hunterdon	Franklin Twp	117
Vitale, M. & E.	Hunterdon	Franklin Twp	53
Borwegen, R. & B.	Hunterdon	Holland Twp	38
Harwick, T.	Hunterdon	Holland Twp	49
Zeller, K.	Hunterdon	Holland Twp	64

DeCroce, R.	Hunterdon	Kingwood Twp	117
Rawlyk, E. & S.	Hunterdon	Kingwood Twp/ Franklin Twp	48
New Jersey Water Supply Authority/ BRC, Inc.	Hunterdon	Lebanon Twp	80
Sekela, G.	Hunterdon	Lebanon Twp	79
Stonegate Standard Bred Farms, Inc.	Hunterdon	Lebanon Twp	177
Illva Saronno Corp	Hunterdon	Readington Twp	60
Hamilton Twp/ Ellis	Mercer	Hamilton Twp	91
Goldsmith, C.	Mercer	Hopewell Twp	35
Herbert, M. J.	Mercer	Hopewell Twp	52
Hopewell Twp/ Martin	Mercer	Hopewell Twp	136
Mokros, A.	Mercer	Hopewell Twp	94
O'Brien, V. & L, E. Barclay Family & Trust	Mercer Middlesex	Hopewell Twp Cranbury Twp	12 88
Simonson Family Associates	Middlesex	Cranbury Twp	130
Dieker, M.	Middlesex	Sayreville Boro	20
W. Wallace & Son, Inc	Monmouth	Howell Twp	29
Cuddihy, J.	Monmouth	Howell Twp/ Freehold Twp	65
Herenchak, A.	Monmouth	Upper Freehold Twp	136
Infante, J.	Monmouth	Upper Freehold Twp	73
Peterson, K. & R.	Monmouth	Upper Freehold Twp	30
Ansink, C.	Salem	Alloway Twp	16
Mogar, J. & J.	Salem	Alloway Twp	44
Robbins, J. & Williams, C.	Salem	Alloway Twp	52
Barbara, E. & L.	Salem	Alloway Twp/ Mannington Twp	185
Foster, E. and J.	Salem	Alloway Twp/ Mannington Twp	64
Seagraves, W. & S.	Salem	Alloway Twp/ Quinton Twp	49
Harasta, C.	Salem	Lower Alloways Creek Twp	35
Sharp, D. & L.	Salem	Lower Alloways Creek Twp	30
Massey, J. T. & J.	Salem	Lower Alloways Creek Twp/ Quinton Twp	46
Myers, C. (Trustee)	Salem	Pilesgrove Twp	47
Walters, E. & Mesiano, C.	Salem	Pittsgrove Twp	25
McCosker, A.	Salem	Quinton Twp	180

Peterson, R.	Salem	Quinton Twp	230
Cimprich, J. & R.	Salem	Upper Pittsgrove Twp	126
Dare, D.	Salem	Upper Pittsgrove Twp	28
Davis, B. A.	Salem	Upper Pittsgrove Twp	40
Guarrera, J. & D.	Salem	Upper Pittsgrove Twp	49
Kernan, M & D.	Salem	Upper Pittsgrove Twp	73
Koval, L.	Salem	Upper Pittsgrove Twp	48
Pflugfelder, E. & Hourani, C.	Salem	Upper Pittsgrove Twp	101
Valentine, J. & D.	Salem	Upper Pittsgrove Twp	27
Williams, A.	Salem	Upper Pittsgrove Twp/ Alloway Twp Pilesgrove Twp	117
Brooks, W. & D.	Salem	Upper Pittsgrove Twp/ Pittsgrove Twp	61
Carden, T., C., W. & A.	Somerset	Bedminster Twp	42
Carden, T., C., W. & A.	Somerset	Bedminster Twp	28
Suydam Assoc. LP	Somerset	Franklin Twp	133
Giarrusso, M. & J.	Somerset	Hillsborough Twp.	46
Shotwell Family Partnership	Warren	Blairstown Twp	149
Goodbody, M., K. & R.	Warren	Hope Twp	180
Sosnovik, E. & D.	Warren	Hope Twp	73
Casser Farm	Warren	Knowlton Twp	75
Brunkhorst, F. & C.	Warren	Mansfield Twp	46
Donaldson, L. and H.	Warren	Mansfield Twp	216
Rigoletti, M.	Warren	Washington Twp	36

2. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$21,000,000 for the purpose of providing for the cost of acquisition by the committee of fee simple titles to farmland for farmland preservation purposes. Any such farmland acquired in fee simple with moneys appropriated pursuant to this section shall be offered for resale or lease with agricultural deed restrictions.

b. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$1,932,378 from proceeds received from the resale or lease of farmland previously acquired in fee simple by the committee, and such sums from any additional proceeds which may become available by the effective date of this act due to the resale or lease of farmland previously acquired in fee simple by the committee, for the purpose of providing for the cost of acquisition by the committee of fee simple titles to farmland for farmland preservation purposes. Any such farmland acquired in fee simple with moneys appropriated pursuant to this section shall be offered for resale or lease with agricultural deed restrictions.

3. Of the moneys appropriated or reappropriated pursuant to P.L.1999, c.138, from the "Garden State Preservation Trust Fund Account," and pursuant to P.L.2000, c.169, P.L.2001, c.183, P.L.2001, c.184, P.L.2003, c.80, P.L.2003, c.81, and P.L.2003, c.83 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), a sum of \$3,700,000 is canceled due to project withdrawals.

4. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.) and P.L.1983, c.32 (C.4:1C-11 et seq.), as appropriate.

5. This act shall take effect immediately.

Approved January 19, 2005.

## CHAPTER 19

AN ACT concerning the fee imposed upon the grantee of a deed for the transfer of certain real property, amending and supplementing P.L.2004, c.66.

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

1. Section 8 of P.L.2004, c.66 (C.46:15-7.2) is amended to read as follows:

**C.46:15-7.2 Additional fee on certain transfers over \$1,000,000.**

8. a. In addition to all other fees imposed under P.L.1968, c.49 (C.46:15-5 et seq.), there is imposed a fee upon the grantee of a deed for the transfer of real property:

(1) that is classified pursuant to the requirements of N.J.A.C.18:12-2.2 as Class 2 "residential";

(2) (a) that includes property classified pursuant to the requirements of N.J.A.C.18:12-2.2 as Class 3A: "farm property (regular)" but only if the property includes a building or structure intended or suited for residential use, and

(b) any other real property, regardless of class, that is effectively transferred to the same grantee in conjunction with the property described in subparagraph (a) of this paragraph; or

(3) that is a cooperative unit as defined in section 3 of P.L.1987, c.381 (C.46:8D-3)

that is transferred for consideration in excess of \$1,000,000 recited in the deed, which fee shall be an amount equal to 1 percent of the entire amount of such consideration, which fee shall be collected by the county recording officer at the time the deed is offered for recording and remitted to the State Treasurer not later than the 10th day of the month following the month of collection for deposit into the General Fund.

b. The fee imposed by subsection a. of this section shall not apply to a deed if the grantee of the deed for the transfer of real property is an organization determined by the federal Internal Revenue Service to be exempt from federal income taxation pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.501.

c. The fee imposed by subsection a. of this section shall be subject to the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.; provided however, that notwithstanding the provisions of subsection a. of R.S.54:49-14, a taxpayer may file a claim under oath for refund at any time within 90 days after the payment of any original fee and that subsection b. of R.S.54:49-14 shall not apply to any additional fee assessed.

**C.46:15-7.3 Refund for certain fees paid on transactions occurring before February 1, 2005.**

2. Notwithstanding the provisions of any other law, if any, to the contrary, a grantee who paid the fee under section 8 of P.L.2004, c.66 (C.46:15-7.2) for a transaction occurring on or after August 1, 2004 but before February 1, 2005 and who would not be required to pay the fee under section 8 of P.L.2004, c.66 as amended by section 1 of P.L.2005, c.19 if the transaction had occurred on or after February 1, 2005, shall be allowed a refund pursuant to this section of the amounts previously paid pursuant to section 8 of P.L.2004, c.66. A grantee who paid the fee shall, on or after

February 1, 2005 but before May 1, 2005, file with the Director of the Division of Taxation in the Department of the Treasury a claim under oath for refund, in the form as the director may prescribe, stating the grounds therefor.

3. This act shall take effect February 1, 2005 and section 1 shall apply to transfers of property occurring on or after that date

Approved January 19, 2005.

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CHAPTER 20

AN ACT concerning payment of estimated gross income tax on sales of real property in this State by nonresidents, amending P.L.2004 c.55.

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

1. Section 2 of P.L.2004, c.55 (C.54A:8-9) is amended to read as follows:

**C.54A:8-9 Payment of estimated tax by nonresident taxpayer on certain gains.**

2. a. A nonresident taxpayer shall estimate and pay the gross income tax liability on the gain, if any, upon the sale or transfer of real property within this State. A nonresident taxpayer shall estimate the gross income tax due on a form prescribed by the director, using an estimated tax rate that is equal to the highest rate of tax for the taxable year provided in N.J.S.54A:2-1. The estimated tax due shall equal the gain, if any, multiplied by that rate. The amount of gain used in the computation shall equal the amount of gain reportable for federal income tax purposes for the taxable year, but the estimated tax payment shall not be less than 2% of the consideration for the sale or transfer stated in the deed affecting the conveyance.

b. If the real property sold or transferred is located partly with and partly without this State, the nonresident taxpayer shall estimate the tax due using only the portion of the gain reasonably attributable to the portion of the real property located within this State.

c. If the nonresident is an estate or trust, the taxpayer shall estimate the tax due based upon the gain, if any, computed without reduction for any distribution of income to the beneficiaries during the taxable year in which the sale or transfer occurred.



2. This act shall take effect immediately and be retroactive to August 1, 2004.

Approved January 19, 2005.

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CHAPTER 21

AN ACT concerning public disclosure of staffing levels in certain facilities and supplementing Title 26 of the Revised Statutes.

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

**C.26:2H-5f Findings, declarations relative to staffing in certain health care facilities.**

1. The Legislature finds and declares that hospital patients and nursing home residents, in the interest of being fully informed about the quality of health care provided at the facility where they are receiving health care services, are entitled to have access to the information that is required to be posted and otherwise provided to members of the public under this act about direct patient or resident care staffing levels at the facility.

**C.26:2H-5g Compilation, posting of certain staffing information by health care facilities.**

2. a. A general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall compile, and shall post daily in the patient care area of each unit of the hospital and provide upon request to a member of the public, information detailing for each unit and for the end of the prevailing shift, as appropriate:

- (1) the number of registered professional nurses providing direct patient care and the ratio of patients to registered professional nurses;
- (2) the number of licensed practical nurses providing direct patient care and the ratio of patients to licensed practical nurses;
- (3) the number of certified nurse aides providing direct patient care and the ratio of patients to certified nurse aides;
- (4) the number of other licensed or registered health care professionals meeting State staffing requirements; and
- (5) the methods used by the hospital for determining and adjusting direct patient care staffing levels.

b. (1) A nursing home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall compile, and shall include with the information about health care professionals who are directly responsible for resident care, which it is required under federal law to post in areas where this information can be viewed by residents and members of the public, information that details the

ratio of these health care professionals to residents for that particular day on each shift.

(2) The nursing home shall also provide to a member of the public, upon request, the information that is posted in accordance with the provisions of paragraph (1) of this subsection.

c. The information that is posted pursuant to subsections a. and b. of this section shall be displayed in a manner that is visible and accessible to all patients or residents, as applicable, their families and caregivers in the facility, as determined by regulation of the Commissioner of Health and Senior Services and subject to the applicable requirements of federal law.

d. A general hospital and nursing home shall report the information compiled pursuant to subsection a. or b. of this section, respectively, to the commissioner on a monthly basis, on a form and in a manner prescribed by the commissioner. The commissioner shall make this information available to the public on a quarterly basis, accompanied by a written explanation, which the commissioner shall prepare in consultation with the Quality Improvement Advisory Committee established by the commissioner, to assist members of the public in interpreting the information reported pursuant to this section.

e. A general hospital or nursing home that fails to comply with the provisions of this act, or any rules or regulations adopted pursuant thereto, shall be subject to a penalty as determined by the commissioner pursuant to sections 13 and 16 of P.L.1971, c.136 (C.26:2H-13 and C.26:2H-16).

**C.26:2H-5h Rules, regulations.**

3. The Commissioner of Health and Senior Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act, in consultation with the Quality Improvement Advisory Committee established by the commissioner. The regulations shall include, but not be limited to, procedures for standardizing the reporting of information by general hospitals and nursing homes that is required pursuant to subsection d. of section 2 of this act.

4. This act shall take effect on the 180th day after enactment, except that the Commissioner of Health and Senior Services may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved January 24, 2005.

## CHAPTER 22

AN ACT concerning underground facilities and amending P.L.1994, c.118.

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

1. Section 3 of P.L.1994, c.118 (C.48:2-75) is amended to read as follows:

**C.48:2-75 Definitions.**

3. As used in this act:

"Board" means the Board of Public Utilities;

"Business day" means any day other than Saturday, Sunday, or a nationally or State recognized holiday;

"Damage" means any impact or contact with an underground facility, its appurtenances or its protective coating or any weakening of the support for the facility or protective housing, including, but not limited to a break, leak, dent, gouge, groove, or other damage to the facility, its lines, or their coating or cathodic protection.

"Emergency" means any condition constituting a clear and present danger to life, health or property caused by the escape of any material or substance transported by means of an underground facility or the interruption of a vital communication or public service that requires immediate action to prevent or mitigate loss or potential loss of the communication or public service, or any condition on or affecting a transportation right-of-way or transportation facility that creates a risk to the public of potential injury or property damage;

"Excavate" or "excavating" or "excavation" or "demolition" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of any tools, equipment, or explosive, and includes but is not limited to drilling, grading, boring, milling to a depth greater than six inches, trenching, tunneling, scraping, tree and root removal, cable or pipe plowing, fence post or pile driving, and wrecking, razing, rending, or removing any structure or mass material, but does not include routine residential property or right-of-way maintenance or landscaping activities performed with non-mechanized equipment, excavation within the flexible or rigid pavement box within the right-of-way, or the tilling of soil for agricultural purposes to a depth of 18 inches or less;

"Excavator" means any person performing excavation or demolition and may include a contractor having oversight for an excavation or demolition to be performed by rented, operated equipment under the contractor's on-site direction provided the contractor contacts the One-Call Damage Prevention

System in the contractor's name, thereby assuming responsibility and liability, to give notice of the intent to engage in excavation or demolition work in that manner;

"Hand digging" means any excavation involving non-mechanized tools or equipment, including but not limited to digging with shovels, picks and manual post-hole diggers;

"Mechanized equipment" means equipment powered by a motor, engine, or hydraulic, pneumatic or electrical device, including but not limited to trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows, and other equipment used for plowing-in cable or pipe, but does not include tools manipulated solely by human power;

"One-Call Damage Prevention System" means the communication system established pursuant to section 4 of this act;

"Operator" means a person owning or operating, or controlling the operation of, an underground facility, but shall not include a homeowner who owns only residential underground facilities, such as an underground lawn sprinkler system or an underground structure for a residential low-voltage lighting system;

"Person" means any individual, firm, joint venture, partnership, corporation, association, State, county, municipality, public agency or authority, bi-state or interstate agency or authority, public utility, cooperation association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof;

"Public entity" means any federal, State, county or municipal entity responsible for issuing road opening, building, blasting, demolition or excavation permits;

"Site" means the specific place where excavation work is performed or to be performed and shall be identified by street address referenced to the nearest intersecting street and subdivision name, if applicable, as well as by lot and block number, if available and by kilometer or mile marker for railways;

"State department or agency" means any department, public authority, public agency, public commission, or other political subdivision of the State, including any county, municipality or political subdivision thereof; and

"Underground facility" means any public or private personal property which is buried, placed below ground, or submerged on a right-of-way, easement, public street, other public place or private property and is being used or will be used for the conveyance of water, forced sewage, telecommunications, cable television, electricity, oil, petroleum products, gas, optical signals, or traffic control, or for the transportation of a hazardous liquid regulated pursuant to the "Hazardous Liquid Pipeline Safety Act of 1979"

(49 U.S.C. app. s. 2001 et seq.), but does not include storm drains or gravity sewers.

2. Section 8 of P.L.1994, c.118 (C.48:2-80) is amended to read as follows:

**C.48:2-80 Underground facility operator, responsibilities; underground facility markings.**

8. a. Except as provided in sections 6 and 9 of this act, the operator of an underground facility shall:

(1) Participate in and comply with the requirements of the One-Call Damage Prevention System established pursuant to section 4 of this act; and

(2) Mark, stake, locate or otherwise provide the position and number of its underground facilities which may be affected by a planned excavation or demolition within three business days after receipt of the information concerning a notice of intent to excavate transmitted pursuant to subsection a. of section 10 of this act. An underground facility shall be marked in accordance with standards approved by the board, which shall be based upon approved industry standards, and shall be marked at the site within 18 inches horizontally from the outside wall of the facility, in a manner that will enable the excavator to employ prudent techniques, which may include hand-dug test holes, to determine the precise position of the operator's underground facility. An underground facility shall be marked from information available in the operator's records or by use of standard locating techniques other than excavation. In temporarily marking the approximate position of an underground facility, an operator shall utilize the following color coding:

Utility and Type Product	Identifying color
Electric Power Distribution and Transmission	Safety Red
Municipal Electric Systems	Safety Red
Gas Distribution and Transmission	High Visibility Safety Yellow
Oil Distribution and Transmission	High Visibility Safety Yellow
Dangerous Materials, Product Lines, Steam Lines	High Visibility Safety Yellow
Telephone and Telecommunications	Safety Alert Orange
Police and Fire Communications	Safety Alert Orange
Cable Television	Safety Alert Orange
Water Systems	Safety Precaution Blue
Slurry Systems	Safety Precaution Blue
Sewer Lines	Safety Green

b. If an operator does not own, operate or control any underground facilities at the site concerning which he received information of a notice of intent to excavate transmitted pursuant to subsection c. of section 4 of this

act, the operator shall make a reasonable effort to so advise the person giving the notice of intent to excavate, providing the notice is given within the time frame set forth in subsection a. of section 10 of this act.

c. An operator shall maintain a record of all damage to its underground facilities, including all damage reported by an excavator pursuant to subsection e. of section 10 of this act. An operator shall provide an updated copy of this record to the board on a quarterly basis.

d. Any underground facilities operator that fails to mark, locate, or otherwise provide the position and number of its underground facilities which may be affected by a planned excavation or demolition, in accordance with the provisions of paragraph (2) of subsection a. of this section, shall be liable for any costs, labor, parts, equipment and personnel downtime, incurred by an excavator damaging a facility owned, operated or controlled by the underground facility operator. An excavator that damages an underground facility in violation of the provisions of the "Underground Facility Protection Act," P.L.1994, c.118 (C.48:2-73 et seq.) shall be liable for any costs, labor, parts, equipment and personnel downtime, incurred by the underground facilities operator that owns or controls the damaged underground facility. Any dispute arising from the provisions of this subsection, where the claim is less than \$25,000, shall be subject to an alternative dispute resolution process as established within the Office of Dispute Settlement in the Office of the Public Defender. Nothing in this act shall be construed to discourage parties from pursuing alternative dispute resolution processes for an amount greater than \$25,000. The parties may by mutual agreement designate another alternative dispute resolution association for all matters.

3. Section 10 of P.L.1994, c.118 (C.48:2-82) is amended to read as follows:

**C.48:2-82 Notification of the One-Call Damage Prevention System; excavator's duties.**

10. a. An excavator shall notify the One-Call Damage Prevention System established pursuant to section 4 of this act of his intent to engage in excavation or demolition not less than three business days and not more than 10 business days prior to the beginning of the excavation or demolition.

b. Upon notifying the One-Call Damage Prevention System, an excavator shall provide the following information:

- (1) The name and telephone number of the person notifying the system;
- (2) The name, address, and office and field telephone numbers and facsimile numbers of the excavator;
- (3) The name, address and telephone number of the person for whom the excavation work is to be performed; and

(4) The specific site location, starting date, starting time and description of the intended excavation or demolition, including the approximate depth of the excavation or demolition.

c. Where appropriate to provide clarification, an excavator shall mark and identify the perimeter of the proposed site of the excavation by the color white prior to notifying the One-Call Damage Prevention System of his intent to engage in excavation or demolition.

d. An excavator shall:

(1) Not operate any mechanized equipment within two feet horizontally of the outside wall of any underground facility marked in accordance with the provisions of this act, or marked in accordance with any rule, regulation, or order adopted pursuant to this act, unless the underground facility has first been located by hand digging. Mechanized equipment shall be used with proper care and under adequate supervision to avoid damage to the underground facility;

(2) Plan the excavation or demolition to avoid damage to and to minimize interference with underground facilities;

(3) Use reasonable care during excavation or demolition to avoid damage to or interference with underground facilities; and

(4) After commencement of excavation or demolition, protect and preserve the marking, staking, or other designation of an underground facility until the marking, staking, or other designation is no longer necessary for safe excavation or demolition.

e. An excavator shall immediately report to the operator of an underground facility any damage to the underground facility caused by or discovered by the excavator in the course of an excavation or demolition.

f. Notice for an excavation that is commenced within 10 business days, as pursuant to the provisions of subsection a. of this section, shall remain valid for 45 business days from the notification, providing that the excavator maintains any mark out that is made by an operator in accordance with the provisions of paragraph (4) of subsection d. of this section. Any excavation occurring after 45 business days from the time of such notification shall require a new notification, in accordance with the provisions of this section.

4. This act shall take effect immediately.

Approved January 24, 2005.

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## CHAPTER 23

AN ACT concerning the adoption of curfew ordinances for juveniles by municipalities and amending P.L.1992, c.132.

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

1. Section 2 of P.L.1992, c.132 (C.40:48-2.52) is amended to read as follows:

**C.40:48-2.52 Definitions relative to adoption of curfew ordinances for juveniles.**

2. a. As used in this act:

(1) "Juvenile" means an individual who is under the age of 18 years.

(2) "Guardian" means a person, other than a parent, to whom legal custody of the juvenile has been given by court order or who is acting in the place of the parent or is responsible for the care and welfare of the juvenile.

(3) "Public place" means any place to which the public has access, including but not limited to a public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, recreation or shopping area, public transportation facility, vehicle used for public transportation, parking lot or any other public building, structure or area.

b. (1) A municipality is hereby authorized and empowered to enact an ordinance making it unlawful for a juvenile of any age under 18 years within the discretion of the municipality to be on any public street or in a public place between the hours of 10:00 p.m. and 6:00 a.m. unless accompanied by the juvenile's parent or guardian or unless engaged in, or traveling to or from, a business or occupation which the laws of this State authorize a juvenile to perform. Such an ordinance may also make it unlawful for any parent or guardian to allow an unaccompanied juvenile to be on any public street or in any public place during those hours.

(2) A municipality is hereby authorized and empowered to enact an ordinance making it unlawful for a juvenile of any age under 18 years within the discretion of the municipality to be in any public place during the hours when the juvenile is required to be in attendance at either a public or non-public school unless the juvenile is accompanied by a parent or guardian or is carrying written permission from the juvenile's educational authority allowing the juvenile to be in a public place.

c. An ordinance enacted pursuant to this act shall provide that violators shall be required to perform community service and may be subject to a fine of up to \$1,000.00. If both a juvenile and the juvenile's parent or guardian violate such an ordinance, they shall be required to perform community service together.

d. An ordinance enacted pursuant to this act shall include exceptions permitting juveniles to engage in errands involving medical emergencies, to attend extracurricular school activities, and to participate in other cultural,



educational and social events, sponsored by religious or community-based organizations during curfew hours.

e. An ordinance enacted pursuant to this act shall establish clear standards in precise language adequate to apprise a juvenile and a parent or guardian of that which is unlawful and adequate to circumscribe the discretion of police officers in order to overcome subjective and discriminatory enforcement.

2. This act shall take effect immediately.

Approved January 26, 2005.

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## CHAPTER 24

AN ACT concerning certain dogs and amending P.L.1983, c.261.

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

1. Section 1 of P.L.1983, c.261 (C.2C:29-3.1) is amended to read as follows:

**C.2C:29-3.1 Animal owned, used by law enforcement agency, search and rescue dog, infliction of harm upon, interference with officer, degree of crime, penalties.**

1. Any person who purposely kills a dog, horse or other animal owned or used by a law enforcement agency or a search and rescue dog shall be guilty of a crime of the third degree. Any person who purposely maims or otherwise inflicts harm upon a dog, horse or other animal owned or used by a law enforcement agency or a search and rescue dog shall be guilty of a crime of the fourth degree. Any person who interferes with any law enforcement officer using an animal in the performance of his official duties commits a disorderly persons offense, subject to a sentence of six months' imprisonment, some or all of which may be community service, restitution and a \$1,000.00 fine.

As used in this section, "search and rescue dog" means any dog trained or being trained for the purpose of search and rescue that is owned by an independent handler or member of a search and rescue team, and used in conjunction with local law enforcement or emergency services organizations for the purpose of locating missing persons or evidence of arson.

2. This act shall take effect immediately.

Approved January 26, 2005.

## CHAPTER 25

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, 2005 and regulating the disbursement thereof," approved June 30, 2004 (P.L.2004, c.71).

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.2004, c.71, there is appropriated out of the General Fund the following sum for the purpose specified:

**46 DEPARTMENT OF HEALTH AND SENIOR SERVICES**

***20 Physical and Mental Health***

***21 Health Services***

**GRANTS-IN-AID**

03-4230 Public Health Protection Services . . . . . \$6,000,000

*Grants-in-Aid:*

03 Cancer Institute of New Jersey . . . . . (\$6,000,000)

2. This act shall take effect immediately.

Approved January 26, 2005.

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CHAPTER 26

AN ACT concerning food allergies, supplementing Title 26 of the Revised Statutes and making an appropriation.

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

**C.26:3E-14 Fact sheet distributed to restaurants relative to nut allergies; definitions.**

1. The Commissioner of Health and Senior Services, in consultation with the New Jersey Restaurant Association, shall prepare a fact sheet, to be directed to restaurant managers and staff, which is designed to explain nut allergies and the health-related consequences to persons with such allergies who are exposed to food items that contain or are prepared with nut products, and includes a recommendation that restaurants identify such food items on

their menus. The commissioner shall make this fact sheet available to local boards of health by electronic or other means of distribution, and local health officers shall furnish this information to restaurants at the time of inspection.

As used in this section:

"Nut" means: peanuts and tree nuts, including, but not limited to, almonds, brazil nuts, cashews, hazelnuts, filberts, macadamia nuts, pecans, pistachios and walnuts; and

"Restaurant" means an establishment in which the principal business is the sale of food for consumption on the premises.

**C.26:3E-15 "Ask Before You Eat" public information campaign.**

2. The Commissioner of Health and Senior Services shall conduct, within the limits of monies appropriated pursuant to this act, a public information campaign regarding food allergies, to be known as "Ask Before You Eat." The public information campaign shall be designed to inform the public about food allergies and the health-related consequences, including anaphylaxis, to persons with such allergies who are exposed to food items that contain or are prepared with ingredients that trigger severe allergic reactions, such as peanuts, tree nuts and seafood.

3. There is appropriated \$250,000 to the Department of Health and Senior Services from the General Fund for the purposes of this act.

4. This act shall take effect on the 120th day after enactment.

Approved January 26, 2005.

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CHAPTER 27

AN ACT permitting the incorporation of ophthalmic dispensers and technicians and amending P.L.1969, c.232.

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

1. Section 3 of P.L.1969, c.232 (C.14A:17-3) is amended to read as follows:

**C.14A:17-3 Terms defined.**

3. Terms defined. As used in this act, the following words shall have the meanings indicated:

(1) "Professional service" shall mean any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and which prior to the passage of this act and by reason of law could not be performed by a corporation. By way of example and without limiting the generality thereof, the personal services which come within the provisions of this act are the personal services rendered by certified public accountants, architects, optometrists, ophthalmic dispensers and technicians, professional engineers, land surveyors, land planners, chiropractors, physical therapists, registered professional nurses, dentists, osteopaths, physicians and surgeons, doctors of medicine, doctors of dentistry, podiatrists, chiropodists, veterinarians and, subject to the Rules of the Supreme Court, attorneys-at-law;

(2) "Professional corporation" means a corporation which is organized under this act for the sole and specific purpose of rendering the same or closely allied professional service as its shareholders, each of whom must be licensed or otherwise legally authorized within this State to render such professional service;

(3) "Closely allied professional service" means and is limited to the practice of (a) architecture, professional engineering, land surveying and land planning and (b) any branch of medicine and surgery, optometry, opticianry, physical therapy, registered professional nursing, and dentistry;

(4) "Domestic professional legal corporation" means a professional corporation incorporated under P.L.1969, c.232 (C.14A:17-1 et seq.) for the sole purpose of rendering legal services of the type provided by attorneys-at-law;

(5) "Foreign professional legal corporation" means a corporation incorporated under the laws of another state for the purpose of rendering legal services of the type provided by attorneys-at-law.

2. This act shall take effect immediately.

Approved January 26, 2005.

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## CHAPTER 28

AN ACT concerning display of certain students' social security numbers 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:3-28 Display, certain, of students' social security numbers prohibited.**

1. No public or independent institution of higher education in the State shall display any student's social security number to identify that student for posting or public listing of grades, on class rosters or other lists provided to teachers, on student identification cards, in student directories or similar listings, unless otherwise required in accordance with applicable State or federal law.

2. This act shall take effect on the 365th day after enactment.

Approved January 26, 2005.

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**CHAPTER 29**

AN ACT requiring the assessment of reduced rates by municipal and county sewerage authorities and utilities authorities and the Passaic Valley Sewerage Commissioners for certain affordable housing projects, and amending and supplementing P.L.1946, c.138 (C.40:14A-1 et seq.) and P.L.1957, c.183 (C.40:14B-1 et seq.) and supplementing chapter 14 of Title 58 of the Revised Statutes.

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

1. Section 8 of P.L.1946, c.138 (C.40:14A-8) is amended to read as follows:

**C.40:14A-8 Service charges authorized.**

8. (a) Every sewerage authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "service charges") for direct or indirect connection with, or the use or services of, the sewerage system. Such service charges may be charged to and collected from any person contracting for such connection or use or services or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the system or from or on which originates or has originated sewage or other wastes which directly or indirectly have entered or may enter the sewerage system, and the owner of any such real property shall be liable for and shall pay such service charges to the sewerage authority at the time when and the place where such service charges are due and payable.

(b) Rents, rates, fees and charges, which may be payable periodically, being in the nature of use or service charges, shall as nearly as the sewerage authority shall deem practicable and equitable be uniform throughout the

district for the same type, class and amount of use or service of the sewerage system, except as permitted by section 1 of P.L.1994, c.78 (C.40:14A-8.2), and may be based or computed either on the consumption of water on or in connection with the real property, making due allowance for commercial use of water, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing or sewerage fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use or service of the sewerage system, or on any combination of any such factors, and may give weight to the characteristics of the sewage and other wastes and any other special matter affecting the cost of treatment and disposal thereof, including chlorine demand, biochemical oxygen demand, concentration of solids and chemical composition. In addition to any such periodic service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the sewerage system, may be imposed upon the owner or occupant of the property so connected. Such connection charges shall be uniform within each class of users, except as provided by section 2 of P.L.2005, c.29 (C.40:14A-8.3), and the amount thereof shall not exceed the actual cost of the physical connection, if made by the authority, plus an amount computed in the following manner to represent a fair payment toward the cost of the system:

(1) The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest on bonds, and the amount of any loans and interest thereon, paid by the sewerage authority to defray the capital cost of developing the system as of the end of the immediately preceding fiscal year of the authority shall be added to all capital expenditures made by the authority not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding fiscal year of the authority.

(2) Any gifts, contributions or subsidies to the authority received from, and not reimbursed or reimbursable to any federal, State, county or municipal government or agency or any private person, and that portion of amounts paid to the authority by a public entity under a service agreement or service contract which is not repaid to the public entity by the authority, shall then be subtracted.

(3) The remainder shall be divided by the total number of service units served by the authority at the end of the immediately preceding fiscal year of the authority, and the results shall then be apportioned to each new connector according to the number of service units attributed to that connector,

to produce the connector's contribution to the cost of the system. In attributing service units to each connector, the estimated average daily flow of sewage for the connector shall be divided by the average daily flow of sewage for the average single family residence in the authority's district to produce the number of service units to be attributed.

The connection fee shall be recomputed at the end of each fiscal year of the authority, after a public hearing is held in the manner prescribed in subsection (c) of this section. The revised connection fee may be imposed upon those who subsequently connect in that fiscal year to the system. The combination of such connection fee or tapping fee and the aforesaid periodic service charges shall meet the requirements of subsection (c) hereof.

(c) The sewerage authority shall prescribe and from time to time when necessary revise a schedule of service charges, which shall comply with the terms of any contract of the sewerage authority and in any event shall be such that the revenues of the sewerage authority will at all times be adequate to pay all expenses of operation and maintenance of the sewerage system, including reserves, insurance, extensions, and replacements, and to pay punctually the principal of and interest on any bonds and to maintain such reserves or sinking funds therefor as may be required by the terms of any contract of the sewerage authority or as may be deemed necessary or desirable by the sewerage authority. Said schedule shall thus be prescribed and from time to time revised by the sewerage authority after public hearing thereon which shall be held by the sewerage authority at least 20 days after notice of the proposed adjustment is mailed to the clerk of each municipality serviced by the authority and publication of notice of the proposed adjustment of the service charges and of the time and place of the public hearing in at least two newspapers of general circulation in the area serviced by the authority. The sewerage authority shall provide evidence at the hearing showing that the proposed adjustment of the service charges is necessary and reasonable, and shall provide the opportunity for cross-examination of persons offering such evidence, and a transcript of the hearing shall be made and a copy thereof shall be available upon request to any interested party at a reasonable fee. The sewerage authority shall likewise fix and determine the time or times when and the place or places where such service charges shall be due and payable and may require that such service charges shall be paid in advance for periods of not more than one year. A copy of such schedule of service charges in effect shall at all times be kept on file at the principal office of the sewerage authority and shall at all reasonable times be open to public inspection.

(d) Any county sewerage authority may establish sewerage regions in portions of the district. Rents, rates, fees and charges which may be payable periodically, being in the nature of use or service charges, shall as nearly as

the sewerage authority shall deem practicable and equitable, be uniform throughout the district for the same type, class and amount of use or service of the sewerage systems, except as permitted by section 1 of P.L.1994, c.78 (C.40:14A-8.2), and shall meet all other requirements of subsection (b) hereof.

**C.40:14A-8.3 Reduction in fees by sewerage authority for certain affordable housing projects.**

2. a. A county, regional or municipal sewerage authority shall establish within its rates or schedules a 50% reduction in the connection fee or tapping fee assessed pursuant to section 8 of P.L.1946, c.138 (C.40:14A-8) for new connections to the sewerage system which is to be charged to public housing authorities and to non-profit organizations building affordable housing projects.

b. For units previously connected to the authority's system that were demolished or refurbished to allow for new affordable housing units and for which a connection or tapping fee was previously paid, a county, regional or municipal sewerage authority shall establish within its rates or schedules a credit against the connection fee or tapping fee to be assessed for connection with the sewerage system to public housing authorities and non-profit organizations building affordable projects. The credit shall be the connection fee or tapping fee previously assessed and paid for connection with the sewerage system for units previously connected to the authority's system.

c. The connection fee or tapping fee assessable against a public housing authority or non-profit organization, for units previously connected to the authority's system that were demolished or refurbished to allow for new affordable housing units, shall be the lesser of the reduced rate provided for in subsection a. of this section, or the current non-reduced rate applicable to other types of housing developments minus the credit provided under subsection b. of this section for units for which a connection fee or tapping fee was previously paid, provided that said public housing authority or non-profit organization can establish the connection fee or tapping fee was previously assessed and paid for connection with the system. If the same cannot be established, the reduced rate provided for in subsection a. of this section shall be assessed.

3. Section 21 of P.L.1957, c.183 (C.40:14B-21) is amended to read as follows:

**C.40:14B-21 Water service charges.**

21. a. Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "water service charges") for direct or indirect connection with, or the use, products or services of, the water system, or for sale of water or water supply



services, water supply facilities or products. Such water service charges may be charged to and collected from any person contracting for such connection or use, products or services or for such sale or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the water system or to which directly or indirectly has been supplied or furnished such use, products or services of the water system or water or water services, facilities or products, and the owner of any such real property shall be liable for and shall pay such water service charges to the municipal authority at the time when and place where such water service charges are due and payable. Such rents, rates, fees and charges shall as nearly as the municipal authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use, products or services of the water system, except as permitted by section 1 of P.L.1992, c.215 (C.40:14B-22.2), and may be based or computed either on the consumption of water on or in connection with the real property, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use, products or services of the water system supplied or furnished, or on any combination of such factors, and may give weight to the characteristics of the water or water services, facilities or products and, as to service outside the district, any other matter affecting the cost of supplying or furnishing the same, including the cost of installation of necessary physical properties.

Every municipal authority that furnishes water supply services or operates water supply facilities shall establish a rate structure that provides for uniform water service charges for water supply service and fire protection systems.

No municipal authority may impose standby fees or charges for any fire protection system to a residential customer served by a water service line of two inches or less in diameter.

Nothing in this section shall preclude a municipal authority from requiring separate dedicated service lines for fire protection. A municipal authority may require that fire service lines be metered. Nothing in this section shall alter the liability for maintenance and repair of service lines which exists on the effective date of P.L.2003, c.278.

b. In addition to any such water service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the water system, may be imposed upon the owner or occupant of the property so connected. Such connection charges shall be

uniform within each class of users, except as provided by section 5 of P.L.2005, c.29 (C.40:14B-22.3), and the amount thereof shall not exceed the actual cost of the physical connection, if made by the authority, plus an amount computed in the following manner to represent a fair payment toward the cost of the system:

(1) The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest on bonds, and the amount of any loans and interest thereon, paid by a municipal authority to defray the capital cost of developing the system as of the end of the immediately preceding fiscal year of the authority shall be added to all capital expenditures made by the authority not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding fiscal year of the authority.

(2) Any gifts, contributions or subsidies to the authority received from, and not reimbursed or reimbursable to any federal, State, county or municipal government or agency or any private person, and that portion of amounts paid to the authority by a public entity under a service agreement or service contract which is not repaid to the public entity by the authority, shall then be subtracted.

(3) The remainder shall be divided by the total number of service units served by the authority at the end of the immediately preceding fiscal year of the authority, and the results shall then be apportioned to each new connector according to the number of service units attributed to that connector, to produce the connector's contribution to the cost of the system. In attributing service units to each connector, the estimated average daily flow of water for the connector shall be divided by the average daily flow of water to the average single family residence in the authority's district, to produce the number of service units to be attributed.

c. The connection fee shall be recomputed at the end of each fiscal year of the authority, after a public hearing is held in the manner prescribed in section 23 of P.L.1957, c.183 (C.40:14B-23). The revised connection fee may be imposed upon those who subsequently connect in that fiscal year to the system. The combination of such connection fee or tapping fee and the aforesaid water service charges shall meet the requirements of section 23 of P.L.1957, c.183 (C.40:14B-23).

d. The foregoing notwithstanding, no municipal authority shall impose any charges or fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated

thereunder. Nothing herein shall preclude any municipal authority from charging for the actual cost of water main connection, except as provided by section 5 of P.L.2005, c.29 (C.40:14B-22.3).

4. Section 22 of P.L.1957, c.183 (C.40:14B-22) is amended to read as follows:

**C.40:14B-22 Sewerage service charges.**

22. Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "sewerage service charges") for direct or indirect connection with, or the use or services of, the sewerage system. Such sewerage service charges may be charged to and collected from any person contracting for such connection or use or services or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the sewerage system or from or on which originates or has originated sewage or other wastes which directly or indirectly have entered or may enter the sewerage system, and the owner of any such real property shall be liable for and shall pay such sewerage service charges to the municipal authority at the time when and place where such sewerage service charges are due and payable. Such rents, rates, fees and charges, being in the nature of use or service charges, shall as nearly as the municipal authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use or service of the sewerage system, except as permitted by section 1 of P.L.1992, c.215 (C.40:14B-22.2), and may be based or computed either on the consumption of water on or in connection with the real property, making due allowance for commercial use of water, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing or sewerage fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use or service of the sewerage system, or on any combination of any such factors, and may give weight to the characteristics of the sewage and other wastes and any other special matter affecting the cost of treatment and disposal of the same, including chlorine demand, biochemical oxygen demand, concentration of solids and chemical composition, and, as to service outside the district, the cost of installation of necessary physical properties.

In addition to any such sewerage service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the sewerage system, may be imposed upon the owner

or occupant of the property so connected. Such connection charges shall be uniform within each class of users, except as provided by section 5 of P.L.2005, c.29 (C.40:14B-22.3), and the amount thereof shall not exceed the actual cost of the physical connection, if made by the authority, plus an amount computed in the following manner to represent a fair payment towards the cost of the system:

a. The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest on bonds, and the amount of any loans and the interest thereon, paid by the municipal authority to defray the capital cost of developing the system as of the end of the immediately preceding fiscal year of the authority shall be added to all capital expenditures made by a municipal authority not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding fiscal year of the authority.

b. Any gifts, contributions or subsidies to the authority received from, and not reimbursed or reimbursable to, any federal, State, county or municipal government or agency or any private person, and that portion of amounts paid to the authority by a public entity under a service agreement or service contract which is not repaid to the public entity by the authority, shall then be subtracted.

c. The remainder shall be divided by the total number of service units served by the authority at the end of the immediately preceding fiscal year of the authority, and the results shall then be apportioned to each new connector according to the number of service units attributed to that connector. In attributing service units to each connector, the estimated average daily flow of sewage for the connector shall be divided by the average daily flow of sewage from the average single family residence in the authority's district, to produce the number of service units to be attributed.

The connection fee shall be recomputed at the end of each fiscal year of the authority, after a public hearing is held in the manner prescribed in section 23 of P.L.1957, c.183 (C.40:14B-23). The revised connection fee may be imposed upon those who subsequently connect in that fiscal year to the system.

The combination of such connection fee or tapping fee and the aforesaid sewerage service charges shall meet the requirements of section 23.

**C.40:14B-22.3 Utilities authority, reduced fees for certain affordable housing projects.**

5. a. A county, regional or municipal utilities authority shall establish within its rates or schedules a 50% reduction in the connection fee or tapping fee assessed pursuant to section 21 of P.L.1957, c.183 (C.40:14B-21) for new connections to the water system and a 50% reduction in the connection fee or tapping fee assessed pursuant to section 22 of P.L.1957, c.183

(C.40:14B-22) for new connections to the sewerage system which are to be charged to public housing authorities and to non-profit organizations building affordable housing projects.

b. For units previously connected to the authority's system that were demolished or refurbished to allow for new affordable housing units and for which a connection fee was previously paid, a county, regional or municipal utilities authority shall establish within its rates or schedules a credit against the connection fee or tapping fee to be assessed for connection with the water system or the sewerage system to public housing authorities and non-profit organizations building affordable housing projects. The credit shall be the connection fee or tapping fee previously assessed and paid for connection with the water system or the sewerage system for units previously connected to the authority's system.

c. The connection fee or tapping fee assessable against a public housing authority or non-profit organization, for units previously connected to the authority's system that were demolished or refurbished to allow for new affordable housing units, shall be the lesser of the reduced rate provided for in subsection a. of this section, or the current non-reduced rate applicable to other types of housing developments minus the credit provided under subsection b. of this section for units for which a connection fee or tapping fee was previously paid, provided that said public housing authority or non-profit organization can establish the connection fee or tapping fee was previously assessed and paid for connection with the system. If the same cannot be established, the reduced rate provided for in subsection a. of this section shall be assessed.

**C.58:14-36 Passaic Valley Sewerage Commissioners, establishment of reduced rates for certain affordable housing projects.**

6. a. Notwithstanding the provisions of section 1 of P.L.1976, c.125 (C.58:14-35) or any other provision of law, rule or regulation to the contrary, the Passaic Valley Sewerage Commissioners shall establish within its leases, contracts, rates or schedules, as appropriate, a 50% reduction in the connection fee or tapping fee assessed for new connections to the sewerage system which are to be charged to public housing authorities and to non-profit organizations building affordable housing projects.

b. For units previously connected to the sewerage system that were demolished or refurbished to allow for new affordable housing units and for which a connection fee was previously paid, the commissioners shall establish within its leases, contracts, rates or schedules, as appropriate, a credit against the connection fee or tapping fee to be assessed for connection with the sewerage system to public housing authorities and non-profit organizations building affordable housing projects. The credit shall be the connection

fee or tapping fee previously assessed and paid for connection with the sewerage system for units previously connected to the sewerage system.

c. The connection fee or tapping fee assessable against a public housing authority or non-profit organization, for units previously connected to the sewerage system that were demolished or refurbished to allow for new affordable housing units, shall be the lesser of the reduced rate provided for in subsection a. of this section, or the current non-reduced rate applicable to other types of housing developments minus the credit provided under subsection b. of this section for units for which a connection fee or tapping fee was previously paid, provided that said public housing authority or non-profit organization can establish that the connection fee or tapping fee was previously assessed and paid for connection with the system. If the same cannot be established, the reduced rate provided for in subsection a. of this section shall be assessed.

7. This act shall take effect immediately.

Approved January 26, 2005.

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## CHAPTER 30

AN ACT concerning expansion projects under the supervision of the Casino Reinvestment Development Authority and amending P.L.2001, c.221 and P.L.2004, c.129.

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

1. Section 5 of P.L.2004, c.129 (C.5:12-173.22a) is amended to read as follows:

**C.5:12-173.22a Atlantic City Expansion Fund; creation, use.**

5. a. The Casino Reinvestment Development Authority shall issue, upon the approval of the State Treasurer, bonds, notes or other obligations, in an amount not to exceed \$62 million, the proceeds of which shall be deposited into the Atlantic City Expansion Fund created pursuant to subsection b. of this section. The principal and interest of such bonds, notes or other obligations shall be repaid exclusively from the revenues dedicated to the authority for this purpose pursuant to section 6 of P.L.2003, c.116 (C.5:12-145.8).

b. The authority shall establish an Atlantic City Expansion Fund into which the authority shall deposit the amount directed to be deposited into

the fund pursuant to subsection a. of this section. Notwithstanding section 30 of P.L.1984, c.218 (C.5:12-178), the authority shall make moneys on deposit in the fund available, in amounts determined pursuant to subsection c. of this section, to each casino licensee operating a casino hotel facility as of June 30, 2004 for investment in an eligible expansion project approved by the authority. An eligible project approved by August 25, 2006 shall add hotel rooms, retail, dining or non-gaming entertainment venues, or other non-gaming amenities, including parking spaces, in the City of Atlantic City, provided that the moneys received pursuant to this subsection may be used for parking spaces only if the authority determines that the addition of parking spaces is an essential component of a comprehensive development plan. An eligible project approved thereafter shall add hotel rooms in the City of Atlantic City. The authority shall not authorize investment of moneys in the fund for a project that receives or is anticipated to receive funding pursuant to the Casino Reinvestment Development Authority Urban Revitalization Act, P.L.2001, c.221 (C.5:12-173.9 et seq.), or section 8 of P.L.1993, c.159 (C.5:12-173.8), unless the casino licensee demonstrates to the satisfaction of the authority that the funding from the Atlantic City Expansion Fund will result in a significant improvement in or expansion of that project, and the casino licensee invests additional private funds in the project in an amount deemed appropriate by the authority. The authority shall promulgate regulations establishing the criteria governing the approval of eligible projects.

c. The authority shall determine the amount each casino licensee shall be eligible to receive from the Atlantic City Expansion Fund. The form, terms and maximum percentage of the cost of an eligible expansion project to be received by each casino licensee shall be determined by the authority by resolution. In the event that a casino licensee has not submitted by June 30, 2014 an application that, if approved, would exhaust its share of the Atlantic City Expansion Fund, the remainder of such casino licensee's share of the fund shall be transferred to its Atlantic City non-housing obligations pursuant to section 3 of P.L.1984, c.218 (C.5:12-144.1), provided that such transferred share shall not reduce the licensee's investment alternative tax obligation pursuant to subsection f. of section 3 of P.L.1984, c.218 (C.5:12-144.1).

d. The authority may, in its discretion, advance any of the funds in the Atlantic City Expansion Fund to make a grant to an eligible project located in North Jersey approved by the authority provided that the authority has executed an agreement with casino licensees for the repayment of the advanced amount from the funds devoted to the financing of projects in North Jersey pursuant to the Casino Reinvestment Development Authority Urban Revitalization Act, P.L.2001, c.221 (C.5:12-173.9 et seq.) or from casino

licensees' investment alternative tax obligations devoted to the financing of projects in North Jersey pursuant to section 3 of P.L.1984, c.218 (C.5:12-144.1).

e. (1) The Casino Reinvestment Development Authority shall issue, upon the approval of the State Treasurer, bonds, notes or other obligations, in an amount not to exceed \$31 million, which shall be deposited into a special fund created pursuant to this subsection. The principal and interest of such bonds, notes or other obligations shall be repaid exclusively from revenues dedicated to the authority for this purpose pursuant to section 6 of P.L.2003, c.116 (C.5:12-145.8).

(2) The authority shall establish a special fund into which the authority shall deposit the amount directed to be deposited into the fund pursuant to this subsection. The authority shall make half of the moneys on deposit in the fund available for investment in projects located in North Jersey, and half of the moneys on deposit in the fund available for investment in projects located in South Jersey. For the purposes of this paragraph, "South Jersey" means the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem, except that "South Jersey" shall not include the City of Atlantic City; and "North Jersey" means the remaining 12 counties of the State.

2. Section 3 of P.L.2001, c.221 (C.5:12-173.11) is amended to read as follows:

**C.5:12-173.11 Definitions relative to CRDA urban revitalization incentive programs.**

3. As used in this act:

"Authority" means the Casino Reinvestment Development Authority established pursuant to P.L.1984, c.218 (C.5:12-153 et seq.);

"Baseline luxury tax revenue amount" or "baseline luxury tax" means the annual amount of luxury tax receipts received pursuant to P.L.1947, c.71 (C.40:48-8.15 et seq.) from the taxation of retail sales or sales at retail originating from transactions at an entertainment-retail district project for the last full calendar year preceding the year in which the district project opens under the incentive program;

"Casino hotel room fee fund" or "room fund" means the fund established by the State Treasurer pursuant to section 8 of P.L.2001, c.221 (C.5:12-173.16) into which shall be deposited the proceeds of the hotel room use fees as specified pursuant to section 6 of P.L.2001, c.221 (C.5:12-173.14);

"Casino reinvestment development authority urban revitalization incentive program" or "incentive program" means the program established pursuant to section 4 of P.L.2001, c.221 (C.5:12-173.12) and administered by the



authority to facilitate the development of entertainment-retail districts for the city of Atlantic City and to promote urban revitalization throughout the State;

"Commissioner" means the Commissioner of Community Affairs;

"Department" means the Department of Community Affairs;

"District project grant" or "grant" means an amount rebated to the authority pursuant to section 7 or 8 of P.L.2001, c.221 (C.5:12-173.15 or 5:12-173.16) for disbursement to a casino licensee that is approved by the authority for a district project or for retention by the authority for an approved district project sponsored by the authority;

"Entertainment-retail district" or "district" means one of eleven areas within Atlantic City, designated by the authority under the incentive program;

"Entertainment-retail district project" or "district project" means a project or projects to be developed by the authority or any casino licensed to operate in Atlantic City prior to June 30, 2004, including, but not necessarily limited to, a minimum of 150,000 square feet of public space, retail stores, entertainment venues, restaurants, hotel rooms in non-casino hotels or residential units, provided that such rooms and residential units shall constitute not more than 50% of the required minimum square footage. The project may include, in addition, casino hotels, public parking facilities or commercial office space, approved by the authority under the incentive program, and may also include: the purchasing, leasing, condemning, or otherwise acquiring of land or other property, or an interest therein, approved by the authority pursuant to a project grant agreement or as an authority sponsored project, or as necessary for a right-of-way or other easement to or from the land or property, or the relocating and moving of persons displaced by the acquisition of the land or property; the rehabilitation and redevelopment of land or property, approved pursuant to a project grant agreement or as an authority sponsored project, including demolition, clearance, removal, relocation, renovation, alteration, construction, reconstruction, installation or repair of a building, street, highway, alley, utility, service or other structure or improvement; the acquisition, construction, reconstruction, rehabilitation, or installation of parking and other improvements approved pursuant to a project grant agreement or as an authority sponsored project; and the costs associated therewith including the costs of an administrative appraisal, economic and environmental analyses or engineering, planning, design, architectural, surveying or other professional services approved pursuant to a project grant agreement or as part of an authority sponsored project;

"Entertainment-retail district project fund" or "project fund" means the fund established by the State Treasurer pursuant to section 7 of P.L.2001, c.221 (C.5:12-173.15) into which shall be deposited an amount equivalent to the amount of receipts received from the taxation of retail sales from a

district project and from the taxation of construction materials used for building a district project, as specified pursuant to section 5 of P.L.2001, c.221 (C.5:12-173.13);

"Incremental luxury tax revenue amount" or "incremental luxury tax" means the amount by which the annual luxury tax receipts received pursuant to P.L.1947, c.71 (C.40:48-8.15 et seq.) from the taxation of retail sales or sales at retail originating from transactions at a district project in the year in which the district project opens under the incentive program, and in each year thereafter, exceed the baseline luxury tax, as determined by the State Treasurer; and

"Project grant agreement" means an agreement entered into between the authority and a casino licensee, pursuant to section 4 of P.L.2001, c.221 (C.5:12-173.12), that sets forth the terms and conditions of approval for a district project and of eligibility for district project grants, as determined by the authority.

3. This act shall take effect immediately.

Approved January 26, 2005.

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## CHAPTER 31

AN ACT concerning regulation of the casino industry, amending 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*:

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. 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 casino license renewed after April 30, 2004, shall be up to five 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. 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.

2. 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. 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. Casino service employee registration shall, upon issuance, remain in effect unless revoked, suspended, limited, or otherwise restricted by the commission. Licenses may be granted and renewed as follows:

(1) All casino employee licenses, casino service industry licenses issued pursuant to subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92), and junket representative and junket enterprise licenses issued pursuant to section 102 of P.L.1977, c.110 (C.5:12-102) shall be issued for an initial term of four years, and may be renewed for subsequent terms of five years each; and

(2) All casino key employee licenses and casino service industry licenses required pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) shall be issued for an initial term of three years, and may be renewed for subsequent terms of five years each.

Notwithstanding the foregoing, the commission shall reconsider the granting of any license or the approval of any registration at any time at the request of the division.

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.

f. A complete application for the renewal of a casino employee or casino key employee license shall be filed with the commission no later than the last day of the fifth month prior to the month in which the current license term expires.

3. 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. 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 and in a simulcasting facility to the extent provided by the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et al.). Notwithstanding the foregoing, if the commission approves the game of keno as an authorized game pursuant to section 5 of P.L.1977, c.110 (C.5:12-5), as amended, keno tickets may be sold or redeemed in accordance with commission regulations at any location in a casino hotel approved by the commission for such activity.

b. Gaming equipment shall not be possessed, maintained or exhibited by any person on the premises of a casino hotel except in a casino room, in the simulcasting facility, or in restricted casino 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. Gaming equipment which supports the conduct of gaming in a casino or simulcasting facility but does not permit or require patron access, such as computers, may be possessed and maintained by a casino licensee in restricted casino areas 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 or simulcasting facility 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 or simul-

casting facility following 24-hour prior notice given to an authorized agent of the commission.

Notwithstanding any other provision of this section, equipment which supports a multi-casino progressive slot system and links and interconnects slot machines of two or more casino licensees but is inaccessible to patrons, such as computers, may, with the approval of the commission, be possessed, maintained and operated by a casino licensee either in a restricted area on the premises of a casino hotel or in a secure facility specifically designed for that purpose off the premises of a casino hotel but within the city limits of the City of Atlantic City.

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; 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 a casino room or simulcasting facility, 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 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 shall be made according to rules promulgated by the commission, which shall establish such limitations as may be necessary to assure the vitality of casino operations and fair odds to patrons. Each slot machine shall have a minimum payout of 83%.

f. Each casino licensee shall make available in printed form to any 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 a casino room and simulcasting facility, as appropri-

ate, 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. (1) Except as herein provided, 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 division may, in its discretion, and for the purpose of expediting the approval process, utilize the services of any testing laboratory with a plenary license as a casino service industry pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) when testing a slot machine model. The division shall, within 60 days of its receipt of a complete application for the testing of a slot machine model, recommend the approval or rejection of the slot machine model to the commission. If the division is unable to complete the testing of a slot machine model within this 60-day period, the division may recommend that the commission conditionally approve the slot machine model for test use by a casino licensee provided that the division represents that the use of the slot machine model will not have a direct and materially adverse impact on the integrity of gaming or the control of gross revenue. The division shall give priority to the testing of slot machines which a casino licensee has certified it will use in its casino in this State. The commission shall, by regulation, establish such technical standards for licensure of slot machines, 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. The denominations of such machines shall be set by the licensee; the licensee shall simultaneously notify the commission of the settings.

(2) The commission shall, by regulation, determine the permissible number and density of slot machines in a licensed casino so as to:

- (a) promote optimum security for casino operations;
  - (b) avoid deception or frequent distraction to players at gaming tables;
  - (c) promote the comfort of patrons;
  - (d) create and maintain a gracious playing environment in the casino;
- and
- (e) encourage and preserve competition in casino operations by assuring that a variety of gaming opportunities is offered to the public.

Any such regulation promulgated by the commission which determines the permissible number and density of slot machines in a licensed casino shall provide that all casino floor space and all space within a casino licensee's simulcasting facility shall be included in any calculation of the permissible number and density of slot machines in a licensed casino.

i. (Deleted by amendment, P.L.1991, c.182).

j. (Deleted by amendment, P.L.1991, c.182).

k. It shall be unlawful for any person to exchange or redeem chips for anything whatsoever, except for currency, negotiable personal checks, negotiable counter checks, other chips, coupons or complimentary vouchers distributed by the casino licensee, or, if authorized by regulation of the commission, a valid charge to a credit or debit card account. A casino licensee shall, upon the request of any person, redeem that licensee's gaming chips surrendered by that person in any amount over \$100 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 its agents or employees to employ, contract with, or use any shill or barker to induce any person to enter a casino or simulcasting facility 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, unless otherwise permitted by the rules of the commission.

n. It shall be unlawful for any casino key employee or any person who is required to hold a casino key employee license as a condition of employment or qualification to wager in any casino or simulcasting facility in this State, or any casino employee, other than a junket representative, 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 in a casino or simulcasting facility in the casino hotel in which the employee is employed or in any other casino or simulcasting facility in this State which is owned or operated by the same casino licensee. Any casino employee, other than a junket representative, bartender, waiter, waitress, or other casino employee who, in the judgment of the commission, is not directly involved with the conduct of gaming operations, must wait at least 30 days following the date that the employee either leaves employment with a casino licensee or is terminated from employment with a casino licensee before the employee may gamble in a casino or simulcasting facility in the casino hotel in which the employee was formerly employed or in any other casino or simulcasting facility in this State which is owned or operated by the same casino licensee.

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 hotel or simulcasting facility 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, with the distribution based upon the number of hours each dealer has worked, except that the commission may permit a separate pool to be established for dealers in the game of poker, or may permit tips or gratuities to be retained by individual dealers in the game of poker.

p. Any slot system operator that offers an annuity jackpot shall secure the payment of such jackpot by establishing an annuity jackpot guarantee in accordance with the requirements of this act, P.L.1977, c.110 (C.5:12-1 et seq.), and the rules of the commission.

4. 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. a. Unless otherwise provided in this subsection, no agreement shall be lawful 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 simulcasting facility; any money or property derived from casino gaming activity or wagering at a simulcasting facility; or any revenues, profits or earnings of a casino or simulcasting facility. Notwithstanding the foregoing:

(1) 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.

(2) Agreements between a casino licensee and a junket enterprise or junket representative licensed, qualified or registered in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations of the



commission which provide for the compensation of the junket enterprise or junket representative by the casino licensee based upon the actual casino gaming or simulcast wagering activities of a patron procured or referred by the junket enterprise or junket representative shall be lawful if filed with the division prior to the conduct of any junket that is governed by the agreement.

(3) Agreements between a casino licensee and its employees which provide for casino employee or casino key employee profit sharing shall be lawful if the agreement is in writing and filed with the commission prior to its effective date. Such agreements may be reviewed by the commission under any relevant provision of P.L.1977, c.110 (C.5:12-1 et seq.).

(4) Agreements to lease an approved casino hotel or the land thereunder and agreements for the complete management of all casino gaming operations in a casino hotel 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.

(6) Agreements relating to simulcast racing and wagering between a casino licensee and an in-State or out-of-State sending track licensed or exempt from licensure in accordance with subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92) shall be in writing, be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission and the New Jersey Racing Commission, except that any such agreements which provide for a percentage of the parimutuel pool wagered at a simulcasting facility to be paid to the sending track shall not be subject to the provisions of this subsection.

(7) Agreements relating to simulcast racing and wagering between a casino licensee and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) as a hub facility, as defined in joint regulations of the Casino Control Commission and the New Jersey Racing Commission, shall be in writing, be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission and the New Jersey Racing Commission, except that any such agreements which provide for a percentage of the casino licensee's share of the parimutuel pool wagered at a simulcasting facility to be paid to the hub facility shall not be subject to the provisions of this subsection.

(8) Agreements relating to simulcast racing and wagering between a casino licensee and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) to con-

duct casino simulcasting in a simulcasting facility shall be in writing, be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission, except that any such agreements which provide for a percentage of the casino licensee's share of the parimutuel pool wagered at a simulcasting facility to be paid to the casino service industry shall not be subject to the provisions of this subsection.

(9) Written agreements relating to the operation of multi-casino progressive slot machine systems between one or more casino licensees and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, which provide for an interest, percentage or share of the casino licensee's revenues, profits or earnings from the operation of such multi-casino progressive slot machines to be paid to the casino service industry licensee or applicant shall not be subject to the provisions of this subsection if the agreements are filed with and approved by the commission.

(10) A written agreement between a casino licensee and a casino service industry licensed pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, relating to the construction, renovation or operation of qualifying sleeping units, as defined in section 27 of P.L.1977, c.110 (C.5:12-27), or of non-gaming amenities, as defined by the commission, within the limits of the city of Atlantic City, regardless of whether such qualifying sleeping units or non-gaming amenities are connected to a casino hotel facility, which provides for an interest, percentage or share of the casino licensee's revenues, profits or earnings, not to exceed 5% of the casino licensee's revenues, to be paid to the casino service industry licensee or applicant in return for the construction, renovation or operation of such qualifying sleeping units or non-gaming amenities shall not be subject to the provisions of this subsection provided that: (i) the agreement requires a capital investment, at least 10% of which shall be made by the casino service industry licensee or applicant over the term of the agreement, of not less than \$30 million, which minimum amount shall be adjusted periodically by the commission for inflation; (ii) the commission finds that the total amount of casino revenues, profits or earnings that can be paid to the casino service industry licensee or applicant pursuant to this agreement is commercially reasonable under the circumstances; and (iii) the agreement is filed with and approved by the commission.

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, employees, 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, employees, 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.

5. This act shall take effect on the last day of the second full month after enactment, except that the increase in the term of a casino employee or casino key employee license renewal pursuant to section 2 shall apply to employee license renewal applicants whose filing deadline occurs on or after the effective date.

Approved February 17, 2005.

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## CHAPTER 32

AN ACT concerning the budget message to be transmitted by the Governor to the Legislature for the fiscal year ending June 30, 2006.

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

1. Notwithstanding the provisions of any other law to the contrary, the Governor shall transmit the budget message for the fiscal year ending June 30, 2006 to the Legislature on or before March 1, 2005.

2. This act shall take effect immediately.

Approved February 17, 2005.

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### CHAPTER 33

AN ACT concerning certain students at New Jersey institutions of higher education.

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

**C.18A:62-4.3 Student at public institution of higher education, re-enrollment right, refund of fees if called to active duty for certain military operations.**

1. A student who is a member of the New Jersey National Guard or of the Reserve component of the Armed Forces of the United States and who is unable to complete a course at a New Jersey public institution of higher education because the student is called to active duty as a consequence of Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom shall be entitled to re-enroll in the course upon the completion of military service or to receive a refund of any tuition and fees paid for that course. A student who has paid room, board, or other fees to the institution shall also be entitled to a refund of the portion of those charges attributable to the time period in which the facilities or services were not used by the student.

New Jersey independent institutions of higher education are encouraged to provide the same re-enrollment right and refunds for their students who are members of the New Jersey National Guard or of the Reserve component of the Armed Forces of the United States and who are called to active duty as a consequence of Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom.

2. This act shall take effect immediately, shall apply to the 2002-2003 academic year and thereafter, and shall expire one year following the termination of Operation Iraqi Freedom.

Approved February 25, 2005.

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CHAPTER 34

AN ACT concerning the use of emergency warning lights and sirens by certain emergency management volunteers and amending the title and body of P.L.1977, c.223.

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

1. The title of P.L.1977, c.223 is amended to read as follows:

AN ACT relating to emergency warning lights for members of volunteer fire companies, volunteer first aid or rescue squads, and volunteer Offices of Emergency Management, supplementing chapter 3 of Title 39 of the Revised Statutes and repealing P.L.1971, c.352.

2. Section 1 of P.L.1977, c.223 (C.39:3-54.7) is amended to read as follows:

**C.39:3-54.7 Display of emergency warning lights.**

1. a. An active member in good standing of any of the following organizations may display, on a motor vehicle operated by that member, an emergency warning light or lights as provided in this act:

(1) a volunteer fire company or a volunteer first aid or rescue squad recognized by and rendering service in any municipality; or

(2) any county or municipal volunteer Office of Emergency Management recognized by and rendering service in any county or municipality, provided the member's official duties include responding to a fire or emergency call.

b. The Chief Administrator of the New Jersey Motor Vehicle Commission shall not require the member to specify on which motor vehicles the emergency warning light or lights may be mounted.

3. Section 5 of P.L.1977, c.223 (C.39:3-54.11) is amended to read as follows:

**C.39:3-54.11 Identification cards; issuance.**

5. a. The Chief Administrator of the New Jersey Motor Vehicle Commission shall prepare suitable identification cards bearing the signature of the chief administrator which, upon the request of the mayor or chief executive officer of any municipality recognizing and being served by a volunteer fire company or a volunteer first aid or rescue squad on a form and in a manner prescribed by the chief administrator, shall be forwarded to the mayor or chief executive officer, to be countersigned and issued by the mayor or chief executive officer to the members in good standing of the volunteer fire company or first aid or rescue squad.

b. Identification cards issued pursuant to this section and sections 5 and 6 of P.L.2005, c.34 (C.39:3-54.22 and C.39:3-54.23) shall be considered permits to display and operate emergency warning lights as provided for in this act and shall apply to any motor vehicle driven by the member of a volunteer fire company, a volunteer first aid or rescue squad or a volunteer Office of Emergency Management. Emergency warning lights shall not be mounted prior to the issuance of the identification cards. Each member of a volunteer fire company, a volunteer first aid or rescue squad or a volunteer Office of Emergency Management must carry the identification card while an emergency warning light or lights are displayed on his vehicle.

4. Section 6 of P.L.1977, c.223 (C.39:3-54.12) is amended to read as follows:

**C.39:3-54.12 Rights of motor vehicle with emergency lights in operation.**

6. Nothing contained herein is intended to grant to any member of a volunteer fire company, a volunteer first aid or rescue squad or a volunteer Office of Emergency Management any privileges or exemptions denied to the drivers of other vehicles, and such members displaying emergency warning lights shall drive with due regard for the safety of all persons and shall obey all the traffic laws of this State, provided, however, that the drivers of non-emergency vehicles upon any highway shall yield the right of way to the vehicle of any member of a volunteer fire company, a volunteer first aid or rescue squad or a volunteer Office of Emergency Management displaying emergency warning lights in the same manner as is provided for authorized emergency vehicles pursuant to R.S.39:4-92.

**C.39:3-54.22 Application, approval for permit to display emergency light by county volunteer Office of Emergency Management member.**

5. An active member of a county volunteer Office of Emergency Management shall submit an application for a permit to the County Emergency Management Coordinator prior to displaying an emergency warning

light or lights pursuant to the provisions of this act. The coordinator shall approve the application if the volunteer's official duties require him to respond to fire or emergency calls. The completed application shall be forwarded to the Director of the Board of Chosen Freeholders or other appropriate authority of the county that recognizes and serves the applicant's Office of Emergency Management. Upon approval, the mayor or chief executive officer shall forward the application to the Chief Administrator of the New Jersey Motor Vehicle Commission for issuance of the permit

**C.39:3-54.23 Application, approval for permit to display emergency light by municipal volunteer Office of Emergency Management member.**

6. An active member of a municipal volunteer Office of Emergency Management shall submit an application to the Municipal Emergency Management Coordinator to display an emergency warning light or lights pursuant to the provisions of this act. The coordinator shall approve the application if the volunteer's official duties require him to respond to fire or emergency calls. The completed application shall be forwarded to the mayor or chief executive officer of the municipality that recognizes and serves the applicant's Office of Emergency Management. Upon approval, the mayor or chief executive officer shall forward the application to the Chief Administrator of the New Jersey Motor Vehicle Commission for issuance of the permit.

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

Approved February 25, 2005.

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## CHAPTER 35

AN ACT concerning the public broadcasting powers of the New Jersey Public Broadcasting Authority during an emergency, and amending P.L.1968, c.405 and P.L.1989, c.133.

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

1. Section 2 of P.L.1968, c.405 (C.48:23-2) is amended to read as follows:

**C.48:23-2 Definitions.**

2. For the purposes of this act, unless otherwise indicated by the context:

"Authority" means the New Jersey Public Broadcasting Authority.

"Commission" means the New Jersey Public Broadcasting Commission.

"Public broadcasting" includes all aspects of noncommercial radio and television, open and closed circuit, including the production and dissemination of public and community affairs, educational, cultural and instructional information to the public at large within the State. For purposes of this act, public broadcasting does not include radio and television transmissions for internal communications, as presently used by public and private agencies in fields such as law enforcement, safety, transportation, traffic control, civil defense and the like, except that this limitation shall not apply when an emergency condition exists and notification of the emergency condition is received by the authority pursuant to section 3 of P.L.1989, c.133 (C.53:1-21.6) nor shall this limitation apply with regard to preparations or planning for such an emergency condition.

"Public broadcasting telecommunications" includes all public broadcasting services relating to public broadcasting including intercommunications, datacasting, closed circuit Instructional Television Fixed Service (ITFS) and other services requiring Federal Communications Commission spectrum allocations for transmission of electrical impulses that specifically and integrally relate to New Jersey public broadcasting. Facilities typical for application of these services would encompass micro-wave interconnection, aural and video TV transmission, multiplexing, laser beam utilization, satellite interconnection systems and other appropriate technological devices.

2. Section 1 of P.L.1989, c.133 (C.48:23-11) is amended to read as follows:

**C.48:23-11 Broadcast of news, information during emergency.**

1. The New Jersey Public Broadcasting Authority shall, upon notification by the Director of the State Office of Emergency Management in the Division of State Police that an emergency condition exists, immediately operate its public broadcasting telecommunications stations to broadcast news and information concerning the emergency condition. If the emergency condition affects less than the entire State, the authority may limit its broadcast to its public broadcasting telecommunications stations which broadcast in the affected region or regions. The authority shall then operate its public broadcasting telecommunications stations for the duration of the emergency, or longer, as is necessary to provide information concerning the emergency.

3. Section 3 of P.L.1989, c.133 (C.53:1-21.6) is amended to read as follows:



**C.53:1-21.6 Notification of emergency to Public Broadcasting Authority.**

3. The Director of the State Office of Emergency Management in the Division of State Police shall notify the New Jersey Public Broadcasting Authority when an emergency condition exists or is imminent. The director shall give the authority all information necessary for the authority to operate its public broadcasting telecommunications stations in order to alert and inform the public about the emergency condition or broadcast information concerning the emergency condition. For the purpose of this section "emergency" means any flood, hurricane, storm, tornado, high water, wind driven water, tidal wave, fire, explosion, civil disorder or other catastrophe which is or threatens to be of sufficient severity and magnitude to substantially endanger the health, safety and property of the citizens of this State.

4. This act shall take effect immediately.

Approved February 25, 2005.

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 CHAPTER 36

AN ACT concerning certain county pension funds and supplementing chapter 10 of Title 43 of the Revised Statutes.

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

**C.43:10-2.1 County pensions, certain, option to enhance for members having more than 25 years' service.**

1. a. A county liable to pay the pension benefits to members of the pension fund pursuant to the provisions of article 1 of chapter 10 of Title 43 of the Revised Statutes may elect to provide these prospective retirees, pursuant to subsection b. of this section, with a retirement benefit equal to 1% per annum after 25 years of service upon their retirement by the adoption, and submission to the pension commission, of an appropriate resolution by its board of chosen freeholders.

b. Should a member of the pension fund retire after having attained 60 years of age and established 25 years of creditable service, the member shall receive, in lieu of the payment provided in R.S.43:10-2, a retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of the member's aggregate contributions, and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 50% of final compensation, plus 1% of final compensation multiplied by the number of years of creditable service over 25.

2. This act shall take effect immediately.

Approved February 25, 2005.

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## CHAPTER 37

AN ACT concerning the sale of certain commercial fertilizers and amending and supplementing P.L.1970, c.66.

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

1. Section 3 of P.L.1970, c.66 (C.4:9-15.3) is amended to read as follows:

**C.4:9-15.3 Definitions.**

3. As used in this act:

(a) "Commercial fertilizer" means a fertilizer material, mixed fertilizer or any other substance containing one or more recognized plant nutrients which is used for its plant nutrient content, which is designed for use or claimed to have value in promoting plant growth, and which is sold, offered for sale, or intended for sale; except that it shall not be considered to include unmanipulated animal or vegetable manures, agricultural liming materials, or wood ashes.

(b) "Specialty fertilizer" means a commercial fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, parks, cemeteries, greenhouses, and nurseries.

(c) "Customer formulated mix" means a commercial fertilizer prepared expressly for, and according to specifications furnished prior to mixing by, the customer.

(d) "Soil conditioner" means any substance intended or claimed to improve the chemical, physical or biological characteristics of the soil which is sold, offered for sale, or intended for sale; except that it shall not be considered to include decomposed organic material having an ash content not exceeding 25% by dry weight, unmanipulated animal or vegetable manures, agricultural liming materials, or any other materials that may be exempted by regulation.

(e) "Brand" means a term, design, or trademark used in connection with a soil conditioner or with one or more grades of commercial fertilizer.

(f) "Grade" means the percentage of total nitrogen, available phosphoric acid, and soluble potash stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis; provided, however, that fertilizer materials, bone meal, and similar raw materials may be guaranteed in fractional units.

(g) "Guaranteed analysis" means the minimum percentage of plant nutrients claimed and set forth in the manner prescribed in subsection 10(c) of this act.

(h) "Index value" means an expression of the actual analysis of a fertilizer compared to the guaranteed analysis determined according to the following formula. Multiply the total nitrogen value by 3, the available phosphoric acid value by 2, and the soluble potash value by one, and then add these figures separately for the actual analysis and for the guaranteed analysis to obtain, respectively, the total actual value and the total guaranteed value. The index value is obtained by dividing the total actual value by the total guaranteed value.

(i) "Official sample" means any sample of commercial fertilizer or soil conditioner taken by an agent of the Department of Agriculture and designated as "official" by the department.

(j) "Person" includes any individual, partnership, association, firm, or corporation.

(k) "Distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes, or blends commercial fertilizer or soil conditioner or who offers for sale, sells, barter, or otherwise supplies such products in this State.

(l) "Licensee" means a person who is licensed, or is required to be licensed, to distribute commercial fertilizers or soil conditioners under the provisions of this act.

(m) "Manufacturing facility" means any place where a commercial fertilizer or soil conditioner is manufactured, produced, compounded, mixed, blended, or in any way altered chemically or physically.

(n) "Label" means the display of all written, printed, or graphic matter on the immediate container or a statement accompanying a commercial fertilizer or soil conditioner.

(o) "Labeling" means all written, printed, or graphic matter on or accompanying any commercial fertilizer or soil conditioner, or the contents of any advertisements, brochures, posters, or television or radio announcements used in promoting the sale of such commercial fertilizer or soil conditioner.

(p) "Ton" means a net weight of 2,000 pounds avoirdupois.

(q) "Per cent" or "percentage" refers to the percentage by weight.

(r) "Department" means the New Jersey Department of Agriculture and includes the State Board of Agriculture, the Secretary of Agriculture, the State Chemist, and all employees and agents thereof.

(s) "State board" means the State Board of Agriculture of New Jersey.

(t) "Secretary" means the Secretary of Agriculture of New Jersey.

(u) "State Chemist" means the person appointed by the State board, subject to the supervision of the secretary, for the purpose of administering this act.

(v) "Restricted commercial fertilizer" means any commercial fertilizer that in the judgment of the State Chemist, in consultation with the Domestic Security Preparedness Task Force, has the potential to be used as a "destructive device" as defined in subsection c. of N.J.S.2C:39-1 or an "explosive" as defined in subsection e. of N.J.S.2C:39-1 or otherwise presents an unreasonable threat to public safety. "Restricted commercial fertilizer" shall include, but not be limited to, the chemical compound ammonium nitrate.

**C.4:9-15.43 Record of sales of restricted commercial fertilizer.**

2. a. Every manufacturer or distributor of a restricted commercial fertilizer shall record, on forms provided by the secretary, the number of a valid State or federal driver's license bearing a photograph, or other picture identification card number approved for buyer identification by the State Board of Agriculture, and make a clear copy of that identification, before offering for sale or selling restricted commercial fertilizer to that buyer.

b. Licensed manufacturers or distributors shall maintain for at least two years a record of all sales of restricted commercial fertilizer including:

(1) the date of sale or delivery of the fertilizer;

(2) the name, address and copy of the driver's license or picture identification card of the person to whom the fertilizer was sold or delivered;

(3) the amount of the fertilizer; and

(4) any other information as may be required by the State Board of Agriculture.

c. Licensed manufacturers or distributors shall annually compile and report the information required pursuant to subsection a. of this section to the State Board of Agriculture.

d. The State Board of Agriculture shall refuse to grant or renew a license of a manufacturer or distributor who fails to comply with the reporting requirements set forth in subsections a. and b. of this section.

e. A licensed manufacturer or distributor may refuse to offer for sale or sell restricted commercial fertilizer to buyers attempting to purchase ammonium nitrate out of season, in unusual quantities or under suspect purchase patterns.

f. The State Board of Agriculture, after consultation with the Domestic Security Preparedness Task Force, shall promulgate regulations implementing the provisions of this section.

**C.4:9-15.44 Report of suspect purchase, theft, loss by distributors.**

3. A distributor of restricted commercial fertilizer shall immediately report any suspect purchase pattern, theft or loss of inventory of a restricted commercial fertilizer to the appropriate law enforcement agency.

**C.4:9-15.45 Immunity for refusal to sell, report of suspect purchases, certain circumstances.**

4. Notwithstanding any provision of law to the contrary, any person who refuses to sell a restricted commercial fertilizer to any person, or any person who reports information to a law enforcement official or agency concerning the suspect purchase pattern of any person attempting to purchase a restricted commercial fertilizer shall be immune from any civil liability on account of the report, unless such person has acted in bad faith or with malicious purpose.

5. This act shall take effect on the first day of the fourth month following enactment.

Approved February 25, 2005.

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CHAPTER 38

AN ACT concerning dental plan organizations, amending P.L.1979, c.478 and repealing section 22 thereof.

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

1. Section 2 of P.L.1979, c.478 (C.17:48D-2) is amended to read as follows:

**C.17:48D-2 Definitions.**

2. In this act, unless the context otherwise requires:

"Capitation" means a method of compensation by a dental plan organization to its contracted dentists for dental services and supplies provided to covered persons of the dental plan organization on the basis of a fixed periodic payment per covered person or enrollee;

"Commissioner" means the Commissioner of Banking and Insurance;

"Consultant" means a person who holds himself out as an advisor or renders advice on the organization, financing, administration or operation

of a dental plan to any employer, union, trust fund or dental plan organization;

"Covered person" means any person eligible to receive covered benefits or services and supplies under the terms of a dental plan;

"Dental plan" means any contractual arrangement for dental services and supplies to covered persons where contracted dentists are compensated by means of capitation, salary or a method authorized, submitted to and approved by the commissioner;

"Dental plan organization" or "DPO" means any person who undertakes to provide directly or to arrange for or administer one or more dental plans providing dental services and supplies;

"Dental services" means services included in the practice of dentistry as defined in R.S.45:6-19;

"Enrollee" means an individual whose employment or other status, except family dependency, is the basis for eligibility for enrollment in the dental plan, or in the case of an individual contract, the person in whose name the contract is issued;

"Evidence of coverage" means any certificate, agreement or contract issued to an enrollee, setting out the dental services and supplies to which the enrollee and his dependents are entitled;

"Finder" means a person who brings together a dental plan organization with an employer, union or trust fund for the purpose of establishing a contractual relationship to provide dental services, or facilities or equipment related to the operation of the dental plan or dental plan organization;

"National Association of Insurance Commissioners" or "NAIC" means the National Association of Insurance Commissioners, its affiliates, or subsidiaries, or any agency or committee thereof, or any successor organization.

2. Section 3 of P.L.1979, c.478 (C.17:48D-3) is amended to read as follows:

**C.17:48D-3 Application for certificate of authority.**

3. a. No person may establish, operate or administer a dental plan organization, or sell or offer to sell, or solicit offers to purchase, or receive advance or periodic consideration in conjunction with any dental plan organization, utilizing in the aggregate the services of more than one full-time equivalent dentist, without obtaining and maintaining a certificate of authority pursuant to this act.

b. Within 90 days after the effective date of this act, every dental plan organization utilizing in the aggregate the services of more than one full-time equivalent dentist shall submit an application for a certificate of authority to the commissioner. A dental plan organization may continue to operate until

the commissioner acts upon the application. If the application is denied, the dental plan organization shall be treated as if its certificate of authority has been revoked.

c. An application for a certificate of authority shall be in a form prescribed by the commissioner, shall be verified by an officer or authorized representative of the dental plan organization and shall include the following:

(1) All basic organizational documents of the dental plan organization, such as the articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement or other applicable documents and all amendments to those documents;

(2) The bylaws, rules and regulations or similar documents regulating the conduct or the internal affairs of the dental plan organization;

(3) The names, addresses, official positions and a biographical affidavit (NAIC form) of the persons who are responsible for the conduct of the affairs of the dental plan organization, including all members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers, in the case of a corporation, and the partners or members, in the case of a partnership or association;

(4) The form of all contracts or agreements made between any dentist and the dental plan organization;

(5) All contracts or agreements made between any person listed in paragraph (3) of this subsection and any dentist, consultant, finder, supplier of administrative services or business manager;

(6) A description of the dental plan organization, its dental plan or plans, facilities and personnel;

(7) The form of the evidence of coverage to be issued to the enrollees;

(8) The form of any group contract which is issued to employers, unions, trustees or others;

(9) A financial statement prepared by an independent certified public accountant, setting forth the applicant's present or anticipated assets, liabilities and sources of funds. The statement shall set forth the terms and conditions of all current liabilities and any outstanding loans made from the funds of the applicant, and shall be attested to by the applicant or an authorized officer thereof. If the commissioner requires an audit of the financial records of the applicant by an independent certified public accountant, the financial statement shall be prepared and certified by the certified public accountant having conducted the audit;

(10) The proposed method of marketing the plan, a financial plan with a 3-year projection of the initial operating results and a statement of the sources of working capital and any other sources of funding. The justifications and assumptions for the marketing and financial plan shall also be disclosed;

(11) A power of attorney duly executed by the dental plan organization, if not domiciled in this State, appointing the commissioner, the commissioner's successors in office and duly authorized deputies as the true and lawful attorney of the dental plan organization in and for this State, upon whom lawful process in any legal action or proceeding against the dental plan organization on a cause of action arising in this State may be served;

(12) A description of the geographic area or areas to be served, by county and zip code (first 3 digits);

(13) A description of the procedures and programs to be implemented to achieve an effective dental plan as required in section 5 a.(2) of this act; and

(14) Such other information as the commissioner may require.

d. The dental plan organization shall pay a fee of \$1,000 to the commissioner, upon filing an application for a certificate of authority.

e. The commissioner shall act on an application for a certificate of authority within 90 days following receipt of the application.

3. Section 4 of P.L.1979, c.478 (C.17:48D-4) is amended to read as follows:

**C.17:48D-4 Notice of modification of information.**

4. Sixty days prior to any significant modification of information submitted with the application for a certificate of authority or a subsequent modification, a dental plan organization shall file notice of the modification with the commissioner.

4. Section 5 of P.L.1979, c.478 (C.17:48D-5) is amended to read as follows:

**C.17:48D-5 Conditions for issuance; notice of disapproval.**

5. a. The commissioner shall issue a certificate of authority if he is satisfied that the following conditions are met:

(1) The persons responsible for conducting the affairs of the dental plan organization are competent and trustworthy and are professionally capable of providing, arranging for or administering the services offered by the plan;

(2) The dental plan organization constitutes an appropriate mechanism to achieve an effective dental plan, as determined by the commissioner;

(3) The dental plan organization has demonstrated the potential to provide dental services in a manner that will assure both availability and accessibility of adequate personnel and facilities;

(4) The dental plan organization has arrangements for an ongoing quality of dental care assurance program;



(5) The dental plan organization has a procedure to establish and maintain uniform systems of cost accounting and reports and audits that meet the requirements of the commissioner;

(6) The dental plan organization is financially responsible and may reasonably be expected to meet its obligations to covered persons. In making this determination the commissioner shall consider:

(a) The financial soundness of the dental plan's arrangements for services and the schedule of premiums used;

(b) Any arrangement with an insurer or medical or dental service corporation for continuation of coverage in the event of discontinuance of the plan, on an indemnity basis through a group vehicle to the end of the period for which premiums were paid to the discontinued dental plan organization; and

(c) The sufficiency of an agreement with dentists for the provision of dental services;

(7) A general surplus is maintained as required in section 6 of this act;

(8) A contingent surplus is accumulated and maintained as required in section 7 of this act;

(9) The condition or methods of operation of the dental plan organization are not such as would render its operations hazardous to its enrollees or the public; and

(10) The persons responsible for conducting the affairs of the dental plan organization are: (a) of good moral character, and (b) have not been convicted, within 7 years of the filing of the application for a certificate of authority, of a crime listed in N.J.S.2C:41-1 or, at any time, of engaging in a pattern of racketeering activity, as defined in N.J.S.2C:41-1 and 2C:41-2.

b. When the commissioner disapproves an application for a certificate of authority, he shall notify the dental plan organization in writing of the reasons for the disapproval.

c. (Deleted by amendment, P.L.2005, c.38).

5. Section 8 of P.L.1979, c.478 (C.17:48D-8) is amended to read as follows:

**C.17:48D-8 Fidelity bonding of officers, etc., malpractice insurance of dentists.**

8. a. Any director, officer, employee or partner of a dental plan organization who receives, collects, reimburses or invests moneys in connection with the activities of the organization shall be bonded for his fidelity, or maintain crime insurance or its equivalent, in an amount which shall be determined by the commissioner.

b. Each dentist employed by a dental plan organization shall be insured against professional liability or malpractice by an insurer licensed to conduct

business in this State for such minimum amounts as shall be determined by the commissioner.

6. Section 9 of P.L.1979, c.478 (C.17:48D-9) is amended to read as follows:

**C.17:48D-9 Evidence of coverage.**

9. a. An enrollee shall be entitled to receive evidence of coverage or a certificate indicating specifically the nature and extent of coverage, and evidence of the total amount or percentage of payment, if any, which the enrollee is obligated to pay for dental services. If an individual enrollee obtains coverage through an insurance policy or through a contract issued by a medical or dental service corporation, whether by option or otherwise, the insurer or medical or dental service corporation shall issue the evidence of coverage. Otherwise, the dental plan organization shall issue the evidence of coverage.

b. No evidence of coverage or amendment thereto shall be issued or delivered to any person until a copy of the form of evidence of coverage or amendment thereto has been filed with the commissioner.

c. Evidence of coverage shall contain a clear and complete statement if a contract, or a reasonably complete summary if a certificate, of:

(1) The dental services and the insurance or other benefits, if any, to which covered persons are entitled;

(2) Any limitations on the services, kind of services, benefits, or kind of benefits to be provided, including any charge, deductible or co-payment feature;

(3) Where and in what manner information is available as to how services may be obtained; and

(4) A clear and understandable description of the dental plan organization's method for resolving covered persons' complaints.

d. Any subsequent change in the evidence of coverage or the amount or percentage of payment which the enrollee is obligated to pay, shall be evidenced in a separate document issued to the enrollee.

7. Section 9 of P.L.1999, c.154 (C.17:48D-9.4) is amended to read as follows:

**C.17:48D-9.4 Dental plan organization to receive, transmit transactions electronically.**

9. a. Within 180 days of the adoption of a timetable for implementation pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23), a dental plan organization, or a subsidiary that processes health care benefits claims as a third party administrator, shall demonstrate to the satisfaction of the Commissioner of Banking and Insurance that it will adopt and implement all of the

standards to receive and transmit health care transactions electronically, according to the corresponding timetable, and otherwise comply with the provisions of this section, as a condition of its continued authorization to do business in this State.

The Commissioner of Banking and Insurance may grant extensions or waivers of the implementation requirement when it has been demonstrated to the commissioner's satisfaction that compliance with the timetable for implementation will result in an undue hardship to a dental plan organization, its subsidiary or its covered persons.

b. Within 12 months of the adoption of regulations establishing standard health care enrollment and claim forms by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23), a dental plan organization or a subsidiary that processes health care benefits claims as a third party administrator shall use the standard health care enrollment and claim forms in connection with all group and individual contracts issued, delivered, executed or renewed in this State.

c. Twelve months after the adoption of regulations establishing standard health care enrollment and claim forms by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23), a dental plan organization shall require that health care providers file all claims for payment for dental services. A covered person who receives dental services shall not be required to submit a claim for payment, but notwithstanding the provisions of this subsection to the contrary, a covered person shall be permitted to submit a claim on his own behalf, at the covered person's option. All claims shall be filed using the standard health care claim form applicable to the contract.

d. (1) Effective 180 days after the effective date of P.L.1999, c.154, a dental plan organization or its agent, hereinafter the payer, shall remit payment for every insured claim submitted by a covered person or that covered person's agent or assignee if the contract provides for assignment of benefits, no later than the 30th calendar day following receipt of the claim by the payer or no later than the time limit established for the payment of claims in the Medicare program pursuant to 42 U.S.C. s.1395u(c)(2)(B), whichever is earlier, if the claim is submitted by electronic means, and no later than the 40th calendar day following receipt if the claim is submitted by other than electronic means, if:

(a) the claim is an eligible claim for a health care service provided by an eligible health care provider to a covered person under the contract;

(b) the claim has no material defect or impropriety, including, but not limited to, any lack of required substantiating documentation or incorrect coding;

(c) there is no dispute regarding the amount claimed;

(d) the payer has no reason to believe that the claim has been submitted fraudulently; and

(e) the claim requires no special treatment that prevents timely payments from being made on the claim under the terms of the contract.

(2) If all or a portion of the claim is denied by the payer because:

(a) the claim is an ineligible claim;

(b) the claim submission is incomplete because the required substantiating documentation has not been submitted to the payer;

(c) the diagnosis coding, procedure coding, or any other required information to be submitted with the claim is incorrect;

(d) the payer disputes the amount claimed; or

(e) the claim requires special treatment that prevents timely payments from being made on the claim under the terms of the contract, the payer shall notify the covered person, or that covered person's agent or assignee if the contract provides for assignment of benefits, in writing or by electronic means, as appropriate, within 30 days, of the following: if all or a portion of the claim is denied, all the reasons for the denial; if the claim lacks the required substantiating documentation, including incorrect coding, a statement as to what substantiating documentation or other information is required to complete adjudication of the claim; if the amount of the claim is disputed, a statement that it is disputed; and if the claim requires special treatment that prevents timely payments from being made, a statement of the special treatment to which the claim is subject.

(3) Any portion of a claim that meets the criteria established in paragraph (1) of this subsection shall be paid by the payer in accordance with the time limit established in paragraph (1) of this subsection.

(4) A payer shall acknowledge receipt of a claim submitted by electronic means from a health care provider or covered person, no later than two working days following receipt of the transmission of the claim.

(5) If a payer subject to the provisions of P.L.1983, c.320 (C.17:33A-1 et seq.) has reason to believe that a claim has been submitted fraudulently, it shall investigate the claim in accordance with its fraud prevention plan established pursuant to section 1 of P.L.1993, c.362 (C.17:33A-15), or refer the claim, together with supporting documentation, to the Office of the Insurance Fraud Prosecutor in the Department of Law and Public Safety established pursuant to section 32 of P.L.1998, c.21 (C.17:33A-16).

(6) Payment of an eligible claim pursuant to paragraphs (1) and (3) of this subsection shall be deemed to be overdue if not remitted to the claimant or his agent by the payer on or before the 30th calendar day or the time limit established by the Medicare program, whichever is earlier, following receipt by the payer of a claim submitted by electronic means and on or before the

40th calendar day following receipt of a claim submitted by other than electronic means.

In the event payment is withheld on all or a portion of a claim by a payer pursuant to subparagraph (b) of paragraph (2) of this subsection, the claims payment shall be overdue if not remitted to the claimant or his agent by the payer on or before the 30th calendar day or the time limit established by the Medicare program, whichever is earlier, for claims submitted by electronic means and the 40th calendar day for claims submitted by other than electronic means, following receipt by the payer of the required documentation or modification of an initial submission.

(7) An overdue payment shall bear simple interest at the rate of 10% per annum.

e. As used in this subsection, "insured claim" or "claim" means a claim by a covered person for payment of benefits under an insured dental plan organization contract for which the financial obligation for the payment of a claim under the contract rests upon the dental plan organization.

8. Section 10 of P.L.1979, c.478 (C.17:48D-10) is amended to read as follows:

**C.17:48D-10 Schedule of premiums, approval by commissioner; establishment of premiums.**

10. a. No schedule of premiums for coverage for dental services, or amendment thereto, may be used by a dental plan organization until a copy of such schedule, or amendment thereto, has been filed with the commissioner. The commissioner may disapprove the schedule of premiums at any time if he finds that the premiums are excessive, inadequate or unfairly discriminatory. If the commissioner disapproves the schedule of premiums he shall notify the dental plan organization within 5 days of the date of disapproval and specify in the notice, the reason for his disapproval. A hearing shall be granted within 20 days after a request in writing by the filer. It shall be unlawful for any dental plan organization whose schedule of premiums has been disapproved to effect any contract or issue any subscription certificate which uses the disapproved schedule of premiums until a revised schedule of premiums has been filed.

b. Premiums shall be established in accordance with actuarial principles, but premiums applicable to a covered person shall not be individually determined based on the status of his health.

9. Section 11 of P.L.1979, c.478 (C.17:48D-11) is amended to read as follows:

**C.17:48D-11 Books, records; examination, inspection by commissioner.**

11. a. The commissioner or his designee may, as often as he may reasonably determine, investigate the business and examine the books, accounts, records and files of every dental plan organization. For that purpose the commissioner or his designee shall have reasonably free access to the offices and places of business, books, accounts, papers, records and files of all dental plan organizations. A dental plan organization shall keep and use in its business such books, accounts and records as will enable the commissioner to determine whether the dental plan organization is complying with the provisions of this act and with the rules and regulations promulgated pursuant to it. A dental plan organization shall preserve its books, accounts and records for at least 7 years; except that preservation by photographic reproduction or records in photographic form shall constitute compliance with this act.

b. For the purpose of the examination, the commissioner may, within the limits of funds appropriated for such purpose, contract with such persons as he may deem advisable to conduct the same or assist therein.

c. At the discretion of the commissioner, the Commissioner of Health and Senior Services and the New Jersey State Board of Dentistry may participate in the investigations and examinations described in this section to verify the existence of an effective dental plan.

d. The expenses incurred in making any examination pursuant to this section shall be assessed against and paid by the dental plan organization so examined. A dental plan organization having direct premiums written in this State of less than \$2,000,000 in any calendar year shall be subject to a limited scope examination with expenses for that examination not to exceed \$5,000. Upon written notice by the commissioner of the total amount of an assessment, a dental plan organization shall become liable for and shall pay the assessment to the commissioner.

10. Section 12 of P.L.1979, c.478 (C.17:48D-12) is amended to read as follows:

**C.17:48D-12 Complaint system, records.**

12. a. A dental plan organization shall establish and maintain a complaint system to provide reasonable procedures for the resolution of written complaints initiated by covered persons concerning dental plan services. The dental plan organization shall maintain records of all written complaints initiated by covered persons.

b. The commissioner may examine the complaint system and if he determines that the system is not adequate he may require a revision of the complaint system.

11. Section 13 of P.L.1979, c.478 (C.17:48D-13) is amended to read as follows:

**C.17:48D-13 Annual report; filing; forms.**

13. a. Every dental plan organization annually on or before March 1 shall file with the commissioner a report covering its activities for the preceding calendar year.

b. The reports shall be on forms prescribed by the commissioner and shall include:

(1) A financial statement of the dental plan organization, prepared by an independent certified public accountant and attested to by an officer of the dental plan organization, which statement shall include full disclosure of all assets and liabilities of the dental plan organization, the terms and conditions thereof, and the sources and disposition of all funds. If the dental plan organization's records have been audited by an independent certified public accountant, the financial statement shall be certified by the certified public accountant having conducted the audit;

(2) Any significant modification of information submitted with the application for a certificate of authority;

(3) The number of persons who became covered persons during the year, the number of covered persons as of the end of the year and the number of enrollments terminated during the year;

(4) A description of the covered persons complaint system, including the procedures of the complaint system, the total number of written complaints handled through the system, a summary of causes underlying the complaints filed, and the number, amount and disposition of malpractice claims settled during the year by the dental plan organization and any of the dentists used by it; and

(5) Any other information relating to the performance of the dental plan organization as required by the commissioner.

12. Section 14 of P.L.1979, c.478 (C.17:48D-14) is amended to read as follows:

**C.17:48D-14 Percentage of premiums used for payments.**

14. At least 70 percent of every dental plan organization's earned premium in the first year of operation, 75 percent in the second year, and 80 percent in all subsequent years shall be used for payments to dentists for dental services and supplies provided to covered persons.

13. Section 15 of P.L.1979, c.478 (C.17:48D-15) is amended to read as follows:

**C.17:48D-15 False or misleading advertising; enforcement.**

15. a. No dental plan organization, or representative thereof, may cause or knowingly permit the use of advertising which is untrue or misleading, solicitation which is untrue or misleading, or any form of evidence of coverage which is deceptive. For purposes of this act:

(1) A statement or item of information shall be deemed to be untrue if it does not conform to fact in any respect which is or may be significant to an enrollee of, or person considering enrollment in, a dental plan;

(2) A statement or item of information shall be deemed to be misleading, whether or not it may be literally untrue, if, in the total context in which the statement is made or the item of information is communicated, the statement or item of information may be reasonably understood by a person who does not possess special knowledge regarding dental plan coverage, as indicating any benefit or advantage or the absence of any exclusion, limitation, or disadvantage of possible significance to a covered person of, or person considering enrollment in, a dental plan, if the benefit or advantage or absence of exclusion, limitation, or disadvantage does not in fact exist;

(3) Evidence of coverage shall be deemed to be deceptive if the evidence of coverage taken as a whole, and with consideration given to typography, format and language, may cause a person who does not possess special knowledge regarding dental plans and evidences of coverage therefor, to expect benefits, services, charges, or other advantages which the evidence of coverage does not provide or which the dental plan organization issuing the evidence of coverage does not regularly make available for persons covered under such evidence of coverage.

b. The unfair trade practice provisions contained in chapter 30 of Title 17B of the New Jersey Statutes shall apply to dental plan organizations, dental plans and evidences of coverage, except to the extent that the commissioner determines that the nature of dental plan organizations, dental plans and evidences of coverage render these sections clearly inappropriate.

c. No dental plan organization, unless licensed as an insurer, may use in its name, evidence of coverage or literature any of the words "insurance," "assurance," "casualty," "surety," "mutual" or any other words descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of any insurer licensed to do business in this State.

The provisions of this subsection shall be enforced by the Division of Consumer Affairs in the Department of Law and Public Safety and, where applicable, the commissioner. Nothing in this act shall limit the powers of the Attorney General and the procedures with respect to consumer fraud in P.L.1960, c.39 (C.56:8-1 et seq.).



14. Section 16 of P.L.1979, c.478 (C.17:48D-16) is amended to read as follows:

**C.17:48D-16 Suspension, revocation of certificate of authority.**

16. a. The commissioner may suspend or revoke any certificate of authority issued to a dental plan organization pursuant to this act, if he finds that any of the following conditions exist:

(1) The dental plan organization is operating in a manner significantly contrary to that described in sections 3 and 4 of this act;

(2) The dental plan organization issues an evidence of coverage which does not comply with the requirements of section 9 of this act;

(3) The dental plan organization does not provide or arrange for an effective dental plan, as determined by the commissioner;

(4) The dental plan organization can no longer be expected to meet its obligations to covered persons;

(5) The dental plan organization, or any authorized person on its behalf, has advertised or merchandised its services in an untrue or misleading manner;

(6) The dental plan organization has failed to comply with this act or any rules and regulations promulgated thereunder;

(7) Any person responsible for conducting the affairs of the dental plan organization is: (a) not of good moral character, or (b) has been convicted, within 7 years of the filing of the application for a certificate of authority, of a crime listed in N.J.S.2C:41-1 or, at any time, of engaging in a pattern of racketeering activity, as defined in N.J.S.2C:41-1 and 2C:41-2.

b. When the commissioner has cause to believe that grounds for the suspension or revocation of a certificate of authority exist, he shall notify the dental plan organization in writing, specifically stating the grounds for suspension or revocation. A hearing on the matter shall be granted by the commissioner within 20 days after a request in writing by the dental plan organization. After the hearing, or upon failure of the dental plan organization to appear at the hearing, the commissioner shall take action on his findings.

c. If the commissioner suspends the certificate of authority, the dental plan organization shall not accept any additional covered persons, except newborn children, new employees and new dependents of current employees, or engage in any advertising or solicitation during the period of the suspension.

d. If the commissioner revokes the certificate of authority, the dental plan organization shall proceed to dissolve its structure immediately following the effective date of the order of revocation, and shall conduct no further business, except as may be essential to the orderly conclusion of the affairs

of the dental plan organization. The commissioner by written order, however, may permit such further operation of the dental plan organization as he finds to be in the best interest of covered persons to the end that covered persons shall be afforded the greatest practical opportunity to obtain continuing dental plan coverage.

e. Notwithstanding the provisions of subsections c. and d. of this section, a dental plan organization which has had its certificate of authority suspended or revoked, or has suffered an adverse decision by the commissioner, shall be entitled to a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

15. Section 18 of PL.1979, c.478 (C.17:48D-18) is amended to read as follows:

**C.17:48D-18 Violations; civil penalty.**

18. Any dental plan organization which violates any provisions of this act, or neglects, fails or refuses to comply with any of the requirements of this act shall be liable for a civil penalty of not less than \$500.00 nor more than \$10,000.00 for each violation. The failure to file an annual report and the failure to reply promptly in writing to inquiries of the commissioner may result in an administrative penalty in an amount not less than \$50 nor more than \$500 for each day that the dental plan organization fails to file that report or response. The penalty may be sued for and recovered by the commissioner in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

A purposeful or knowing misstatement or omission of material fact required to be supplied to the commissioner is a crime of the fourth degree.

16. Section 21 of P.L.1979, c.478 (C.17:48D-21) is amended to read as follows:

**C.17:48D-21 Confidentiality of diagnostic, treatment information.**

21. Data or information pertaining to the diagnosis, treatment or health of any covered person obtained by the dental plan organization from the covered person or any dentist shall be confidential and shall not be disclosed to any person except to the extent that it may be necessary to carry out the purposes of this act, or upon the express consent of the covered person, or pursuant to statute or court order for the production of evidence or the discovery thereof, or in the event of claim or litigation between the covered person and the dental plan organization wherein the data or information is pertinent. A dental plan organization shall be entitled to claim any statutory privileges against such disclosure which the dentist who furnished the information to the dental organization is entitled to claim.

**Repealer.**

17. Section 22 of P.L.1979, c.478 (C.17:48D-22) is repealed.

18. This act shall take effect immediately.

Approved March 7, 2005.

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**CHAPTER 39**

AN ACT concerning the New Jersey State Firemen's Association and amending and repealing various sections of chapter 17 of Title 43 of the Revised Statutes.

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

1. R.S.43:17-2 is amended to read as follows:

**Incorporation certificate; filing; powers.**

43:17-2. The president and secretary of the corporation, when elected as hereinafter provided, shall forthwith sign a certificate and cause it to be recorded in the office of the clerk of the county in which the corporation is located and filed in the Office of the Secretary of State. The certificate, or a copy thereof, duly certified by the county clerk or the Secretary of State, shall be evidence in all courts and places. The certificate shall state the election of the representatives authorized to organize the corporation, the election by such representatives of a board of officers and a board of trustees, giving their names and official designations, the corporate name assumed, the location of the corporation and a reference to this article. In case of a reincorporation under this article, the certificate shall, instead thereof, state the former incorporation, the date thereof, the names and official designations of the officers of the corporation and a reference to this article.

Upon the recording and filing of the certificate the persons so associating shall be a corporation, under and by the name aforesaid and shall have perpetual succession and continuance, except as hereinafter provided, and be capable of suing and being sued, and may make and use a common seal, and alter the same at pleasure, and may receive, take, hold and convey, and invest and reinvest in personal property and may enter into, execute and enforce any contracts or agreements relating to, touching or concerning the objects of such corporation, and they and their successors, and all who shall associate themselves together with them, shall, as such corporation, be

entitled to all the rights, powers, privileges, benefits, advantages and immunities which now are or hereafter may be conferred upon corporations generally, under any law of this State.

2. R.S.43:17-18 is amended to read as follows:

**Simultaneous service prohibited.**

43:17-18. No person shall at one time serve on the board of representatives and the board of trustees. If elected to both he shall resign one or the other, as he sees fit. No officer may serve on the board of trustees.

3. R.S.43:17-23 is amended to read as follows:

**Secretary, treasurer; reports.**

43:17-23. The secretary and treasurer shall report to the board of representatives at all meetings and upon request.

4. R.S.43:17-31 is amended to read as follows:

**Annual statements; filing, examination.**

43:17-31. On or before February 20th in every year, each local firemen's relief association, however incorporated, shall file a financial report with the field examiner of the New Jersey State Firemen's Association who then shall file a sworn statement with the Secretary of State on or before May 1st showing:

- a. The names of its representatives, trustees and other officers, and the amount of their respective fees or salaries, if any;
- b. The names of the applicants approved for relief during or within the year preceding the statement and the amount of money paid to each of them;
- c. The receipts and expenses during the year, which shall be stated in detail; and
- d. The amount of money or other property in its possession at the date of making the statement and how the money is invested or secured and where it is deposited.

The executive committee shall cause an examination to be made of the local association and shall file a biannual report, certified by an accountant licensed by the State of New Jersey, with the Department of Banking and Insurance. The report shall provide the following: (1) a statement of the plan and procedures for the examination and report; (2) reasonable assurances that each local association's financial statement is free of material misstatements; (3) material instances of non-compliance or failures to follow State statutes, regulations, or policies and the rules and regulations of the New Jersey State Firemen's Association; (4) information to provide for the

economical, fair, and non-discriminatory administration and efficient provisions for protection of the assets of the local association.

The statement of the plan and procedures shall be prepared by the executive committee of the New Jersey State Firemen's Association and be filed with the Department of Banking and Insurance. The plan or the procedures may be amended from time to time.

The report shall be filed with the Treasurer of the New Jersey State Fireman's Association and the Department of Banking and Insurance on or before June 1.

5. R.S.43:17-33 is amended to read as follows:

**Investment of funds.**

43:17-33. No firemen's relief association, however incorporated, shall invest its moneys in any manner, except as follows:

a. In stocks or bonds or interest-bearing notes or obligations of the United States, or those for which the full faith of the United States is distinctly pledged to provide for the payment of the principal and interest thereof;

b. In interest-bearing bonds of this State;

c. In bonds of any State of the United States that has not, within ten years previous to making the investment, defaulted in the payment of any part of principal or interest of any debt authorized by any law of that State to be contracted;

d. In stocks or bonds of any governmental entity of this State or any other state of the United States, which have been or may be issued pursuant to a law of that state, and in any interest-bearing obligations issued by a governmental entity in which the relief association is situated. No investment shall be made under this paragraph if that governmental entity has, within ten years previous to making the investment by the relief association, defaulted in the payment of any part of principal or interest of any debt authorized by the Legislature of that State to be contracted or if the total indebtedness of that governmental entity is not limited by law to ten percent (10%) of its assessed valuation;

e. (Deleted by amendment, P.L.1996, c.151).

f. (Deleted by amendment, P.L.2005, c.39).

g. (Deleted by amendment, P.L.1996, c.151).

h. In bonds, stocks, accounts or other financial instruments of any state or federal financial institutions organized and existing under the laws of the State of New Jersey or the United States of America, provided the bonds, stocks, accounts or other financial instruments are insured or guaranteed by

the State of New Jersey or the United States Government, or any agency or instrumentality of either or both;

- i. (Deleted by amendment, P.L.2005, c.39).
- j. In any investment grade equity securities or instruments evidencing debt, including bonds or notes issued by any agency or instrumentality of the State or federal government, provided such investments have been reviewed and approved by the executive committee of the New Jersey State Firemen's Association.

All investments authorized pursuant to this section shall be in the name of the local relief association.

**Repealer.**

6. R.S.43:17-32 is hereby repealed.
7. This act shall take effect immediately.

Approved March 7, 2005.

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CHAPTER 40

AN ACT concerning the Council on Armed Forces and Veterans' Affairs and amending P.L.1992, c.86.

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

1. Section 2 of P.L.1992, c.86 (C.38A:3-16) is amended to read as follows:

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

2. The Council on Armed Forces and Veterans' Affairs established in the Department of Commerce and Economic Development pursuant to P.L.1983, c.61 (C.52:27H-45 et seq.) is hereby transferred to and established in the Department of Military and Veterans' Affairs. The council shall consist of 22 members: two to be appointed by the President of the Senate from the members thereof, no more than one of whom shall be from the same political party; two to be appointed by the Speaker of the General Assembly from the members thereof, no more than one of whom shall be from the same political party; the Adjutant General of the Department of Military and Veterans' Affairs, the Chief Executive Officer and Secretary of the Commerce and Economic Growth Commission, the Commissioner of Education, the Commissioner of Environmental Protection, the Commis-

sioner of Transportation, the State Treasurer, the Commissioner of Community Affairs, the Commissioner of Labor and Workforce Development, and the Chair of the New Jersey Commission on Higher Education, or their designees; and nine public members to be appointed by the Governor, with the advice and consent of the Senate. Eight of the public members shall be representatives of the community and business support groups for New Jersey's military installations and the United States Coast Guard training center. Each public member shall serve for a term of three years from the date of the member's appointment and until the member's successor is appointed and qualified. Vacancies resulting from causes other than by expiration of term shall be filled for the unexpired term only and shall be filled in the same manner as the original appointments were made.

2. Section 5 of P.L.1992, c.86 (C.38A:3-19) is amended to read as follows:

**C.38A:3-19 Purpose of council; responsibilities.**

5. The council shall:
  - a. Be a structural liaison and public relations body on behalf of this State in all matters relating to federal military and naval installations located within this State or proposed to be located herein. The council shall communicate and cooperate with the President of the United States and with all other federal officials and employees and private persons for the effectuation of the purposes of this act.
  - b. Work with the public and private sectors to maximize the quality of life for all military personnel and their dependents by facilitating access to government services, educational institutions, recreation facilities, and job opportunities.
  - c. Increase public awareness of military missions performed in New Jersey and the economic impact they have on this State and its citizens.
  - d. Work with the State and local governments to improve the effectiveness of military installations by facilitating coordinated planning and expedited review of military and Coast Guard permits and other requests.
  - e. Work with the State and local governments and military and Coast Guard installations to minimize encroachment around military and Coast Guard installations.
  - f. Convene meetings at least twice a year with installation commanders to discuss how New Jersey can more effectively support military and Coast Guard installations in the State.

3. This act shall take effect immediately.

Approved March 7, 2005.

## CHAPTER 41

AN ACT concerning land use adjacent to military facilities, amending P.L.1975, c.291 and P.L.1995, c.249 and supplementing P.L.1975, c.291 and chapter 18A of Title 52 of the Revised Statutes.

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

**C.40:55D-12.4 Notice to military facility commander from municipality.**

1. a. Any military facility commander interested in receiving notice pursuant to paragraph (2) of subsection h. of section 7.1 of P.L.1975, c.291 (C.40:55D-12) and section 2 of P.L.1995, c.249 (C.40:55D-62.1) may register with the administrative officer of the municipality in which the military facility is situated and any municipality situated within 3,000 feet in all directions of the military facility. The registration shall remain in effect until revoked by the military facility commander.

b. The administrative officer of every municipality in which a military facility is situated or which is situated within 3,000 feet in all directions of a military facility shall adopt a registration form and shall maintain a record of any military facility which has registered with the municipality pursuant to subsection a. of this section. The registration form shall include the name and address of the military facility commander to whom notice shall be forwarded, as required pursuant to paragraph (2) of subsection h. of section 7.1 of P.L.1975, c.291 (C.40:55D-12). The information contained therein shall be made available to any applicant, as provided in subsection c. of section 7.1 of P.L.1975, c.291 (C.40:55D-12).

2. Section 3.2 of P.L.1975, c.291 (C.40:55D-5) is amended to read as follows:

**C.40:55D-5 Definitions; M to O.**

3.2. "Maintenance guarantee" means any security which may be accepted by a municipality for the maintenance of any improvements required by this act, including but not limited to surety bonds, letters of credit under the circumstances specified in section 16 of P.L.1991, c.256 (C.40:55D-53.5), and cash.

"Major subdivision" means any subdivision not classified as a minor subdivision.

"Master plan" means a composite of one or more written or graphic proposals for the development of the municipality as set forth in and adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28).



"Mayor" means the chief executive of the municipality, whatever his official designation may be, except that in the case of municipalities governed by municipal council and municipal manager the term "mayor" shall not mean the "municipal manager" but shall mean the mayor of such municipality.

"Military facility" means any facility located within the State which is owned or operated by the federal government, and which is used for the purposes of providing logistical, technical, material, training, and any other support to any branch of the United States military.

"Military facility commander" means the chief official, base commander or person in charge at a military facility.

"Minor site plan" means a development plan of one or more lots which (1) proposes new development within the scope of development specifically permitted by ordinance as a minor site plan; (2) does not involve planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to section 30 of P.L.1975, c.291 (C.40:55D-42); and (3) contains the information reasonably required in order to make an informed determination as to whether the requirements established by ordinance for approval of a minor site plan have been met.

"Minor subdivision" means a subdivision of land for the creation of a number of lots specifically permitted by ordinance as a minor subdivision; provided that such subdivision does not involve (1) a planned development, (2) any new street or (3) the extension of any off-tract improvement, the cost of which is to be prorated pursuant to section 30 of P.L.1975, c.291 (C.40:55D-42).

"Municipality" means any city, borough, town, township or village.

"Municipal agency" means a municipal planning board or board of adjustment, or a governing body of a municipality when acting pursuant to this act and any agency which is created by or responsible to one or more municipalities when such agency is acting pursuant to this act.

"Municipal resident" means a person who is domiciled in the municipality.

"Nonconforming lot" means a lot, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

"Nonconforming structure" means a structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

"Nonconforming use" means a use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

"Office of Smart Growth" means the Office of State Planning established pursuant to section 6 of P.L.1985, c.398 (C.52:18A-201).

"Official county map" means the map, with changes and additions thereto, adopted and established, from time to time, by resolution of the board of chosen freeholders of the county pursuant to R.S.40:27-5.

"Official map" means a map adopted by ordinance pursuant to article 5 of P.L.1975, c.291.

"Offsite" means located outside the lot lines of the lot in question but within the property, of which the lot is a part, which is the subject of a development application or the closest half of the street or right-of-way abutting the property of which the lot is a part.

"Off-tract" means not located on the property which is the subject of a development application nor on the closest half of the abutting street or right-of-way.

"Onsite" means located on the lot in question and excluding any abutting street or right-of-way.

"On-tract" means located on the property which is the subject of a development application or on the closest half of an abutting street or right-of-way.

"Open-space" means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets and offstreet parking and other improvements that are designed to be incidental to the natural openness of the land.

3. Section 7.1 of P.L.1975, c.291 (C.40:55D-12) is amended to read as follows:

**C.40:55D-12 Notices of application, requirements.**

7.1. Notice pursuant to subsections a., b., d., e., f., g. and h. of this section shall be given by the applicant unless a particular municipal officer is so designated by ordinance; provided that nothing contained herein shall prevent the applicant from giving such notice if he so desires. Notice pursuant to subsections a., b., d., e., f., g. and h. of this section shall be given at least 10 days prior to the date of the hearing.

a. Public notice of a hearing shall be given for an extension of approvals for five or more years under subsection d. of section 37 of P.L.1975, c.291 (C.40:55D-49) and subsection b. of section 40 of P.L.1975, c.291 (C.40:55D-52); for modification or elimination of a significant condition or conditions in a memorializing resolution in any situation wherein the application for development for which the memorializing resolution is proposed for adoption required public notice, and for any other applications for development, with the following exceptions: (1) conventional site plan review pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor subdivisions pursuant to section 35 of P.L.1975, c.291 (C.40:55D-47) or (3) final approval pursuant to section 38 of P.L.1975, c.291 (C.40:55D-50); notwithstanding the foregoing, the governing body may by ordinance require public notice for such categories of site plan review as may be specified by ordinance, for appeals of determinations of administrative officers pursuant to subsection a. of section 57 of P.L.1975, c.291 (C.40:55D-70), and for requests for interpretation pursuant to subsection b. of section 57 of P.L.1975, c.291 (C.40:55D-70). Public notice shall also be given in the event that relief is requested pursuant to section 47 or 63 of P.L.1975, c.291 (C.40:55D-60 or C.40:55D-76) as part of an application for development otherwise excepted herein from public notice.

In addition, public notice shall be given by a public entity seeking to erect an outdoor advertising sign on land owned or controlled by a public entity as required pursuant to section 22 of P.L.1975, c.291 (C.40:55D-31) or, if so provided by ordinance adopted pursuant to subsection g. of section 29.1 of P.L.1975, c.291 (C.40:55D-39), by a private entity seeking to erect an outdoor advertising sign on public land or on land owned by a private entity.

Public notice shall be given by publication in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.

b. Except as provided in paragraph (2) of subsection h. of this section, notice of a hearing requiring public notice pursuant to subsection a. of this section shall be given to the owners of all real property as shown on the current tax duplicates, located in the State and within 200 feet in all directions of the property which is the subject of such hearing; provided that this requirement shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by: (1) serving a copy thereof on the property owner as shown on the said current tax duplicate, or his agent in charge of the property, or (2) mailing

a copy thereof by certified mail to the property owner at his address as shown on the said current tax duplicate.

Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

c. Upon the written request of an applicant, the administrative officer of a municipality shall, within seven days, make and certify a list from said current tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to subsection b. of this section. In addition, the administrative officer shall include on the list the names, addresses and positions of those persons who, not less than seven days prior to the date on which the applicant requested the list, have registered to receive notice pursuant to subsection h. of this section. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner, to any public utility, cable television company, or local utility or to any military facility commander not on the list shall not invalidate any hearing or proceeding. A sum not to exceed \$0.25 per name, or \$10.00, whichever is greater, may be charged for such list.

d. Notice of hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality.

e. Notice shall be given by personal service or certified mail to the county planning board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the official county map or on the county master plan, adjoining other county land or situated within 200 feet of a municipal boundary.

f. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a State highway.

g. Notice shall be given by personal service or certified mail to the State Planning Commission of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. The notice shall include a copy of any maps or documents required to be on file with the municipal clerk pursuant to subsection b. of section 6 of P.L.1975, c.291 (C.40:55D-10).

h. Notice of hearings on applications for approval of a major subdivision or a site plan not defined as a minor site plan under this act requiring public notice pursuant to subsection a. of this section shall be given: (1) in the case of a public utility, cable television company or local utility which possesses a right-of-way or easement within the municipality and which has registered with the municipality in accordance with section 5 of P.L.1991, c.412 (C.40:55D-12.1), by (i) serving a copy of the notice on the person whose name appears on the registration form on behalf of the public utility, cable television company or local utility or (ii) mailing a copy thereof by certified mail to the person whose name appears on the registration form at the address shown on that form; (2) in the case of a military facility which has registered with the municipality and which is situated within 3,000 feet in all directions of the property which is the subject of the hearing, by (i) serving a copy of the notice on the military facility commander whose name appears on the registration form or (ii) mailing a copy thereof by certified mail to the military facility commander at the address shown on that form.

i. The applicant shall file an affidavit of proof of service with the municipal agency holding the hearing on the application for development in the event that the applicant is required to give notice pursuant to this section.

j. Notice pursuant to subsections d., e., f., g. and h. of this section shall not be deemed to be required, unless public notice pursuant to subsection a. and notice pursuant to subsection b. of this section are required.

4. Section 2 of P.L.1995, c.249 (C.40:55D-62.1) is amended to read as follows:

**C.40:55D-62.1 Notice of hearing on amendment to zoning ordinance.**

2. Notice of a hearing on an amendment to the zoning ordinance proposing a change to the classification or boundaries of a zoning district, exclusive of classification or boundary changes recommended in a periodic general reexamination of the master plan by the planning board pursuant to section 76 of P.L.1975, c.291 (C.40:55D-89), shall be given at least 10 days prior to the hearing by the municipal clerk to the owners of all real property as shown on the current tax duplicates, located, in the case of a classification change, within the district and within the State within 200 feet in all directions of the boundaries of the district, and located, in the case of a boundary change, in the State within 200 feet in all directions of the proposed new boundaries of the district which is the subject of the hearing.

In addition, such notice shall be provided to any military facility commander who has registered with the municipality pursuant to section 1 of P.L.2005, c.41 (C.40:55D-12.4), if the military facility is situated within the

district or within 3,000 feet of all directions of the boundaries of the district or located, in the case of a boundary change, in the State within 3,000 feet in all directions of the proposed new boundaries of the district which is the subject of the hearing.

A notice pursuant to this section shall state the date, time and place of the hearing, the nature of the matter to be considered and an identification of the affected zoning districts and proposed boundary changes, if any, by street names, common names or other identifiable landmarks, and by reference to lot and block numbers as shown on the current tax duplicate in the municipal tax assessor's office.

Notice shall be given by: (1) serving a copy thereof on the property owner as shown on the said current tax duplicate, or his agent in charge of the property, or (2) mailing a copy thereof by certified mail and regular mail to the property owner at his address as shown on the said current tax duplicate. In the case of a change involving a military facility situated within or in proximity to the district as provided herein, notice shall be given by serving a copy thereof on the military facility commander who has registered with the municipality pursuant to section 1 of P.L.2005, c.41 (C.40:55D-12.4) or mailing a copy by certified mail to the military facility commander at the address shown on the registration form.

Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the boundaries of the district which is the subject of the hearing, may be made in the same manner as to a corporation, in addition to notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

The municipal clerk shall execute affidavits of proof of service of the notices required by this section, and shall keep the affidavits on file along with the proof of publication of the notice of the required public hearing on the proposed zoning ordinance change. Costs of the notice provision shall be the responsibility of the proponent of the amendment.

**C.52:18A-201.1 "Military facility," "military facility commander," notification of land use plan.**

5. a. As used in this section: "military facility" means any facility located within the State which is owned or operated by the federal government, and which is used for the purposes of providing logistical, technical, material, training, and any other support to any branch of the United States military;

and "military facility commander" means the chief official, base commander or person in charge at a military facility.

b. Whenever any State department, office, agency, authority, or commission proposes a plan that would impact the use of land within 3,000 feet in all directions of any military facility, it shall notify the Director of the Office of State Planning in the Department of Community Affairs prior to finalizing its plan. The director shall contact the appropriate military facility commander in order to solicit comments addressing any land use compatibility issues which may be of concern to the military and shall forward those comments to the appropriate State department, office, agency, authority, or commission. The State department, office, agency, authority, or commission shall not finalize its plan until it has reviewed any comments submitted by the military facility commander on its proposed plan.

c. The Adjutant General of the Department of Military and Veterans' Affairs shall, within 30 days of the effective date of P.L.2005, c.41 (C.40:55D-12.4 et al.), forward a list of military facilities to the Director of the Office of State Planning. The director shall circulate the list to each State department, office, agency, authority or commission.

d. The Director of the Office of State Planning, upon receiving the list of military facilities from the Adjutant General, shall forthwith notify those municipalities and State departments, offices, agencies, authorities and commissions of the requirements of this section.

6. This act shall take effect immediately.

Approved March 7, 2005.

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## CHAPTER 42

AN ACT concerning energy efficiency and supplementing Title 48 of the Revised Statutes.

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

**C.48:3-99 Definitions relative to energy efficiency.**

1. As used in this act:

"Air-cooled very large commercial package air conditioning and heating equipment" means air-cooled, water-cooled, evaporative-cooled or water source (but not ground water source), electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial

application that are rated at or above 240,000 Btu per hour and below 760,000 Btu per hour in cooling capacity;

"Board" means the Board of Public Utilities;

"Coefficient of performance" means the ratio of heating capacity in watts to the power input values in watts obtained at standards rating conditions;

"Commercial clothes washer" means a soft mount front-loading or soft mount top-loading clothes washer that is designed for use in: applications where the occupants of more than one household will be using it, including multi-family housing common areas and coin laundries; or other commercial applications, if the clothes container compartment is no greater than 3.5 cubic feet for horizontal-axis clothes washers, or no greater than 4.0 cubic feet for vertical-axis clothes washers;

"Commercial refrigerator, freezer, and refrigerator-freezer equipment" means refrigeration equipment that:

- a. is not a consumer product;
- b. operates at a chilled, frozen, combination chilled/frozen, or variable temperature;
- c. displays or stores merchandise either horizontally, semi-vertically, or vertically;
- d. may have transparent or solid hinged doors or both, sliding doors, a combination of hinged and sliding doors or no doors;
- e. is designed either for pull-down temperature applications or holding temperature applications; and
- f. is connected to a self-contained condensing unit;

"Commissioner" means the Commissioner of Environmental Protection;

"Digital television converter box" means a device that receives and decodes digital broadcast signals for display by an analog television set;

"Energy efficiency ratio" means the ratio of the cooling capacity in Btu per hour to the power input values in watts obtained at standard rating conditions expressed in Btu per watt-hours;

"Holding temperature applications" means commercial refrigerator, freezer, and refrigerator-freezer equipment that is not designed for "pull-down" temperature applications;

"Illuminated exit sign" means an internally illuminated sign that is designed to be permanently fixed in place and used to identify an exit, a light source illuminates the sign or letters from within, and the background of the sign is not transparent;

"Low-voltage dry-type distribution transformer" means a transformer with an input voltage of 600 volts or less, is between 14kVa and 2,501kVa in size, is air-cooled, and does not use oil as a coolant, and does not include those types of transformers specifically excluded from the low voltage dry-type distribution transformer definition published in the California Code of



Regulations, Title 20: Division 2, Chapter 4, Article 4: Appliance Efficiency Regulations, as amended in November 2002;

"Packaged air-conditioning equipment" means air-conditioning equipment that is built as a package and shipped as a whole to end-user sites;

"Pull-down temperature applications" means commercial refrigerator, freezer, and refrigerator-freezer equipment specifically designed to rapidly reduce all product content temperatures from various ambient temperatures at a minimum reduction rate of 4.3 degrees Fahrenheit per hour over a 12-hour period to an overall integrated product temperature equal to 38 degrees Fahrenheit when fully loaded with beverage containers;

"Self-contained condensing unit" means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is an integral part of the refrigerated equipment and consists of one or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories;

"Torchiere lighting fixture" means a portable electric lighting fixture with a reflector bowl directing light upward to provide indirect illumination;

"Traffic signal module" means a standard 8-inch (200 mm) or 12-inch (300 mm) round traffic signal indication, consisting of a light source, lens and all parts necessary for operation, and communicates movement messages to drivers through red, amber and green colors, and may include arrow modules in the same colors to indicate turning movements;

"Transformer" means a device consisting essentially of two or more coils of insulated wire that transfers alternating current by electromagnetic induction from one coil to another in order to change the original voltage or current value; and

"Unit heater" means a self-contained fan-type heater that uses natural gas, propane, or fuel oil and is designed to be installed within a heated space. Unit heaters include an apparatus or appliance to supply heat, and a fan for circulating air over a heat exchange surface, all enclosed in a common casing. Unit heaters do not include "warm air furnaces" as specifically defined under the federal Energy Policy Act of 1992, Pub.L. 102-486.

**C.48:3-100 Applicability of act.**

2. a. The provisions of this act shall apply to the testing, certification and enforcement of efficiency standards for the following types of new products sold, offered for sale or installed in the State:

- (1) commercial clothes washers;
- (2) commercial refrigerators and freezers;
- (3) illuminated exit signs;
- (4) air-cooled very large commercial package air conditioning and heating equipment;

- (5) low-voltage dry-type distribution transformers;
- (6) torchiere lighting fixtures;
- (7) traffic signal modules; and
- (8) unit heaters.

b. The provisions of this act shall not apply to:

- (1) new products manufactured in the State and sold outside the State;
- (2) new products manufactured outside the State and sold at wholesale inside the State for final retail sale and installation outside the State;
- (3) products installed in mobile manufactured homes at the time of construction; or
- (4) products designed expressly for installation and use in recreational vehicles.

**C.48:3-101 Rules, regulations establishing minimum energy efficiency standards.**

3. Within one year of the effective date of this act, the Board of Public Utilities, in consultation with the Commissioner of Environmental Protection, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations establishing minimum energy efficiency standards for the types of new products set forth in section 2 of this act. The regulations shall provide for the following minimum efficiency standards:

a. Commercial clothes washers shall meet the requirements set forth in Table P-3 of section 1605.3, California Code of Regulations, Title 20: Division 2, Chapter 4, Article 4, Appliance Efficiency Regulations, provided that such washers shall not be required to meet the modified energy factor requirements until 2007 and shall not be required to meet the water factor requirements until 2010;

b. (1) Each self-contained commercial refrigerator, freezer, and refrigerator-freezer equipment designed for holding temperature applications sold on or after January 1, 2010, shall meet the following standards:

(a) Refrigerators with solid doors: 0.10 times V plus 2.04 kilowatt hours per day;

(b) Refrigerators with transparent doors: 0.12 times V plus 3.34 kilowatt hours per day;

(c) Freezers with solid doors: 0.40 times V plus 1.38 kilowatt hours per day;

(d) Freezers with transparent doors: 0.75 times V plus 4.10 kilowatt hours per day;

(e) Refrigerators/freezers with solid doors: the greater of 0.27 times AV minus 0.71 kilowatt hours per day or 0.70 kilowatt hours per day; and

(f) Refrigerators/freezers with separate refrigeration systems: the sum of the standard applicable to the refrigerator and the standard applicable to the freezer.

For refrigerators, freezers, and refrigerator-freezers with doors, the rating temperatures shall be the integrated average temperature of 38 degrees Fahrenheit (plus or minus two degrees Fahrenheit) for refrigerator compartments and zero degrees Fahrenheit (plus or minus two degrees Fahrenheit for freezer compartments).

(2) Each self-contained commercial refrigerator, freezer, and refrigerator-freezer equipment designed for pull-down temperature applications sold on or after January 1, 2010, shall meet the following standards:

(a) Refrigerators with transparent doors: 0.126 times V plus 3.51 kilowatt hours per day; and

(b) Freezers with transparent doors 0.788 times V plus 4.3 kilowatt hours per day.

As used in this subsection, "V" means the chilled or frozen compartment volume in cubic feet as defined in the Association of Home Appliance Manufacturers Standard HRF1-1979; "integrated average temperature" means the average temperature of all test package measurements taken during the test; and "AV" means the adjusted volume in cubic feet defined as 1.63 times the frozen temperature compartment volume in cubic feet plus the chilled temperature compartment volume in cubic feet;

c. Illuminated exit signs shall meet the requirements of the "Energy Star Program Requirements for Exit Signs" developed by the United States Environmental Protection Agency;

d. Each air-cooled very large commercial package air conditioning and heating equipment sold on or after January 1, 2010, shall meet the following standards:

(1) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 240,000 Btu per hour in cooling capacity and less than 760,000 Btu per hour in cooling capacity shall be 10.0 for equipment with no heating or electric resistance heating and 9.8 for equipment with all other heating system types that are integrated into the equipment at a standard rating of 95 degrees Fahrenheit dry bulb.

(2) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 240,000 Btu per hour in cooling capacity and less than 760,000 Btu per hour in cooling capacity shall be 9.5 for equipment with no heating or electric resistance heating and 9.3 for equipment with all other heating system types that are integrated into the equipment at a standard rating of 95 degrees Fahrenheit dry bulb.

(3) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 240,000 Btu per

hour in cooling capacity and less than 760,000 Btu per hour in cooling capacity shall be 3.2 at a high temperature rating of 47 degrees Fahrenheit dry bulb;

e. Low-voltage dry type distribution transformers shall meet or exceed the energy efficiency values shown in Table 4-2 of National Electrical Manufacturers Association Standard TP-1-1996;

f. Torchiere lighting fixtures shall not consume more than 190 watts and shall not be capable of operating with lamps that total more than 190 watts;

g. Traffic signal modules shall meet the product specifications of the "Energy Star Program Requirements for Traffic Signals" developed by the United States Environmental Protection Agency; and

h. Unit heaters shall be equipped with an intermittent ignition device and shall have either power venting or an automatic flue damper.

**C.48:3-102 Compliance of new products with standards, time.**

4. a. Except as provided in subsection c. of this section, within two years of the effective date of this act, no new product of a type set forth in section 2 of this act may be sold or offered for sale in the State unless the energy efficiency of the new product meets or exceeds the efficiency standards set forth in the regulations adopted pursuant to section 3 of this act.

b. Except as provided in subsection c. of this section, within three years of the effective date of this act, no new product for a type set forth in section 2 of this act may be installed in the State unless the energy efficiency of the new product meets or exceeds the efficiency standards set forth in the regulations adopted pursuant to section 3 of this act.

c. The standards for commercial refrigerator, freezer, and refrigerator-freezer equipment and for air-cooled very large commercial package air conditioning and heating equipment become effective for equipment sold or installed in this State on or after January 1, 2010.

**C.48:3-103 Procedures for testing energy efficiency of new products.**

5. a. The Board of Public Utilities, in consultation with the Commissioner of Environmental Protection, shall adopt, pursuant to the "Administrative Procedure Act," procedures for testing the energy efficiency of the new products covered by section 2 of this act if such procedures are not provided for in the standard building code of New Jersey. The board shall use United States Department of Energy approved test methods, or in the absence of such test methods, other appropriate nationally recognized test methods. The manufacturers of such products shall cause samples of such appliances to be tested in accordance with the test procedures adopted pursuant to this section or those specified in the standard building code of New Jersey.

b. Manufacturers of new products covered by section 2 of this act shall certify to the board that such products are in compliance with the provisions of this act. The board, in consultation with the commissioner, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), regulations governing the certification of such products and may propose to work in coordination with the certification program of other states with similar standards.

c. The board may test products covered by section 2 of this act using an accredited testing facility. If products so tested are found not to be in compliance with the minimum efficiency standards established under section 3 of this act, the commissioner shall: (1) charge the manufacturer of such products for the cost of product purchase and testing, and (2) provide information to the public on products found not to be in compliance with the standards.

d. Testing procedures for commercial refrigerator, freezer, and refrigerator-freezer equipment and for air-cooled very large commercial package air conditioning and heating equipment shall be as follows:

(1) commercial refrigerator, freezer, and refrigerator-freezer equipment shall be tested in accordance with the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard 117-2002 - "Method of Testing Closed Refrigerators" (ANSI Approved).

(2) air-cooled very large commercial package air conditioning and heating equipment shall be tested in accordance with Air-Conditioning and Refrigeration Institute Standard 340/360-2000 "Commercial and Industrial Unitary Air-Conditioning and Heat Pump Equipment" (ANSI Approved).

**C.48:3-104 Periodic inspections of distributors, retailers.**

6. The Board of Public Utilities, in consultation with the Commissioner of Environmental Protection, may cause periodic inspections to be made of distributors or retailers of new products covered by section 2 of this act in order to determine compliance with the provisions of this act. The board shall also work with the Commissioner of Community Affairs to coordinate the inspections for new products that are also covered by the standard building code of New Jersey.

**C.48:3-105 Investigations of complaints; violations, penalties.**

7. a. The Board of Public Utilities, in consultation with the Commissioner of Environmental Protection, shall cause investigations to be made of complaints received concerning violations of this act and shall report the results of such investigations to the Attorney General. The Attorney General may institute proceedings to enforce the provisions of this act.

b. A manufacturer, distributor or retailer who violates any provision of this act shall be issued a warning by the board for any first violation.

Repeat violations shall be subject to a civil penalty of not more than \$250. Each violation of this act shall constitute a separate offense, and each day that the violation continues shall constitute a separate offense. Penalties assessed under this act are in addition to costs assessed pursuant to subsection c. of section 5 of this act.

**C.48:3-106 Further regulations.**

8. The Board of Public Utilities, in consultation with the Commissioner of Environmental Protection, may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any further regulations as may be necessary to implement the provisions of this act.

9. This act shall take effect immediately.

Approved March 8, 2005.

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CHAPTER 43

AN ACT concerning liability for the cleanup of hazardous substances, and amending and supplementing P.L.1976, c.141.

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

1. Section 8 of P.L.1976, c.141 (C.58:10-23.11g) is amended to read as follows:

**C.58:10-23.11g Liability for cleanup and removal costs.**

8. a. The fund shall be strictly liable, without regard to fault, for all cleanup and removal costs and for all direct and indirect damages no matter by whom sustained, including but not limited to:

(1) The cost of restoring, repairing, or replacing any real or personal property damaged or destroyed by a discharge, any income lost from the time such property is damaged to the time such property is restored, repaired or replaced, and any reduction in value of such property caused by such discharge by comparison with its value prior thereto;

(2) The cost of restoration and replacement, where possible, of any natural resource damaged or destroyed by a discharge;

(3) Loss of income or impairment of earning capacity due to damage to real or personal property, including natural resources destroyed or damaged by a discharge; provided that such loss or impairment exceeds 10% of the amount which claimant derives, based upon income or business records, exclusive of other sources of income, from activities related to the particular

real or personal property or natural resources damaged or destroyed by such discharge during the week, month or year for which the claim is filed;

(4) Loss of tax revenue by the State or local governments for a period of one year due to damage to real or personal property proximately resulting from a discharge;

(5) Interest on loans obtained or other obligations incurred by a claimant for the purpose of ameliorating the adverse effects of a discharge pending the payment of a claim in full as provided by this act.

b. The damages which may be recovered by the fund, without regard to fault, subject to the defenses enumerated in subsection d. of this section against the owner or operator of a major facility or vessel, shall not exceed \$50,000,000.00 for each major facility or \$150.00 per gross ton for each vessel, except that such maximum limitation shall not apply and the owner or operator shall be liable, jointly and severally, for the full amount of such damages if it can be shown that such discharge was the result of (1) gross negligence or willful misconduct, within the knowledge and privity of the owner, operator or person in charge, or (2) a gross or willful violation of applicable safety, construction or operating standards or regulations. Damages which may be recovered from, or by, any other person shall be limited to those authorized by common or statutory law.

c. (1) Except as provided in section 2 of P.L.2005, c.43 (C.58:10-23.11g12), any person who has discharged a hazardous substance, or is in any way responsible for any hazardous substance, shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs no matter by whom incurred. Such person shall also be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs incurred by the department or a local unit pursuant to subsection b. of section 7 of P.L.1976, c.141 (C.58:10-23.11f).

(2) In addition to the persons liable pursuant to this subsection, in the case of a discharge of a hazardous substance from a vessel into the waters of the State, the owner or operator of a refinery, storage, transfer, or pipeline facility to which the vessel was en route to deliver the hazardous substance who, by contract, agreement, or otherwise, was scheduled to assume ownership of the discharged hazardous substance, and any other person who was so scheduled to assume ownership of the discharged hazardous substance, shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs if the owner or operator of the vessel did not have the evidence of financial responsibility required pursuant to section 2 of P.L.1991, c.58 (C.58:10-23.11g2).

Where a person is liable for cleanup and removal costs as provided in this paragraph, any expenditures made by the administrator for that cleanup and removal shall constitute a debt of that person to the fund. The debt shall

constitute a lien on all property owned by that person when a notice of lien identifying the nature of the discharge and the amount of the 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 liable person 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 liable person, whether or not that person is insolvent.

For the purpose of determining priority of this lien over all other claims or liens which are or have been filed against the property of an owner or operator of a refinery, storage, transfer, or pipeline facility, the lien on the facility to which the discharged hazardous substance was en route shall have priority over all other claims or liens which are or have been filed against the property. The notice of lien filed pursuant to this paragraph which affects any property of a person liable pursuant to this paragraph other than the property of an owner or operator of a refinery, storage, transfer, or pipeline facility to which the discharged hazardous substance was en route, shall have priority from the day of the filing of the notice of the lien over all 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 paragraph.

To the extent that a person liable pursuant to this paragraph is not otherwise liable pursuant to paragraph (1) of this subsection, or under any other provision of law or under common law, that person may bring an action for indemnification for costs paid pursuant to this paragraph against any other person who is strictly liable pursuant to paragraph (1) of this subsection.

Nothing in this paragraph shall be construed to extend or negate the right of any person to bring an action for contribution that may exist under P.L.1976, c.141, or any other act or under common law.

(3) In addition to the persons liable pursuant to this subsection, any person who owns real property acquired on or after September 14, 1993 on which there has been a discharge prior to the person's acquisition of that property and who knew or should have known that a hazardous substance had been discharged at the real property, shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs no matter by whom incurred. Such person shall also be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs incurred by the department or a local unit pursuant to subsection b. of section 7 of P.L.1976, c.141 (C.58:10-23.11f). Nothing in this paragraph shall be construed to alter liability of any person who acquired real property prior to September 14, 1993.



d. (1) In addition to those defenses provided in this subsection, an act or omission caused solely by war, sabotage, or God, or a combination thereof, shall be the only defenses which may be raised by any owner or operator of a major facility or vessel responsible for a discharge in any action arising under the provisions of this act.

(2) A person, including an owner or operator of a major facility, who owns real property acquired on or after September 14, 1993 on which there has been a discharge, shall not be liable for cleanup and removal costs or for any other damages to the State or to any other person for the discharged hazardous substance pursuant to subsection c. of this section or pursuant to civil common law, if that person can establish by a preponderance of the evidence that subparagraphs (a) through (d) apply, or if applicable, subparagraphs (a) through (e) apply:

(a) the person acquired the real property after the discharge of that hazardous substance at the real property;

(b) (i) at the time the person acquired the real property, the person did not know and had no reason to know that any hazardous substance had been discharged at the real property, or (ii) the person acquired the real property by devise or succession, except that any other funds or property received by that person from the deceased real property owner who discharged a hazardous substance or was in any way responsible for a hazardous substance, shall be made available to satisfy the requirements of P.L.1976, c.141, or (iii) the person complies with the provisions of subparagraph (e) of paragraph (2) of this subsection;

(c) the person did not discharge the hazardous substance, is not in any way responsible for the hazardous substance, and is not a corporate successor to the discharger or to any person in any way responsible for the hazardous substance or to anyone liable for cleanup and removal costs pursuant to this section;

(d) the person gave notice of the discharge to the department upon actual discovery of that discharge.

To establish that a person had no reason to know that any hazardous substance had been discharged for the purposes of this paragraph (2), the person must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property. For the purposes of this paragraph (2), all appropriate inquiry shall mean the performance of a preliminary assessment, and site investigation, if the preliminary assessment indicates that a site investigation is necessary, as defined in section 23 of P.L.1993, c.139 (C.58:10B-1), and performed in accordance with rules and regulations promulgated by the department defining these terms.

Nothing in this paragraph (2) shall be construed to alter liability of any person who acquired real property prior to September 14, 1993; and

(e) For the purposes of this subparagraph the person must have (i) acquired the property subsequent to a hazardous substance being discharged on the site and which discharge was discovered at the time of acquisition as a result of the appropriate inquiry, as defined in this paragraph (2), (ii) performed, following the effective date of P.L.1997, c.278, a remediation of the site or discharge consistent with the provisions of section 35 of P.L.1993, c.139 (C.58:10B-12), or, relied upon a valid no further action letter from the department for a remediation performed prior to acquisition, or obtained approval of a remedial action workplan by the department after the effective date of P.L.1997, c.278 and continued to comply with the conditions of that workplan, and (iii) established and maintained all engineering and institutional controls as may be required pursuant to sections 35 and 36 of P.L.1993, c.139. A person who complies with the provisions of this subparagraph by actually performing a remediation of the site or discharge as set forth in (ii) above shall be issued, upon application, a no further action letter by the department. A person who complies with the provisions of this subparagraph either by receipt of a no further action letter from the department following the effective date of P.L.1997, c.278, or by relying on a previously issued no further action letter shall not be liable for any further remediation including any changes in a remediation standard or for the subsequent discovery of a hazardous substance, at the site, or emanating from the site, if the remediation was for the entire site, and the hazardous substance was discharged prior to the person acquiring the property. Notwithstanding any other provisions of this subparagraph, a person who complies with the provisions of this subparagraph only by virtue of the existence of a previously issued no further action letter shall receive no liability protections for any discharge which occurred during the time period between the issuance of the no further action letter and the property acquisition. Compliance with the provisions of this subparagraph (e) shall not relieve any person of any liability for a discharge that is off the site of the property covered by the no further action letter, for a discharge that occurs at that property after the person acquires the property, for any actions that person negligently takes that aggravates or contributes to a discharge of a hazardous substance, for failure to comply in the future with laws and regulations, or if that person fails to maintain the institutional or engineering controls on the property or to otherwise comply with the provisions of the no further action letter.

(3) Notwithstanding the provisions of paragraph (2) of this subsection to the contrary, if a person who owns real property obtains actual knowledge of a discharge of a hazardous substance at the real property during the period

of that person's ownership and subsequently transfers ownership of the property to another person without disclosing that knowledge, the transferor shall be strictly liable for the cleanup and removal costs of the discharge and no defense under this subsection shall be available to that person.

(4) Any federal, State, or local governmental entity which acquires ownership of real property through bankruptcy, tax delinquency, abandonment, escheat, eminent domain, condemnation or any circumstance in which the governmental entity involuntarily acquires title by virtue of its function as sovereign, or where the governmental entity acquires the property by any means for the purpose of promoting the redevelopment of that property, shall not be liable, pursuant to subsection c. of this section or pursuant to common law, to the State or to any other person for any discharge which occurred or began prior to that ownership. This paragraph shall not provide any liability protection to any federal, State or local governmental entity which has caused or contributed to the discharge of a hazardous substance. This paragraph shall not provide any liability protection to any federal, State, or local government entity that acquires ownership of real property by condemnation or eminent domain where the real property is being remediated in a timely manner at the time of the condemnation or eminent domain action.

(5) A person, including an owner or operator of a major facility, who owns real property acquired prior to September 14, 1993 on which there has been a discharge, shall not be liable for cleanup and removal costs or for any other damages to the State or to any other person for the discharged hazardous substance pursuant to subsection c. of this section or pursuant to civil common law, if that person can establish by a preponderance of the evidence that subparagraphs (a) through (d) apply:

(a) the person acquired the real property after the discharge of that hazardous substance at the real property;

(b) (i) at the time the person acquired the real property, the person did not know and had no reason to know that any hazardous substance had been discharged at the real property, or (ii) the person acquired the real property by devise or succession, except that any other funds or property received by that person from the deceased real property owner who discharged a hazardous substance or was in any way responsible for a hazardous substance, shall be made available to satisfy the requirements of P.L.1976, c.141;

(c) the person did not discharge the hazardous substance, is not in any way responsible for the hazardous substance, and is not a corporate successor to the discharger or to any person in any way responsible for the hazardous substance or to anyone liable for cleanup and removal costs pursuant to this section;

(d) the person gave notice of the discharge to the department upon actual discovery of that discharge.

To establish that a person had no reason to know that any hazardous substance had been discharged for the purposes of this paragraph (5), the person must have undertaken, at the time of acquisition, all appropriate inquiry on the previous ownership and uses of the property based upon generally accepted good and customary standards.

Nothing in this paragraph (5) shall be construed to alter liability of any person who acquired real property on or after September 14, 1993.

e. Neither the fund nor the Sanitary Landfill Contingency Fund established pursuant to P.L.1981, c.306 (C.13:1E-100 et seq.) shall be liable for any damages incurred by any person who is relieved from liability pursuant to subsection d. or f. of this section for a remediation that involves the use of engineering controls but the fund and the Sanitary Landfill Contingency Fund shall be liable for any remediation that involves only the use of institutional controls if after a valid no further action letter has been issued the department orders additional remediation except that the fund and the Sanitary Landfill Contingency Fund shall not be liable for any additional remediation that is required to remove an institutional control.

f. Notwithstanding any other provision of this section, a person, who owns real property acquired on or after the effective date of P.L.1997, c.278 (C.58:10B-1.1 et al.), shall not be liable for any cleanup and removal costs or damages, under this section or pursuant to any other statutory or civil common law, to any person, other than the State and the federal government, harmed by any hazardous substance discharged on that property prior to acquisition, and any migration off that property related to that discharge, provided all the conditions of this subsection are met:

(1) the person acquired the real property after the discharge of that hazardous substance at the real property;

(2) the person did not discharge the hazardous substance, is not in any way responsible for the hazardous substance, and is not a corporate successor to the discharger or to any person in any way responsible for the hazardous substance or to anyone liable for a discharge pursuant to this section;

(3) the person gave notice of the discharge to the department upon actual discovery of that discharge;

(4) within 30 days after acquisition of the property, the person commenced a remediation of the discharge, including any migration, pursuant to a department oversight document executed prior to acquisition, and the department is satisfied that remediation was completed in a timely and appropriate fashion; and

(5) Within ten days after acquisition of the property, or within 30 days after the expiration of the period or periods allowed for the right of redemption pursuant to tax foreclosure law, the person agrees in writing to provide

access to the State for remediation and related activities, as determined by the State.

The provisions of this subsection shall not relieve any person of any liability:

(1) for a discharge that occurs at that property after the person acquired the property;

(2) for any actions that person negligently takes that aggravates or contributes to the harm inflicted upon any person;

(3) if that person fails to maintain the institutional or engineering controls on the property or to otherwise comply with the provisions of a no further action letter or a remedial action workplan and a person is harmed thereby;

(4) for any liability to clean up and remove, pursuant to the department's regulations and directions, any hazardous substances that may have been discharged on the property or that may have migrated therefrom; and

(5) for that person's failure to comply in the future with laws and regulations.

g. Nothing in the amendatory provisions to this section adopted pursuant to P.L.1997, c.278 shall be construed to remove any defense to liability that a person may have had pursuant to subsection e. of this section that existed prior to the effective date of P.L.1997, c.278.

h. Nothing in this section shall limit the requirements of any person to comply with P.L.1983, c.330 (C.13:1K-6 et seq.).

**C.58:10-23.11g12 Exemption from liability for cleanup and removal costs, certain; limitations.**

2. a. (1) Notwithstanding the provisions of section 8 of P.L.1976, c.141 (C.58:10-23.11g), any rule or regulation adopted pursuant thereto, or any other law to the contrary, any person who discharges, or is in any way responsible for a discharged hazardous substance, at a site included on the National Priorities List pursuant to the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," 42 U.S.C. s.9601 et seq., where the total amount of material containing hazardous substances discharged by that person at the site is in an amount less than 110 gallons of liquid material or less than 200 pounds of solid material, shall not be liable for cleanup and removal costs or for the remediation of the site.

(2) The liability protection provided in paragraph (1) of this subsection shall not apply: (a) if the Commissioner of Environmental Protection determines, in writing, that the discharged hazardous substance contributed significantly, or could contribute significantly, to the cost of the remediation or the cleanup and removal; (b) if the person who discharges, or is in any way responsible for a discharged hazardous substance, impedes the performance of the cleanup at the site or fails to comply with a request for informa-

tion issued by the department pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.); or (c) if the person has been convicted of a criminal offense for the conduct to which the liability protection would otherwise apply.

(3) In an action for contribution brought pursuant to paragraph (2) of subsection a. of section 7 of P.L.1976, c.141 (C.58:10-23.11f), the contribution plaintiff shall have the burden of proof to demonstrate that the person does not meet the conditions for the protection from liability as provided in paragraph (1) of this subsection.

b. (1) Notwithstanding the provisions of section 8 of P.L.1976, c.141 (C.58:10-23.11g), any rule or regulation adopted pursuant thereto, or any other law to the contrary, any person who discharges, or is in any way responsible for a discharged hazardous substance, at a site included on the National Priorities List pursuant to the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," 42 U.S.C. s.9601 et seq., shall not be liable for cleanup and removal costs or for the costs of remediation of the site if the person can demonstrate:

(a) the discharged hazardous substance consisted solely of municipal solid waste; and

(b) (i) the discharged hazardous substance originated from a residence,

(ii) the discharged hazardous substance originated from a business entity that, during the three years preceding the discharge, employed an average of not more than 100 full-time workers, or the equivalent, and is a small business concern as defined in the federal "Small Business Act," 15 U.S.C. s.631 et seq., from which all of the municipal solid waste attributable to the entity at the site was generated, or

(iii) the municipal solid waste originated from an organization described in section 501(c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501(c)(3), that is exempt from taxation pursuant to section 501(a) of the federal Internal Revenue Code, 26 U.S.C. s.501(a), and during the taxable year prior to discharge, the organization employed not more than 100 full-time workers, or the equivalent, at the location from which the municipal solid waste originated.

(2) The liability protection provided in paragraph (1) of this subsection shall not apply: (a) if the Commissioner of Environmental Protection determines, in writing, that the municipal solid waste contributed significantly, or could contribute significantly, to the cost of the remediation or the cleanup and removal; (b) if the person who discharged, or is in any way responsible for a discharged hazardous substance, impedes the performance of the cleanup at the site or fails to comply with a request for information issued by the department pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.); or (c) if the person has been convicted of a criminal offense for the conduct to which the liability protection would otherwise apply.

(3) In an action for contribution brought pursuant to paragraph (2) of subsection a. of section 7 of P.L.1976, c.141 (C.58:10-23.11f), the contribution plaintiff shall have the burden of proof to demonstrate that the person does not meet the conditions for protection from liability as provided in paragraph (1) of this subsection.

c. Any person who brings a contribution action pursuant to paragraph (2) of subsection a. of section 7 of P.L.1976, c.141 (C.58:10-23.11f) after the effective date of this section shall be liable to the defendant for all reasonable costs of defending the action, including all reasonable attorney's fees and expert witness fees, if the defendant is not liable for contribution because of a protection from liability as provided in this section.

d. As used in this section, "municipal solid waste" means solid waste of the type generated by a household or solid waste generated by a commercial, industrial, or institutional entity that is essentially the same as waste generated by a household, is collected and disposed of with other municipal waste as part of the normal municipal solid waste collection service, and contains a relative quantity of hazardous substances contained in waste generated by a typical single family household. Municipal solid waste may include, but need not be limited to, food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste.

3. This act shall take effect immediately.

Approved March 21, 2005.

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#### CHAPTER 44

AN ACT increasing the membership of county boards of taxation and amending R.S.54:3-2.

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

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

**Taxation board members.**

54:3-2. Each board shall, as heretofore, be known as the county board of taxation, and be composed of five members, except as hereinafter provided, to be appointed by the Governor by and with the advice and consent of the Senate. Each member shall be a resident and citizen of the county in and for which he is appointed. Members shall be chosen because of their

special qualifications, knowledge and experience in matters concerning the valuation and taxation of property, particularly of real property. At no time shall more than three of the members belong to the same political party. In counties having a population of more than 510,000 there shall be seven members of whom no more than four shall belong to the same political party. For the purposes of this section, "population" means the State population according to the most recent federal decennial census. Each member shall, within 24 months of appointment, unless the member shall have served as a member of the county board of taxation continuously for at least 10 years prior to the effective date of P.L.1981, c.516, was reappointed to a five-year term prior to that date, and is currently serving that term, furnish proof that he has received certificates indicating satisfactory completion of training courses designated in section 4 of P.L.1967, c.44 (C.54:1-35.28) or that he possesses an assessor's certificate issued pursuant to P.L.1967, c.44, as supplemented. Each member serving on the effective date of P.L.1979, c.499, unless the member shall have served as a member continuously for at least 10 years prior to the effective date of P.L.1981, c.516, was reappointed to a five-year term prior to that date, and is currently serving that term, shall furnish such proof within 30 months of such effective date, if 30 months or more of his term are remaining thereafter.

If any member so required does not furnish such proof within said 24-month period, or 30-month period for any member serving on the effective date of P.L.1979, c.499, the county tax administrator shall immediately notify the president of the county board of taxation and the Director of the Division of Taxation. The director shall upon the receipt of such notification declare the position to be vacant, and shall notify the Governor of the existence of such vacancy. The Governor shall thereupon appoint, with the advice and consent of the Senate, a different citizen and resident of the relative county to fill such position for the unexpired term.

2. This act shall take effect immediately.

Approved March 21, 2005.

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## CHAPTER 45

AN ACT concerning surrender charges for individual deferred annuities and amending and supplementing P.L.1981, c.285.



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

1. Section 5 of P.L.1981, c.285 (C.17B:25-20) is amended to read as follows:

**C.17B:25-20 Standard nonforfeiture law for individual deferred annuities.**

5. This section shall be known as the standard nonforfeiture law for individual deferred annuities.

a. No contract of annuity or pure endowment, except as stated in subsection p., shall be issued or delivered in this State on or after January 1, 1972 and before the operative date of this section as defined in subsection o., unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering contract holder:

(1) That, in the event of default in any stipulated payment, the insurer will grant a paid-up nonforfeiture benefit on a plan stipulated in the contract, effective as of such due date, of such value as may be hereinafter specified.

(2) A statement of the mortality tables, if any, and interest rates used in calculating the paid-up nonforfeiture benefits available under the contract, together with a table showing either the cash surrender value, if any, or the paid-up nonforfeiture benefit, if any, available on each anniversary of the contract either during the first 20 contract years or during the term of stipulated payments, whichever is shorter, such benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the contract and that there is no indebtedness to the insurer on the contract.

(3) A statement that the paid-up nonforfeiture benefits available under the contract are not less than the minimum benefits required by or pursuant to the insurance law of the state in which the contract is delivered; an explanation of the manner in which the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the contract or any indebtedness to the insurer on the contract; if a detailed statement of the method of computation of the paid-up nonforfeiture benefits shown in the contract is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the contract is delivered; and a statement of the method to be used in calculating the paid-up nonforfeiture benefit available under the contract on any contract anniversary beyond the last anniversary for which such benefits are consecutively shown in the contract.

If an insurer shall provide for the payment of a cash surrender value, it shall reserve the right to defer the payment of such value for a period of six months after demand therefor with surrender of the contract.

Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if the annuity allowed under any paid-up nonforfeiture benefit would be less than \$120.00 annually, the insurer may at its option grant a cash surrender value in lieu of such paid-up nonforfeiture benefit of such amount as may be required by subsection c.

b. Any paid-up nonforfeiture benefit available under any annuity or pure endowment contract referred to in subsection a. in the event of default in a stipulated payment due on any contract anniversary, shall be such that its present value as of such anniversary shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the contract, including any existing paid-up additions, if there had been no default, over the sum of (1) the then present value of the adjusted stipulated payments as defined in subsection d. corresponding to stipulated payments which would have fallen due on and after such anniversary, and (2) the amount of any indebtedness to the insurer on the contract. In determining the benefits referred to in this subsection and in calculating the adjusted stipulated payments referred to in subsection d. in the case of annuity contracts under which an election may be made to have annuity payments commence at optional dates, the annuity payments shall be deemed to commence at a date which shall be the latest permitted by the contract for the commencement of such payments but not later than the contract anniversary nearest the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later; and the stipulated payments shall be deemed to be payable for the longest period during which they would be payable if election were made to have the annuity payments commence at such date.

c. Any cash surrender value allowed by any annuity or pure endowment contract referred to in subsection a. and the present value under any optional provision, of future benefits commencing on the due date of the stipulated payment in default shall each be at least equal to the then present value of the minimum paid-up nonforfeiture benefit required by subsection b.

d. The adjusted stipulated payments for any annuity or pure endowment contract referred to in subsection a. shall be calculated on an annual basis and shall be such uniform percentage of the respective stipulated payments specified in the contract for each contract year that the present value, at the date of issue of the contract, of all such adjusted stipulated payments shall be equal to the sum of (1) the then present value of the future guaranteed benefits provided for by the contract; (2) 20% of the adjusted stipulated payment for the first contract year; and (3) 2% of the adjusted stipulated payment for the first contract year for each year not exceeding 20 during which stipulated payments are payable.

All adjusted stipulated payments and present values referred to in this section shall for annuity and pure endowment contracts be calculated on the basis of (1) the applicable rates of interest, not exceeding 3 1/2% per annum, specified in the contract for calculating cash surrender values, if any, and paid-up nonforfeiture benefits; and (2) the 1937 Standard Annuity Mortality Table, or the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner or any other table approved by the commissioner; provided that, in the case of annuity or pure endowment contracts issued after the operative date for the insurer of paragraph (ix) of subsection a. of the standard valuation law, N.J.S.17B:19-8, the 3 1/2% maximum interest rate specified in item (1) of this paragraph shall be increased to 4 1/2%, and, if the applicable rates of interest specified in the contract for calculating cash surrender values, if any, and paid-up nonforfeiture benefits exceed 3 1/2%, there shall be substituted for the mortality tables specified in item (2) the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the commissioner or any other table approved by the commissioner.

e. Any cash surrender value and any paid-up nonforfeiture benefit, available under any contract referred to in subsection a. in the event of default in the payment of a stipulated payment due at any time other than on the contract anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional stipulated payments beyond the last preceding contract anniversary. All values referred to in subsections b. to d. inclusive, may be calculated upon the assumption that any death benefit is payable at the end of the contract year of death. The net value of any paid-up additions shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of subsection b., additional benefits payable (1) in the event of total and permanent disability, (2) as reversionary annuity or deferred reversionary annuity benefits, and (3) as other policy benefits additional to pure endowment, and annuity benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits. Notwithstanding the provisions of subsection b., additional benefits providing the privilege to purchase additional annuity benefits at some future time without furnishing evidence of insurability, and stipulated payments therefor, may, with the consent of the commissioner, be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

f. In the case of contracts issued on or after the operative date of this section as defined in subsection o., no contract of annuity, except as stated

in subsection p., shall be delivered or issued for delivery in this State unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, the insurer will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections h., i., j., k. and m.

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the insurer will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections h., i., k. and m. The insurer shall reserve the right to defer the payment of such cash surrender benefit for a period of six months after demand therefor with surrender of the contract.

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the insurer to the contract, any indebtedness to the insurer on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than \$20.00 monthly, the insurer may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

g. The minimum values as specified in subsections h., i., j., k. and m. of any paid-up annuity, cash surrender or death benefits available under an annuity contract referred to in subsection f., shall be based upon minimum nonforfeiture amounts as defined in this subsection:

(1) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement

of any annuity payments shall be equal to an accumulation up to that time at a rate of interest of 3% per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time; decreased by the sum of any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of 3% per annum and the amount of any indebtedness to the insurer on the contract, including interest due and accrued; and increased by any existing additional amounts credited by the insurer to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of \$30.00 and less a collection charge of \$1.25 per consideration credited to the contract during that contract year. The percentages of net considerations shall be 65% of the net consideration for the first contract year and 87 1/2% of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be 65% of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was 65%.

(2) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

(a) The portion of the net consideration for the first contract year to be accumulated shall be the sum of 65% of the net consideration for the first contract year plus 22 1/2% of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

(b) The annual contract charge shall be the lesser of (i) \$30.00 or (ii) 10% of the gross annual consideration.

(3) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to 90% and the net consideration shall be the gross consideration less a contract charge of \$75.00.

(4) Notwithstanding any other provision of this subsection to the contrary, for any contract issued on or after the effective date of P.L.2003, c.152 and before the 730th day after that effective date, the interest rate at which net consideration shall be accumulated for purposes of determining minimum nonforfeiture amounts shall be 1 1/2% per annum.

h. Any paid-up annuity benefit available under a contract referred to in subsection f. shall have a present value on the date annuity payments are to commence at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

i. For contracts referred to in subsection f. which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than 1% higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value; decreased by the amount of any indebtedness to the insurer on the contract, including interest due and accrued; and increased by any existing additional amounts credited by the insurer to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

j. For contracts referred to in subsection f. which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the insurer to the contract. For contracts referred to in subsection f. which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

k. This subsection k. shall apply to the determination of the benefits calculated under subsections i. and j. of this section.

(1) In the case of annuity contracts for which the maturity date is stated, that maturity date shall not be after the later of: (a) the anniversary of the

contract next following the annuitant's seventieth birthday; or (b) the tenth anniversary of the contract. In the case of annuity contracts under which an election may be made to have annuity payments begin at optional maturity dates, the maturity date shall be deemed to be the latest date for which election is permitted by the contract, but shall not be deemed to be later than the latest date permitted for an annuity contract with a stated maturity date.

(2) The amount of the benefits calculated under subsections i. and j. of this section on or after the stated or deemed maturity date shall not be reduced by any surrender charge. The amount of the benefits calculated under subsections i. and j. of this section on or after the stated or deemed maturity date shall not be less than the greater of: (a) the present value of annuity benefits available on or after the maturity date, computed according to the assumptions stated in subsection h. of this section; and (b) the amount available on or after the maturity date to be applied to the purchase of an annuity on a basis stated in the contract.

(3) Contracts providing for flexible considerations may have separate surrender charge schedules associated with each consideration, provided that the nonforfeiture values are at least as great as they would be if each consideration had been a separate single consideration contract based on the requirements of paragraph (3) of subsection g. of this section. For the purpose of determining the maturity date, the tenth anniversary of the contract shall be determined separately for each consideration.

The provisions of P.L.2005, c.45 shall apply notwithstanding section 1 of P.L.2001, c.237 (C.17B:25-18.4), shall take precedence over that section of law, and shall apply to annuity contracts regardless of whether the requirements of that section have been met.

l. Any contract referred to in subsection f. which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

m. Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations referred to in subsection f. shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

n. For any contract referred to in subsection f. which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum

nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections h., i., j., k. and m., additional benefits payable (1) in the event of total and permanent disability, (2) as reversionary annuity or deferred reversionary annuity benefits, or (3) as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

o. After January 1, 1981, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1983. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such insurer, the provisions of subsections f. through n. shall become operative with respect to annuity contracts thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be January 1, 1983.

p. This section shall not apply to any reinsurance, group annuity purchased in connection with one or more retirement plans or plans of deferred compensation established or maintained by or for one or more employers (including partnerships or sole proprietorships), employee organizations, or any combination thereof, other than plans providing individual retirement accounts or individual retirement annuities under Section 408 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.408), as amended, nor to any premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this State through an agent or other representative of the insurer issuing the contract. The requirements of subsections a. to e. of this section shall not apply to any group annuity, single premium pure endowment, or single stipulated payment annuity.

2. The provisions of P.L.2005, c.45 shall be known and may be cited as the "Senior Citizen Investment Protection Act."

3. This act shall take effect on the 90th day following enactment.

Approved March 21, 2005.



## CHAPTER 46

AN ACT concerning slot machine annuity jackpots, amending P.L.1995, c.18, and supplementing P.L.1977, c.110 (C.5:12-1 et seq.).

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

**C.5:12-2.1a "Annuity jackpot."**

1. "Annuity jackpot" - A slot machine jackpot offered by a casino licensee or multi-casino progressive slot machine system pursuant to which a patron wins the right to receive fixed cash payments at specified intervals in the future.

2. Section 3 of P.L.1995, c.18 (C.5:12-2.2) is amended to read as follows:

**C.5:12-2.2 "Annuity jackpot guarantee."**

3. "Annuity jackpot guarantee" -- A financial arrangement established in accordance with the rules of the commission to assure that all payments that are due to the winner of an annuity jackpot are actually paid when due regardless of the future financial stability of the slot system operator that is responsible for making such payments.

**C.5:12-33.1 "Multi-casino progressive slot machine system."**

3. "Multi-casino progressive slot machine system" - A slot machine gaming system approved by the commission pursuant to which a common progressive slot machine jackpot is offered on slot machines that are interconnected in more than one casino hotel facility.

**C.5:12-100.1 Right to receive annuity jackpot payments.**

4. a. The right of any annuity jackpot winner to receive annuity jackpot payments from a slot system operator shall not be assignable, except as permitted by this section. The provisions of this section shall prevail over the provisions of the "Uniform Commercial Code – Secured Transactions," N.J.S.12A:9-101 et seq., including N.J.S.12A:9-406, or any other law to the contrary.

b. Notwithstanding any other provision of this section, annuity jackpot payments may be paid to the estate of a deceased jackpot winner, in the same manner as they were paid to the winner, upon receipt by the slot system operator of a certified copy of an order appointing an executor or an administrator.

c. A person may be assigned and paid the annuity jackpot payments to which an annuity jackpot winner is entitled pursuant to a judicial order of the New Jersey Superior Court or any other court having jurisdiction over property located in this State provided that the order pertains to claims of ownership in the annuity jackpot payments, division of marital property in divorce actions, bankruptcy, child support, appointment of a guardian or conservator, or distribution of an estate.

d. A person may be assigned and paid the annuity jackpot payments to which an annuity jackpot winner is entitled pursuant to a judicial order of the New Jersey Superior Court or any other court having jurisdiction over property located in this State. The annuity jackpot winner and the proposed assignee shall prepare a proposed form of order and submit such proposed order to the court for its consideration. The proposed form of order shall contain the following information:

(1) the full legal name, address, social security number or taxpayer identification number and, if applicable, resident alien number of the winner;

(2) the full legal name, address, social security number or taxpayer identification number and, if applicable, resident alien number of the assignee;

(3) the date on which and the casino where the annuity jackpot was won;

(4) the slot machine game on which the annuity jackpot was won;

(5) the slot system operator primarily responsible for making the annuity jackpot payments;

(6) the gross amount of the annuity jackpot won before application of withholding taxes;

(7) the gross amount of each payment to be made to the winner by the slot system operator before application of withholding taxes;

(8) the dates of the payments to be assigned and the amount of the specific payments to be assigned on each date;

(9) the identity of the winner's spouse, if any, and the interest of the spouse, if any, in the annuity jackpot payments;

(10) the identity of any other co-owner, claimant or lienholder and the amount of the interests, liens, security interests, prior assignments or offsets asserted by each such party;

(11) that the interest rate or discount rate, as applicable, and all fees and costs and other material terms relating to the assignment are expressly and clearly included in all material documents and in all documents that include any obligations of the annuity jackpot winner;

(12) that the interest rate or discount rate, as applicable, and any other fees or charges associated with the assignment do not indicate overreaching or exploitation, do not exceed current usury rates, and does not violate any laws of usury of this State;

(13) that the winner has reviewed and understands the terms of the assignment;

(14) that the winner understands that the winner will not receive the annuity jackpot payments, or portions thereof, for the years assigned;

(15) that the winner has agreed to the assignment of the winner's own free will without undue influence or duress;

(16) that the winner has retained and consulted with independent legal counsel who has advised the winner of the winner's legal rights and obligations;

(17) that the winner has retained and consulted with an independent tax advisor concerning the tax consequences of the assignment;

(18) that the winner has disclosed all existing debts, liens and child support obligations and does not seek assignment for purposes of evading creditors, judgments or obligations for child support; and

(19) that the winner has certified that: the winner is not obligated to repay any public assistance benefits; and the winner does not have a child support obligation, or if the winner does have a child support obligation, that no arrearage is due.

The annuity jackpot winner and the proposed assignee shall provide a copy of the proposed form of order to the slot system operator at least 10 days before the court is scheduled to act on the proposed order to allow the slot system operator the opportunity to ensure that the proposed order is complete and correct in all respects prior to the court's approval.

e. Before a winner is legally bound, by agreement, contract or otherwise, and prior to the issuance of an order pursuant to subsection d. of this section, the assignee shall provide the winner with all material documents which shall be binding on the assignor, including documents evidencing obligations of the winner, and a written notice recommending that the winner obtain independent counsel before signing any document which shall be binding on the assignor. All documents shall include a notice of the assignor's right to cancel the agreement which shall be located in immediate proximity to all spaces reserved for the signature of the winner in bold-faced type of at least 10 points and which shall provide as follows:

"You have the right to cancel this assignment without any cost to you until midnight three business days after the day on which you have signed an agreement to assign all or a portion of your annuity jackpot.

Cancellation occurs when you give notice by regular first class mail, postage prepaid, to the assignee at the address listed at the top of the first page of this document that you wish to cancel the assignment. Notice is deemed given when deposited in a mailbox."

f. The slot system operator shall, not later than 10 days after receiving a true and correct copy of the filed judicial order, send the winner and the

assignee written confirmation of receipt of the court-ordered assignment and of the slot system operator's intent to rely thereon in making future payments to the assignee named in the order. The slot system operator shall, thereafter, make all payments in accordance with the judicial order. No change in the terms of any assignment shall be effective unless made pursuant to a subsequent judicial order pursuant to this section.

g. The slot system operator may impose a reasonable fee on an assignor to defray any direct or indirect administrative expenses associated with an assignment.

h. The commission and the State are not parties to assignment proceedings, except that the State may intervene as necessary to protect the State's interest in monies owed to the State.

i. The slot system operator and the State shall comply with, and rely upon, a judicial order in distributing payments subject to that order.

j. A winner may pledge or grant a security interest in all or part of an annuity jackpot as collateral for repayment of a loan pursuant to a judicial order containing the information required by subsection d. of this section which the court deems relevant to the pledge or grant.

k. Except where inconsistent with the provisions of this section, the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), shall apply to all transactions under this section.

l. The provisions of subsections d., e. and j. of this section shall be invalid if:

(1) the United States Internal Revenue Service issues a technical rule letter, revenue ruling, or other public ruling in which it is determined that because of the right of assignment provided by subsection d. of this section, annuity jackpot winners who do not exercise the right to assign annuity jackpot payments would be subject to an immediate income tax liability for the value of the entire annuity jackpot rather than annual income tax liability for each installment when received; or

(2) a court of competent jurisdiction issues a published decision holding that because of the right of assignment provided by subsection d. of this section, annuity jackpot winners who do not exercise the right to assign annuity jackpot payments would be subject to an immediate income tax liability for the value of the entire annuity jackpot rather than annual income tax liability for each installment when received.

m. Upon receipt, the commission shall immediately file a copy of a letter or ruling of the United States Internal Revenue Service or a published decision of a court of competent jurisdiction, described in subsection l. of this section, with the Secretary of State. No assignment shall be approved pursuant to subsection d. of this section after the date of such filing.

n. A voluntary assignment shall not include or cover payments, or portions of payments, that are subject to the offset pursuant to section 5 of this amendatory and supplementary act, P.L.2005, c.46 (C.5:12-100.2), or any other law, unless appropriate provisions are made to satisfy the obligations giving rise to the offset.

o. No assignee shall directly or indirectly recommend or facilitate the hiring of any lawyer or accountant to assist the assignor in determining the appropriateness of the proposed assignment. Further, the assignee shall not offer, prior to the closing, tax or investment advice.

**C.5:12-100.2 Prompt notice of award of annuity jackpot; offset, lien for child support arrearages.**

5. a. Each slot system operator that awards an annuity jackpot shall provide prompt notice to the commission of the name, address and social security number of each annuity jackpot winner and the amount of the pending payments. The commission shall forward such information to the Office of Information Technology in the Department of the Treasury.

b. The Office of Information Technology shall cross check the annuity jackpot winner list with the data supplied by the Commissioner of Human Services pursuant to section 2 of P.L.1991, c.384 (C.5:9-13.2) for a social security number match. If a match is made, the Office of Information Technology shall notify the Commissioner of Human Services.

c. If an annuity jackpot winner is in arrears of a child support order, or is a former recipient of Aid to Families with Dependent Children or Work First New Jersey, food stamp benefits or low-income home energy assistance benefits who has incurred an overpayment which has not been repaid, the Probation Division of the Superior Court or the Department of Human Services, as appropriate, shall promptly notify the slot system operator of the name, address, social security number and amount due on an arrears child support order or the amount due on an overpayment. The slot system operator shall withhold this amount from the pending annuity jackpot payment and transmit same to the Probation Division of the Superior Court or the Department of Human Services, as appropriate, in accordance with regulations promulgated by the State Treasurer.

d. The Probation Division of the Superior Court, acting as agent for the child support payee or the county welfare agency that provided the public assistance benefits, as appropriate, shall have a lien on the proceeds of the annuity jackpot payment in an amount equal to the amount of child support arrearage or the amount of overpayment incurred, as appropriate. The lien imposed by this section shall be enforceable in the Superior Court. Any of the annuity jackpot winner's funds remaining after withholding pursuant to the lien established pursuant to this section shall be paid to the winner in accordance with the rules of the commission.

e. The Commissioner of Human Services shall promulgate such regulations as may be necessary to effectuate the purposes of this section including, but not limited to, regulations providing for prompt notice to any annuity jackpot winner, from whose payments the Probation Division of the Superior Court or the Department of the Human Services seeks to withhold funds, of the amount to be withheld and the reason therefor and providing the annuity jackpot winner with the opportunity for a hearing upon request prior to the disposition of any funds.

f. The State Treasurer shall also provide, by regulation, safeguards against the disclosure or inappropriate use of any personally identifiable information regarding any person obtained pursuant to this section.

g. For the purposes of this section, "prompt notice" shall mean notice within 14 days or less.

6. This act shall take effect immediately.

Approved March 21, 2005.

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## CHAPTER 47

AN ACT authorizing establishment of the New Jersey Black Cultural and Heritage Initiative Foundation, supplementing chapter 16A of Title 52 of the Revised Statutes.

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

**C.52:16A-90 New Jersey Black Cultural and Heritage Initiative Foundation.**

1. The Secretary of State is authorized to establish a nonprofit, educational and charitable organization to be known as the New Jersey Black Cultural and Heritage Initiative Foundation. The foundation shall be devoted to the sponsoring of activities and the raising of funds for the establishment, support and promotion of the New Jersey Black Cultural and Heritage Initiative pursuant to section 5 of P.L.2005, c.47 (C.52:16A-94). The foundation shall be incorporated as a New Jersey nonprofit corporation pursuant to P.L.1983, c.127 (C.15A:1-1 et seq.), and organized and operated in such manner as to be eligible under applicable federal law for tax-exempt status and for the receipt of tax-deductible contributions, and shall be authorized to sue and to be sued as a legal entity separate from the State of New Jersey.

**C.52:16A-91 Board of Trustees; terms, vacancies.**

2. The New Jersey Black Cultural and Heritage Initiative Foundation shall be governed by a board of trustees consisting of the following 25 members:

- a. the Secretary of State or designee;
- b. Five State employees or special State officers, who shall be selected from, and appointed by the Secretary of State to represent any or all, of the following State partner organizations:
  - (1) New Jersey State Council on the Arts;
  - (2) New Jersey Historical Commission;
  - (3) New Jersey Council of the Humanities;
  - (4) New Jersey Public Broadcasting Commission;
  - (5) Martin Luther King Commemorative Commission;
  - (6) Amistad Commission;
  - (7) Department of Education;
  - (8) Office of Travel and Tourism, New Jersey Commerce and Economic Growth Commission;
  - (9) Department of Community Affairs;
  - (10) Department of Transportation;
  - (11) Department of State, Office of Faith-based Initiatives; and
  - (12) any other State agency or instrumentality partnering, assisting or supporting the purposes of the foundation.

The State partner members of the board of trustees appointed pursuant to this subsection shall serve at the pleasure of the Secretary of State.

c. Nineteen public members shall be selected from a broad cross-section of the views and interests of the community and the member organizations of the foundation, including educators, clergy, civic and business leaders; philanthropists; visual, creative and performing artists; representatives of Black arts, history and cultural organizations; and persons having knowledge of, expertise in, or commitment to preserving New Jersey's Black cultural heritage.

Five of the public members shall be appointed by the Secretary of State upon formation and incorporation of the foundation. Thereafter, at least four more public members shall be elected by the nonprofit cultural organizations which become members of the foundation, and the remaining public members shall be nominated by a nominating committee of the board of trustees and appointed by the board of trustees.

The term of office of each public member shall be three years, with each member continuing to serve upon expiration of the term until replaced. Three of the initial public members appointed by the Secretary of State and two of the public members initially elected by member organizations shall serve initial terms of two years.

Vacancies shall be filled and replacements made as provided in the bylaws of the foundation.

**C.52:16A-92 Executive Director, employees.**

3. The foundation's board of trustees shall be authorized, within the limits of its own funds, to employ an executive director and professional, technical and administrative personnel. Employees of the foundation shall not be construed to be employees of the State of New Jersey. The board shall also be authorized to contract for such professional and administrative services as it shall deem necessary. No member of the board of trustees shall engage in any business transaction or professional activity for profit with the Department of State.

**C.52:16A-93 Secretary of State, incorporator of foundation.**

4. The Secretary of State shall be an incorporator of the foundation. Upon the incorporation of the foundation and the establishment of the first board of trustees, the board shall adopt bylaws setting forth the structure, offices, powers and duties of the foundation. The Secretary of State shall serve as the initial co-chair of the board of trustees.

**C.52:16A-94 Use of funds received by foundation for the initiative.**

5. All funds received by the foundation, other than those necessary to pay the expenses of the foundation, shall be used exclusively for the establishment, support and promotion of the New Jersey Black Cultural and Heritage Initiative. The New Jersey Black Cultural and Heritage Initiative shall be an alliance of organizations and institutions that comprise the Black arts, history and culture communities in this State for the purpose of broadening, deepening and diversifying Statewide participation in and appreciation for Black arts, history and culture. The duties and goals of the initiative shall be to:

- a. promote understanding and appreciation of the history and artistic and cultural contributions of people of African descent.
- b. provide guidance, support and resources for new and emerging Black arts and historical groups and increase the level of organizational capacity and program administration of established groups.
- c. increase funding and audiences for local Black culture and heritage tourism and enrich Black culture and heritage tourism programming.
- d. increase and attract corporate sponsorship and participation in Black culture and heritage programming and tourism.
- e. increase opportunities for young people to learn about and experience Black arts, history and culture in schools and youth organizations.



- f. invest in future generations of Black artists and historians by providing leadership development activities, apprenticeships, mentorships, scholarships and cultural programs.
- g. enhance computer and Internet access and usage within the Black community.
- h. ensure the financial viability of the initiative through a network of community partners, advocates and supporters, including, but not limited to, celebrities, philanthropists, legislators, State and local leaders and corporations.
- i. any other duties and goals deemed appropriate.

**C.52:16A-95 Provision of financial, service support by Department of State.**

6. The Department of State is authorized to provide financial assistance and those services of employees of the State which may be required to form and incorporate the foundation within the limits of funds appropriated to the Department of State or made available to the Department of State by contribution, gift, donation or otherwise for these purposes. Once the foundation is incorporated, it may apply for grants in aid from any department or instrumentality of the State of New Jersey.

**C.52:16A-96 Payment of expenses by foundation; private counsel.**

7. All expenses incurred by the foundation shall be payable from funds raised by the foundation, and no liability or obligation, in tort or contract, shall be incurred by the State for the operation of the foundation. The foundation shall obtain private counsel, and shall not be represented by the Attorney General or indemnified by the State of New Jersey.

**C.52:16A-97 Annual audit.**

8. A certified public accountant shall be selected by the foundation to annually audit the foundation's funds. The foundation shall contract for and receive such audit annually, and shall submit the audit to the Secretary of State and to the Director of the Division of Budget and Accounting in the Department of the Treasury.

9. This act shall take effect immediately.

Approved March 21, 2005.

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CHAPTER 48

AN ACT concerning the ordering or prescribing of medications by physician assistants and amending P.L.1991, c.378.

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

1. Section 10 of P.L.1991, c.378 (C.45:9-27.19) is amended to read as follows:

**C.45:9-27.19 Ordering of medication; conditions.**

10. A physician assistant treating a patient in an inpatient or outpatient setting may order or prescribe medications, subject to the following conditions:

- a. controlled dangerous substances may be ordered or prescribed if:
  - (1) a supervising physician has authorized a physician assistant to order or prescribe Schedule II, III, IV or V controlled dangerous substances in order to:
    - (a) continue or reissue an order or prescription for a controlled dangerous substance issued by the supervising physician;
    - (b) otherwise adjust the dosage of an order or prescription for a controlled dangerous substance originally ordered or prescribed by the supervising physician, provided there is prior consultation with the supervising physician;
    - (c) initiate an order or prescription for a controlled dangerous substance for a patient, provided there is prior consultation with the supervising physician if the order or prescription is not pursuant to subparagraph (d) of this paragraph; or
    - (d) initiate an order or prescription for a controlled dangerous substance as part of a treatment plan for a patient with a terminal illness, which for the purposes of this subparagraph means a medical condition that results in a patient's life expectancy being 12 months or less as determined by the supervising physician;
  - (2) the physician assistant has registered with and obtained authorization to order or prescribe controlled dangerous substances from the appropriate State and federal agencies; and
  - (3) the physician assistant complies with all requirements which the board shall establish by regulation for the administration of controlled dangerous substances pursuant to section 15 of P.L.1991, c.378 (C.45:9-27.24) and applicable requirements with respect to educational programs approved by the board pursuant to section 17 of P.L.1991, c.378 (C.45:9-27.26) and continuing professional education programs approved pursuant to section 16 of P.L.1991, c.378 (C.45:9-27.25);
- b. the order or prescription is administered in accordance with protocols or specific physician direction pursuant to subsection b. of section 7 of P.L.1991, c.378 (C.45:9-27.16);

c. the prescription states whether it is written pursuant to protocol or specific physician direction; and

d. the physician assistant signs his own name, prints his name and license number and prints the supervising physician's name, and in the case of an order or prescription for a controlled dangerous substance, prints the physician assistant's Drug Enforcement Administration registration number.

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

Approved March 21, 2005.

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## CHAPTER 49

AN ACT concerning marriage and family therapists and amending P.L.1968, c.401.

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

1. Section 6 of P.L.1968, c.401 (C.45:8B-6) is amended to read as follows:

**C.45:8B-6 Unlicensed persons, certain activities permitted.**

6. An individual who is not a licensed practicing marriage and family therapist shall not be limited in his activities:

(a) As part of his duties as an employee of:

(1) an accredited academic institution, a federal, State, county or local governmental institution or agency, or a research facility while performing those duties for which he was employed by the institution, agency or facility;

(2) an organization which is nonprofit and which is, in the opinion of the board, a bona fide community agency, while performing those duties for which he was employed by the agency;

(3) a proprietary organization while performing those duties for which he was employed by the organization, provided his marriage and family therapy duties are under the direct supervision of a licensed practicing marriage and family therapist.

(b) As a student of marriage and family therapy, marriage and family therapy intern or person preparing for the practice of marriage and family therapy under qualified supervision in a training institution or facility recognized by the board, provided he is designated by such titles as "marriage and family therapy intern," or others, clearly indicating the training status.

(c) As a practicing marriage and family therapist for a period not to exceed 10 consecutive business days or 15 business days in any 90-day period, if he resides outside and his major practice is outside of the State of New Jersey, and gives the board a summary of his qualifications and a minimum of 10 days' written notice of his intention to practice in the State of New Jersey under this subsection, provided he (1) is certified or licensed in another state under requirements the board considers to be the equivalent of requirements for licensing under this act, or (2) resides in a state which does not certify or license marriage and family therapists and the board considers his professional qualifications to be the equivalent of requirements for licensing under this act; and is not adjudged and notified by the board that he is ineligible for licensing under this act.

(d) (Deleted by amendment, P.L.2005, c.49.)

(e) As a practicing marriage and family therapist for a period not exceeding three years under the supervision of a licensed practicing marriage and family therapist, or a person designated by the board as an eligible supervisor, if he has a temporary permit therefor which the board shall issue upon presentation by the applicant of satisfactory evidence of his completion of all the educational requirements as provided in subsection (a) of section 18 of P.L.1968, c.401 (C.45:8B-18) and filing and review of an application for a temporary permit under this act.

2. Section 7 of P.L.1968, c.401 (C.45:8B-7) is amended to read as follows:

**C.45:8B-7 Persons not entitled to assert exceptions.**

7. The exceptions specified in subsections (c) and (e) of section 6 of P.L.1968, c.401 (C.45:8B-6) shall not be available to any person who has been found by a court of this or any State of the United States to have been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purposes of this section, a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction. An action to determine whether any person asserting an exception under subsection (c) or (e) of section 6 of P.L.1968, c.401 (C.45:8B-6) has committed one or more of the acts listed in this section may be brought by the Attorney General on behalf of the board.

3. Section 18 of P.L.1968, c.401 (C.45:8B-18) is amended to read as follows:

**C.45:8B-18 Qualifications for admission to examination.**

18. A person applying to the board, after January 1, 1970, may be admitted to an examination if he meets the qualifications set forth in subsections (a), (b) and (c) of section 14 of P.L.1968, c.401 (C.45:8B-14) and provides evidence satisfactory to the board that he has met educational and experiential qualifications as follows:

(a) Educational Requirement:

To meet the educational requirements, an applicant shall have a minimum of a master's degree in marriage and family therapy, a master's degree in social work, or a graduate degree in a related field and shall demonstrate that he has completed substantially equivalent course work content and training to a master's degree in marriage and family therapy; and the degree shall have been obtained from an accredited institution so recognized at the time of granting of the degrees.

Pursuant to regulations adopted by the board, an applicant with a graduate degree in a related field which does not provide training and course work substantially equivalent in content to a master's degree in marriage and family therapy, shall be deemed to meet the educational requirements set forth in this section upon satisfactory completion of either a post graduate degree recognized by the board, or a program of training and course work at an institute or training program accredited by the Commission on Accreditation for Marriage and Family Therapy Education.

(b) Experience Requirements:

To meet the experience requirements, an applicant shall have three years of full-time counseling experience, or its equivalent, of a character approved by the board, two years of which shall have been in marriage and family therapy; two of the three required years shall have been under the supervision of a person holding a degree specified in subsection (a) of this section and who has himself had no less than five full-time years of professional experience or the equivalent. For those with a master's degree, two of the three required years shall occur after the applicant has earned the master's degree, and for those with a post-master's or doctoral degree, one of the three required years shall occur after the applicant has earned the post-master's or doctoral degree.

4. This act shall take effect immediately.

Approved March 21, 2005.

## CHAPTER 50

AN ACT concerning emergency contraception for sexual assault victims, supplementing Title 26 of the Revised Statutes and amending P.L.1985, c.404.

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

**C.26:2H-12.6b Definitions relative to emergency contraception for sexual assault victims.**

1. As used in this act:

"Commissioner" means the Commissioner of Health and Senior Services.

"Division on Women" means the Division on Women in the Department of Community Affairs.

"Emergency care to sexual assault victims" means a medical examination, procedure or service provided by an emergency health care facility to a sexual assault victim following an alleged sexual offense.

"Emergency contraception" means one or more prescription drugs to prevent pregnancy, used separately or in combination, administered to or self-administered by a patient within a medically recommended time after sexual intercourse, dispensed for that purpose in accordance with professional standards of practice and determined to be safe by the United States Food and Drug Administration.

"Emergency health care facility" means a general hospital or satellite emergency department licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Medically and factually accurate and objective" means verified or supported by the weight of research conducted in compliance with accepted scientific methods and standards, published in peer-reviewed journals and recognized as accurate and objective by leading professional organizations and agencies with relevant expertise in the field of obstetrics and gynecology.

"Sexual Assault Nurse Examiner program" means the Statewide Sexual Assault Nurse Examiner program in the Division of Criminal Justice in the Department of Law and Public Safety, established pursuant to P.L.2001, c.81 (C.52:4B-50 et seq.).

"Sexual assault victim" means a female who alleges or is alleged to have suffered a personal, physical or psychological injury as a result of a sexual offense.

"Sexual offense" means sexual assault and aggravated sexual assault as set forth in N.J.S.2C:14-2, criminal sexual contact and aggravated criminal sexual contact as set forth in N.J.S.2C:14-3, fourth degree lewdness as set

forth in subsection b. of N.J.S.2C:14-4 and endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child as set forth in N.J.S.2C:24-4.

**C.26:2H-12.6c Provision of emergency care to sexual assault victim.**

2. An emergency health care facility shall provide emergency care to a sexual assault victim. It shall be the standard of care for an emergency health care facility to:

a. provide each sexual assault victim with medically and factually accurate and objective oral and written information about emergency contraception and sexually transmitted diseases, as provided for in section 4 of this act;

b. orally inform each sexual assault victim of her option to be provided emergency contraception at the health care facility; and

c. provide emergency contraception to the sexual assault victim, upon her request, unless contraindicated. If the emergency contraceptive is in the form of pills, the provision of the emergency contraception shall include the initial dose that the victim may take at the emergency health care facility, as well as the follow-up dose that the victim can self-administer later.

An emergency health care facility shall not be required to provide emergency contraception to a sexual assault victim who is pregnant.

**C.26:2H-12.6d Policies, procedures concerning personnel training.**

3. An emergency health care facility shall have written policies and procedures to ensure that all personnel who provide care or information to a sexual assault victim:

a. are trained to provide medically and factually accurate and objective information about emergency contraception and sexually transmitted diseases to a sexual assault victim; and

b. provide that information to a sexual assault victim.

**C.26:2H-12.6e Written information relative to emergency contraception for sexual assault victims.**

4. a. The commissioner, in collaboration with the Director of the Division on Women, the New Jersey Coalition Against Sexual Assault and the Sexual Assault Nurse Examiner program, shall develop, prepare and produce, in quantities sufficient to comply with the purposes of this act, written information relating to: emergency contraception for the prevention of pregnancy in sexual assault victims; and sexually transmitted diseases.

b. The information shall be clearly written and readily comprehensible in a culturally competent manner, as the commissioner, in collaboration with the Division on Women, the New Jersey Coalition Against Sexual Assault

and the Sexual Assault Nurse Examiner program, deems necessary to inform a sexual assault victim. The information shall explain:

(1) the nature of emergency contraception, the effectiveness of emergency contraception in preventing pregnancy, where emergency contraception can be obtained, and treatment options; and

(2) the symptoms and effects of sexually transmitted diseases, and treatment options.

c. The information shall be distributed to all hospital and satellite emergency departments in the State for use in those facilities pursuant to this act.

**C.26:2H-12.6f Responsibilities of commissioner concerning compliance.**

5. a. The commissioner shall:

(1) investigate every complaint of noncompliance with the provisions of this act by an emergency health care facility, including the failure of a facility to provide the services required by this act;

(2) determine whether the complaint is substantiated, and if so, what action shall be taken by the emergency health care facility or commissioner to address the complaint;

(3) notify the Sexual Assault Nurse Examiner program of all substantiated complaints;

(4) compile the substantiated complaints;

(5) analyze the substantiated complaints, at least annually, to determine if there is any pattern of failure to provide services pursuant to this act; and

(6) determine, at least annually, whether an emergency health care facility is complying with the provisions of this act. The commissioner may utilize all means within his regulatory authority concerning health care facilities to verify a facility's compliance with this act.

b. If the commissioner determines that an emergency health care facility is not in compliance with the provisions of this act, the commissioner may assess such penalties and take other actions against the facility, as provided in P.L.1971, c.136 (C.26:2H-1 et seq.). Any such penalties assessed for noncompliance shall be paid to the Department of the Treasury and allocated, on a quarterly basis, to the Division on Women for supplemental funding for designated rape crisis centers.

c. The commissioner shall prepare an annual report, which shall be available to the public, summarizing the substantiated complaints, the actions taken by an emergency health care facility or the commissioner to address the complaints, and the commissioner's findings concerning any pattern of failure to provide services under, or noncompliance with, the provisions of this act.



6. Section 6 of P.L.1985, c.404 (C.52:4B-44) is amended to read as follows:

**C.52:4B-44 Standards for law enforcement agencies to ensure rights of crime victims.**

6. a. The Attorney General shall, through the Office of Victim-Witness Advocacy in the Division of Criminal Justice in the Department of Law and Public Safety and in consultation with the county prosecutors, promulgate standards for law enforcement agencies to ensure that the rights of crime victims are enforced.

b. The standards shall require that the Office of Victim-Witness Advocacy in the Division of Criminal Justice and each county prosecutor's office provide the following services upon request for victims and witnesses involved in the prosecution of a case:

(1) Orientation information about the criminal justice system and the victim's and witness's role in the criminal justice process;

(2) Notification of any change in the case status and of final disposition;

(3) Information on crime prevention and on available responses to witness intimidation;

(4) Information about available services to meet needs resulting from the crime and referrals to service agencies, where appropriate;

(5) Advance notice of the date, time and place of the defendant's initial appearance before a judicial officer, submission to the court of any plea agreement, the trial and sentencing;

(6) Advance notice of when presence in court is not needed;

(7) Advice about available compensation, restitution and other forms of recovery and assistance in applying for government compensation;

(8) A waiting or reception area separate from the defendant for use during court proceedings;

(9) An escort or accompaniment for intimidated victims or witnesses during court appearances;

(10) Information about directions, parking, courthouse and courtroom locations, transportation services and witness fees, in advance of court appearances;

(11) Assistance for victims and witnesses in meeting special needs when required to make court appearances, such as transportation and child care arrangements;

(12) Assistance in making travel and lodging arrangements for out-of-State witnesses;

(13) Notification to employers of victims and witnesses, if cooperation in the investigation or prosecution causes absence from work;

(14) Notification of the case disposition, including the trial and sentencing;

(15) Assistance to victims in submitting a written statement to a representative of the county prosecutor's office about the impact of the crime prior to the prosecutor's final decision concerning whether formal charges will be filed;

(16) Advice to victims about their right to make a statement about the impact of the crime for inclusion in the presentence report or at time of parole consideration, if applicable;

(17) Notification to victims of the right to make an in-person statement, prior to sentencing, directly to the sentencing court concerning the impact of the crime;

(18) Expediting the return of property when no longer needed as evidence;

(19) Advise and counsel, or refer for advice or counseling, victims of sexual assault, or other criminal acts involving a risk of transmission of disease, concerning available medical testing and assist such victims, or refer such victims for assistance, in obtaining appropriate testing, counseling and medical care and in making application to the Victims of Crime Compensation Board for compensation for the costs of such testing, counseling and care;

(20) Assistance to victims in submitting a written impact statement to a representative of the county prosecutor's office concerning the impact of the crime which shall be considered prior to the prosecutor's accepting a negotiated plea agreement containing recommendations as to sentence and assistance to victims in securing an explanation of the terms of any such agreement and the reasons for the agreement;

(21) Notification to the victim of the defendant's release from custody which shall include:

(a) notice of the defendant's escape from custody and return to custody following escape;

(b) notice of any other release from custody, including placement in an Intensive Supervision Program or other alternative disposition, and any associated conditions of release;

(c) notice of the filing by an inmate of an application for commutation of sentence pursuant to N.J.S.2A:167-4 and its disposition;

(d) notice of parole consideration pursuant to provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.); and

(e) notice of the pending release of an inmate due to expiration of sentence; and

(22) Interpreting services for victims and witnesses when necessary to assist a victim or witness who is hearing impaired or developmentally disabled as defined in section 3 of P.L.1977, c.82 (C.30:6D-3) to understand questions and frame answers.

c. In a case involving a victim of aggravated sexual assault or sexual assault as defined in subsection a. or c. of N.J.S.2C:14-2, the Office of Victim-Witness Advocacy or the county prosecutor's office involved in the case shall:

(1) Notify the victim of the victim's right to obtain an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS, and assist the victim, or refer the victim for assistance, in obtaining a test and appropriate counseling and medical care;

(2) Notify the victim of the victim's right to obtain a court order pursuant to subsection a. of section 4 of P.L.1993, c.364 (C.2C:43-2.2) requiring the offender to submit to an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS in the event that the offender is indicted, formally charged, convicted or adjudicated delinquent;

(3) Communicate the request of a victim who agrees to seek an order pursuant to subsection a. of section 4 of P.L.1993, c.364 (C.2C:43-2.2) to the prosecutor handling the case and notify the victim or arrange for the victim to be notified of the test result; and

(4) Assist the victim in applying to the Victims of Crime Compensation Board for compensation for the costs of testing, counseling and medical care.

d. The Attorney General shall, through the Office of Victim-Witness Advocacy and in consultation with the Commissioner of Health and Senior Services, the Superintendent of State Police and representatives of providers of sexual assault services, to be designated by the Director of the Office of Victim-Witness Advocacy, coordinate the establishment of standard protocols for the provision of information and services to victims of sexual assault, and shall make such protocols available to victims upon request, except that the provision of information and services with regard to emergency contraception and sexually transmitted diseases shall be in accordance with P.L.2005, c.50 (C.26:2H-12.6b et al.).

**C.26:2H-12.6g Rules, regulations.**

7. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner, in consultation with the Director of the Division on Women and the Sexual Assault Nurse Examiner program, shall adopt rules and regulations to effectuate the purposes of this act; except that, notwithstanding any provision of P.L.1968, c.410 to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the commissioner deems necessary to

implement the provisions of this act, which shall be effective for a period not to exceed six months and may thereafter be amended, adopted or readopted by the commissioner in accordance with the requirements of P.L.1968, c.410.

8. This act shall take effect on the 30th day after enactment, but the commissioner, in consultation with the Director of the Division on Women and the Sexual Assault Nurse Examiner program, may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved March 21, 2005.

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## CHAPTER 51

AN ACT concerning campaign contributions by certain business entities seeking or holding State contracts, supplementing P.L.1973, c.83 (C.19:44A-1 et seq.), amending P.L.2004, c.19, and repealing section 1 of P.L.2004, c.19 (C.19:44A-20.2).

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

**C.19:44A-20.13 Findings, declarations relative to certain campaign contributions by business entities.**

1. The Legislature finds and declares that:

In our representative form of government, it is essential that individuals who are elected to public office have the trust, respect and confidence of the citizenry; and

All individuals, businesses, associations, and other persons have a right to participate fully in the political process of New Jersey, including making and soliciting contributions to candidates, political parties and holders of public office; and

When a person or business interest makes or solicits major contributions to obtain a contract awarded by a government agency or independent authority, this constitutes a violation of the public's trust in government and raises legitimate public concerns about whether the contract has been awarded on the basis of merit; and

The growing infusion of funds donated by business entities into the political process at all levels of government has generated widespread cynicism among the public that special interest groups are "buying" favors from elected officeholders; and

For the purposes of protecting the integrity of government contractual decisions and of improving the public's confidence in government, it is a compelling interest of this State to prohibit awarding government contracts to business entities which are also contributors to candidates, political parties and the holders of public office; and

There exists the perception that campaign contributions are often made to a State or county political party committee by an individual or business seeking favor with State elected officials, with the understanding that the money given to such a committee will be transmitted to other committees in other parts of the State, or is otherwise intended to circumvent legal restrictions on the making of political contributions or gifts directly to elected State officials, thus again making elected State officials beholden to those contributors; and

County political party committees, through their powers of endorsement, fundraising, ballot slogan or party line designation, and other means, exert significant influence over the gubernatorial primary and general election process; and

Although the right of individuals and businesses to make campaign contributions is unequivocal, that right may be limited, even abrogated, when such contributions promote the actuality or appearance of public corruption; and

It is essential that the public have confidence that the selection of State contractors is based on merit and not on political contributions made by such contractors and it is essential that the public have trust in the processes by which taxpayer dollars are spent; and

It has long been the public policy of this State to secure for the taxpayers the benefits of competition, to promote the public good by promoting the honesty and integrity of bidders for public contracts and the system, and to guard against favoritism, improvidence, extravagance and corruption in order to benefit the taxpayers; and

In the procurement process, our public policy grants to the State broad discretion, taking into consideration all factors, to award a contract to a bidder whose proposal will be most advantageous to the State; and

The operations of the State government must be effectively and fairly managed to ensure public order and prosperity, and malfeasance, in whatever form it may take, must be confronted and uprooted; and

The Legislature must safeguard the integrity of State government procurement by imposing restrictions on State agencies and independent authorities to insulate the negotiation and award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof.

**C.19:44A-20.14 Contributors, certain, ineligibility to enter into agreement with the State or its authorities.**

2. The State or any of its purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into an agreement or otherwise contract to procure from any business entity services or any material, supplies or equipment, or to acquire, sell, or lease any land or building, where the value of the transaction exceeds \$17,500, if that business entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions to a candidate committee or election fund of any candidate or holder of the public office of Governor, or to any State or county political party committee: (i) within the eighteen months immediately preceding the commencement of negotiations for the contract or agreement; (ii) during the term of office of a Governor, in the case of contributions to a candidate committee or election fund of the holder of that office, or to any State or county political party committee of a political party nominating such Governor in the last gubernatorial election preceding the commencement of such term; or (iii) within the eighteen months immediately preceding the last day of the term of office of Governor, in which case such prohibition shall continue through the end of the next immediately following term of the office of Governor, in the case of contributions to a candidate committee or election fund of the holder of that office, or to any State or county political party committee of a political party nominating such Governor in the last gubernatorial election preceding the commencement of the latter term.

**C.19:44A-20.15 Certain contributions prohibited by certain contractors of the State or its authorities.**

3. No business entity which agrees to any contract or agreement with the State or any department or agency thereof or its independent authorities either for the rendition of services or furnishing of any material, supplies or equipment or for the acquisition, sale, or lease of any land or building, if the value of the transaction exceeds \$17,500, shall knowingly solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to a candidate committee or election fund of any candidate or holder of the public office of Governor or to any State or county political party committee prior to the completion of the contract or agreement.

**C.19:44A-20.16 "Contribution" defined.**

4. For the purposes of this act, a "contribution" means a contribution reportable by the recipient under "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L. 1973, c.83 (C.19:44A-1 et seq.) made on or after the effective date of this act.

**C.19:44A-20.17 "Business entity" defined.**

5. For the purposes of this act, a "business entity" means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or any other state or foreign jurisdiction. The definition of a business entity includes: (i) all principals who own or control more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a business entity that is a corporation for profit, as appropriate; (ii) any subsidiaries directly or indirectly controlled by the business entity; (iii) any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and (iv) if a business entity is a natural person, that person's spouse or child, residing therewith, are also included within this definition.

**C.19:44A-20.18 Report of contributions by business entities as part of State procurement process.**

6. Prior to awarding any contract or agreement to procure services or any material, supplies or equipment from, or for the acquisition, sale, or lease of any land or building from or to, any business entity, the State or any of its purchasing agents or agencies, as the case may be, shall require, as part of the procurement process, the business entity to report all contributions the business entity made during the preceding four years to any political organization organized under section 527 of the Internal Revenue Code that also meets the definition of a "continuing political committee" within the meaning of section 3 of P.L.1973, c.83 (C.19:44A-3). Such reporting shall be made in a manner and form to be developed by the State Treasurer with the advice of the New Jersey Election Law Enforcement Commission, which agencies shall promulgate regulations to effect and implement this disclosure obligation. Such reports shall be subject to review by the State Treasurer. If the State Treasurer determines that any such contribution, or any other act that would constitute a breach of contract pursuant to section 9 of this act, poses a conflict of interest in the awarding of any contract or agreement, the State Treasurer shall disqualify such business entity from bidding on or being awarded such contract or agreement.

**C.19:44A-20.19 Written certification by business entities relative to contributions.**

7. Prior to awarding any contract or agreement to procure services or any material, supplies or equipment from, or for the acquisition, sale, or lease of any land or building from or to, any business entity, the State or any of its purchasing agents or agencies or independent authorities, as the case may be, shall require the business entity to provide a written certification that it

has not made a contribution that would bar the award of the contract pursuant to this act. The business entity shall have a continuing duty to report any contribution it makes during the term of the contract. Such reports shall be subject to review by the State Treasurer. If the State Treasurer determines that any such contribution poses a conflict of interest, such contribution shall be deemed a material breach of such contract or agreement.

**C.19:44A-20.20 Request for reimbursement of contribution.**

8. If a business entity inadvertently makes a contribution that would otherwise bar it from receiving a contract or makes a contribution during the term of a contract in violation of this act, the entity may request a full reimbursement from the recipient and, if such reimbursement is received within 30 days after the date on which the contribution was made, the business entity would again be eligible to receive a contract or would no longer be in violation, as appropriate. It shall be presumed that contributions made within 60 days of a gubernatorial primary or general election were not made inadvertently.

**C.19:44A-20.21 Breach of terms of government contract concerning contributions.**

9. It shall be a breach of the terms of the government contract for a business entity to: (i) make or solicit a contribution in violation of this act; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of the public office of Governor, or to any State or county party committee; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of this act; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange or contributions to circumvent the intent of this act, or (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this act.

**C.19:44A-20.22 Exception for public exigency.**

10. This act shall not prohibit the awarding of a contract when the public exigency requires the immediate delivery of goods or performance of services as determined by the State Treasurer.



**C.19:44A-20.23 Applicability of act to State agencies and authorities.**

11. This act shall apply to all State agencies including any of the principal departments in the Executive Branch, and any division, board, bureau, office, commission or other instrumentality within or created by such department and any independent State authority, board, commission, instrumentality or agency.

**C.19:44A-20.24 Contract, bid applications and specs to describe requirements of act.**

12. Every contract and bid application and specifications promulgated in connection therewith covered by this act shall contain a provision describing the requirements of this act and a statement that compliance with this act shall be a material term and condition of said contract or bid application and binding upon the parties thereto upon the entry of all applicable contracts.

**C.19:44A-20.25 Inapplicability of act under federal law or eminent domain.**

13. The provisions of sections 1 through 12 of this act, P.L.2005, c.51, shall not: a. apply in circumstances when it is determined by the federal government or a court of competent jurisdiction that its application would violate federal law or regulation; or b. prevent the State, its executive departments, agencies or independent authorities from complying with all of the requirements, conditions and obligations of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), as amended and supplemented.

14. Section 6 of P.L.2004, c.19 (C.19:44A-20.7) is amended to read as follows:

**C.19:44A-20.7 Definitions relative to certain campaign contributions.**

6. As used in sections 2 through 12 of this act:

"business entity" means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction;

"interest" means the ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit, as appropriate;

"fair and open process" means, at a minimum, that the contract shall be: publicly advertised in newspapers or on the Internet website maintained by the public entity in sufficient time to give notice in advance of the contract; awarded under a process that provides for public solicitation of proposals or qualifications and awarded and disclosed under criteria established in writing by the public entity prior to the solicitation of proposals or qualifica-

tions; and publicly opened and announced when awarded. The decision of a public entity as to what constitutes a fair and open process shall be final.

"State agency in the Legislative Branch" means the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch.

15. Section 7 of P.L.2004, c.19 (C.19:44A-20.8) is amended to read as follows:

**C.19:44A-20.8 Business entity to provide written certification, ELEC reports.**

7. a. Prior to awarding any contract, except a contract that is awarded pursuant to a fair and open process, a State agency in the Legislative Branch, a county, or a municipality shall require the business entity to which the contract is to be awarded to provide a written certification that it has not made a contribution that would bar the award of a contract pursuant to this act.

b. A business entity shall have a continuing duty to report to the Election Law Enforcement Commission any contributions that constitute a violation of this act that are made during the duration of a contract.

**Repealer.**

16. Section 1 of P.L.2004, c.19 (C.19:44A-20.2) is repealed.

**Superseder.**

17. Executive Order No. 134 (2004) is hereby superseded.

18. Sections 14, 15 and 16 shall take effect on the original effective date of P.L.2004, c.19 (C.19:44A-20.2 et seq.), and the remainder of this act shall take effect immediately and shall be retroactive to October 15, 2004 and shall apply to contributions made and contracts awarded on or after October 15, 2004.

Approved March 22, 2005.

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CHAPTER 52

AN ACT concerning the waiver of building restrictions imposed on certain public or private sales and amending P.L.1943, c.33 and P.L.1971, c.199.

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

1. Section 1 of P.L.1943, c.33 (C.40:60-51.2) is amended to read as follows:

**C.40:60-51.2 Power to waive restrictions.**

1. Any municipality is authorized and empowered, by resolution of the governing body thereof, to waive, release, modify or subordinate any terms, covenants, conditions, limitations or reverters imposed in sales and conveyances of lands as to the erection, alteration or demolition of buildings or any other use to be made of land heretofore imposed by said municipality to accomplish the purposes for which such lands were sold and conveyed either at public or private sale, including those set forth pursuant to section 21 of P.L.1971, c.199 (C.40A:12-21), but only after public hearing held before such governing body, of the holding of which notice describing the lands in question, and the terms, covenants, conditions, limitations or reverters to be waived, released, modified or subordinated, and, if to be modified or subordinated, describing the manner in which the same shall be modified or subordinated, shall first have been given by advertisement published once each week for two weeks in a newspaper published in said municipality or, if no newspaper be published therein, then in a newspaper circulating in such municipality, provided, however, that the power herein granted shall not be exercised to impair any vested or contractual rights of third parties.

2. 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, unless waived, released, modified, or subordinated pursuant to P.L.1943, c.33 (C.40:60-51.2), if said lands or buildings are not used in accordance with said limitation, title thereto shall revert to the county or municipality without any entry or reentry made thereon on behalf of such county or municipality, to

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

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

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

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

(e) Any duly incorporated nonprofit association or any regional commission or authority composed of one or more municipalities or one or more counties for the construction or maintenance thereon of an animal shelter, or

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

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

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

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

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

(k) Any duly incorporated nonprofit organization or association, other than a political, partisan, sectarian, denominational or religious organization or association, which includes among its principal purposes the provision of educational, recreational, medical or social services to the general public, including residents of the county or municipality, or

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

(m) Any duly incorporated nonprofit hospice organization whose principal purpose is to provide hospice services to the terminally ill.

3. This act shall take effect immediately.

Approved March 23, 2005.

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## CHAPTER 53

AN ACT concerning medical education and supplementing chapter 9 of Title 45 of the Revised Statutes.

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

**C.45:9-7.2 Findings, declarations relative to medical education in providing culturally competent health care.**

1. The Legislature finds and declares that:

- a. The findings of a recently reported, federally-funded study by Georgetown University, in conjunction with the Rand Corporation and the University of Pennsylvania, which were published in the *New England Journal of Medicine*, indicate that physicians are far less likely to refer blacks and women than white men with identical complaints of chest pain to heart specialists for cardiac catheterization; and the authors of this study suggest that the difference in referral rates stems from racial and sexual biases;
- b. These findings are the latest in a growing body of medical literature which documents race and gender-based disparities in the provision of health care, especially in the treatment of cardiovascular disease; however, according to the Surgeon General of the United States, the Georgetown University study represents the best attempt to date to document the racial attitudes of physicians as a factor in the poorer health of African Americans;
- c. It is estimated that the minority population in the United States will increase by 60% between now and the year 2010;
- d. Cultural awareness and cultural competence are essential skills for providing quality health care to a diverse patient population;
- e. Only a small percentage of medical schools nationwide currently provide some formal training in cultural competence;
- f. The Association of American Medical Colleges is working to help medical schools improve the teaching of cultural competency; and
- g. The public interest in providing quality health care to all segments of society dictates the need for a formal requirement that medical professionals be trained in the provision of culturally competent health care as a condition of licensure to practice medicine in New Jersey.

**C.45:9-7.3 Requirements for physician training in cultural competency.**

2. The State Board of Medical Examiners shall prescribe the following requirements for physician training, by regulation, in consultation with the Commission on Higher Education:
  - a. The curriculum in each college of medicine in this State shall include instruction in cultural competency designed to address the problem of race and gender-based disparities in medical treatment decisions and developed in consultation with the Association of American Medical Colleges or another nationally recognized organization which reviews medical school curricula.
  - b. Completion of cultural competency instruction as provided in subsection a. of this section shall be required as a condition of receiving a diploma from a college of medicine in this State.
  - c. A college of medicine which includes instruction in cultural competency as provided in subsection a. of this section in its curricula shall offer for continuing education credit, cultural competency training which is

provided through classroom instruction, workshops or other educational programs sponsored by the college and which meets criteria established by the board consistent with the instruction developed pursuant to subsection a. of this section.

d. A person who received a diploma from a college of medicine in this State prior to the effective date of this act, who was not required to receive and did not receive instruction in cultural competency as part of a medical school curriculum, shall be required as a condition of relicensure by the board, to document completion of cultural competency training which is offered pursuant to subsection c. of this section to the satisfaction of the board. The training required by this subsection shall be in addition to any continuing medical education required pursuant to section 10 of P.L.2001, c.307 (C.45:9-7.1).

e. A physician licensed to practice medicine in this State prior to the effective date of this act, who was not required to receive and did not receive instruction in cultural competency as part of a medical school curriculum, shall be required, as a condition of relicensure, to document completion of cultural competency training which is offered pursuant to subsection c. of this section to the satisfaction of the board no later than three years after the effective date of this act. The training required pursuant to this subsection shall be in addition to any continuing medical education required pursuant to section 10 of P.L.2001, c.307 (C.45:9-7.1).

f. The board may waive the requirement in subsection d. or e. of this section if an applicant for relicensure demonstrates to the satisfaction of the board that the applicant has attained the substantial equivalent of this requirement through completion of a similar course in his post-secondary education which meets criteria established by regulation of the board.

**C.45:9-7.4 Rules, regulations.**

3. The State Board of Medical Examiners, 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.

4. This act shall take effect immediately.

Approved March 24, 2005.

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CHAPTER 54

AN ACT concerning mercury in certain vehicles, and supplementing Title 13 of the Revised Statutes.

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

**C.13:1E-99.82 Short title.**

1. This act shall be known and may be cited as the "Mercury Switch Removal Act of 2005."

**C.13:1E-99.83 Findings, declarations relative to mercury pollution from switches in scrap vehicles.**

2. The Legislature finds and declares that mercury is a persistent and toxic pollutant that bioaccumulates in the environment and that 41 states, including New Jersey, have issued fish advisories that warn certain individuals to restrict or avoid consuming fish from bodies of water contaminated with mercury.

The Legislature further finds and declares that the United States Food and Drug Administration has advised pregnant women and women of childbearing age who may become pregnant not to eat shark, swordfish, king mackerel, and tilefish due to methyl mercury contamination, and that according to estimates of the United States Environmental Protection Agency, over 600,000 babies are born annually at risk for adverse neuro-developmental effects from in-utero exposure to methyl mercury resulting from the consumption of mercury contaminated fish.

The Legislature further finds and declares that recent findings show that historic and current use of mercury in vehicles can cause the release of as much as 10 tons of mercury to the nation's environment each year.

The Legislature further finds and declares that the vehicle recycling industry, consisting primarily of small business operators, is a vital component of the State's overall recycling efforts; that iron and steel manufacturers provide a valuable scrap metal recycling service; that reliable estimates indicate that iron and steel manufacturing plants are the largest in-State source of mercury emissions; that the main feed stock for these plants is scrap metal which includes shredded end-of-life vehicles, some of which contain mercury in switches that can be emitted to the atmosphere when the scrap metal is melted in high-temperature processes to convert it into new iron and steel products; that mercury provides no benefit to iron and steel manufacturing plants and has no role in the manufacture of iron and steel; and that the federal Environmental Protection Agency recently finalized regulations that would require certain iron and steel foundries to implement work practice standards to exclude mercury switches from the scrap metal feed materials of these foundries.

The Legislature further finds and declares that, with regard to mercury emissions, pollution prevention is more desirable than waste management and pollution control; and that removing mercury switches from end-of-life



vehicles before they are crushed or shredded and preventing mercury from entering high temperature processes is an effective way to reduce mercury emissions into the environment.

The Legislature further finds and declares that a majority of vehicle manufacturers have responsibly ceased using mercury switches in currently-manufactured vehicles; that over the next decade and beyond millions of vehicles containing mercury switches will be recycled; that vehicle mercury switch collection programs are being established across the country to protect human health and the environment; and that iron and steel foundries, vehicle recyclers and the residents of this State would benefit from a Statewide program that removes mercury switches from end-of-life vehicles.

The Legislative therefore determines that it is in the public interest of the residents of New Jersey to reduce the quantity of mercury in the environment by removing mercury switches from end-of-life vehicles in New Jersey, by creating a collection and recovery program for mercury switches removed from end-of-life vehicles in New Jersey, and by establishing a system to store the mercury collected and recovered from vehicle mercury switches in the event that environmentally appropriate management technologies are not available.

**C.13:1E-99.84 Definitions relative to mercury switches in scrap vehicles.**

3. As used in this act:

"Capture rate" means the annual removal, collection, and recovery of mercury switches as a percentage of the total number of mercury switches available for removal from end-of-life vehicles;

"Commissioner" means the Commissioner of Environmental Protection;

"Department" means the Department of Environmental Protection;

"End-of-life vehicle" means a vehicle that is sold, given or otherwise conveyed to a vehicle recycler or scrap recycling facility for the purpose of recycling;

"Manufacturer" means a person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture which is the last person in the production or assembly process of a new vehicle that utilizes mercury switches, or in the case of an imported vehicle, the importer or domestic distributor of the vehicle;

"Mercury minimization plan" means a plan for removing, collecting and recovering mercury switches from end-of-life vehicles and prepared pursuant to section 4 of this act;

"Mercury switch" means each mercury-containing capsule, commonly known as a "bullet," that is part of a convenience light switch assembly or part of an anti-lock braking system assembly installed in a vehicle. An anti-lock braking system assembly may contain more than one mercury switch;

"Scrap recycling facility" means a fixed location where machinery and equipment are utilized for processing and manufacturing scrap metal into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for sale for remelting purposes;

"Vehicle" means any passenger car, station wagon, truck, van, or sport utility vehicle with a gross vehicle weight rating of less than 12,000 pounds; and

"Vehicle recycler" means an individual or entity engaged in the business of acquiring, dismantling or destroying six or more end-of-life vehicles in a calendar year for the primary purpose of resale of their parts.

**C.13:1E-99.85 Development of mercury minimization plan for vehicles by manufacturers.**

4. a. Within 90 days after the effective date of this act, every manufacturer of vehicles sold within the State, individually or as part of a group, shall develop, in consultation with the department, a mercury minimization plan prepared pursuant to this section and submit the mercury minimization plan to the commissioner for review and approval pursuant to section 5 of this act.

b. The mercury minimization plan prepared and submitted pursuant to this section shall include, at a minimum, the following:

(1) information identifying the make, model, and year of vehicles, including current or anticipated future production models, that may contain one or more mercury switches; a description of the mercury switches; the location of these mercury switches; and the safe and environmentally sound methods for their removal from end-of-life vehicles. To the extent a manufacturer is uncertain as to the content of a switch installed during the manufacture of a vehicle, the mercury minimization plan shall presume that the switch is a mercury switch;

(2) educational materials to assist a vehicle recycler or a scrap recycling facility in undertaking a safe and environmentally sound method for the removal of the mercury switches from end-of-life vehicles, including information on the hazards related to, and the proper handling of, mercury;

(3) a proposal for the method of storage or disposal of the mercury switches, including the method of packaging and shipping mercury switches to authorized recycling, storage, or disposal facilities;

(4) a proposal for the storage of mercury switches collected and recovered from end-of-life vehicles in the event that environmentally appropriate management technologies are not available; and

(5) a plan for implementing and financing the system, in accordance with subsection d. of this section.

c. A mercury minimization plan shall, to the extent practicable, utilize the existing end-of-life vehicle recycling infrastructure. Where the existing end-of-life vehicle recycling infrastructure is not utilized, the mercury

minimization plan shall include the reasons for establishing a separate infrastructure.

d. A mercury minimization plan must provide for the financing of the removal, collection, and recovery system for mercury switches as provided in this subsection. These costs shall be borne by the manufacturers of vehicles sold in the State, and the manufacturers shall develop a method that ensures the prompt payment to vehicle recyclers, scrap recycling facilities and the department, for costs associated with mercury switch removal and disposal. Costs shall include, but not be limited to, the following:

(1) a minimum of \$2 for each mercury switch removed by a vehicle recycler pursuant to subsection a. of section 6 of this act as partial compensation for the labor and other costs incurred by a vehicle recycler in the removal of the mercury switch;

(2) a minimum of \$2 for each mercury switch removed by a scrap recycling facility pursuant to subsection b. of section 6 of this act as partial compensation for the labor and other costs incurred by a scrap recycling facility in the removal of the mercury switch;

(3) \$0.25 for each mercury switch removed by a vehicle recycler pursuant to subsection a. of section 6 of this act or by a scrap recycling facility pursuant to subsection b. of section 6 of this act as partial compensation for the department for costs incurred in administering and enforcing the provisions of this act;

(4) packaging in which to transport mercury switches to recycling, storage or disposal facilities;

(5) shipping of mercury switches to recycling, storage or disposal facilities;

(6) recycling, storage or disposal of the mercury switches;

(7) the preparation and distribution to vehicle recyclers and scrap recycling facilities of the educational materials required pursuant to paragraph (2) of subsection b. of this section; and

(8) maintenance of all appropriate record-keeping systems.

e. Within 30 days after the effective date of this act, every manufacturer of vehicles sold within the State, individually or as part of a group, shall provide to vehicle recyclers and scrap recycling facilities containers suitable for storing mercury switches until such time that vehicle recyclers and scrap recycling facilities can be reimbursed pursuant to this section.

f. Manufacturers of vehicles sold within the State shall provide recyclers or scrap recycling facilities with reimbursement for each mercury switch in the amount set pursuant to this section regardless of when these switches were removed from the vehicles, provided that the vehicle recyclers or scrap recycling facilities record and provide the Vehicle Identification

Number (VIN) associated with each mercury switch as required pursuant to section 6 of this act.

**C.13:1E-99.86 Approval, disapproval, conditional approval of mercury minimization plan.**

5. a. Within 120 days after receipt of a mercury minimization plan, the commissioner shall approve, disapprove, or conditionally approve the entire mercury minimization plan. The commissioner may solicit input from representatives of vehicle recyclers, scrap recycling facilities, and other stakeholders as the commissioner deems appropriate.

(1) If the entire mercury minimization plan is approved, the manufacturer shall begin implementation within 30 days after receipt of approval or as otherwise agreed to by the commissioner. If the entire mercury minimization plan is disapproved, the commissioner shall inform the manufacturer as to the reasons for the disapproval. The manufacturer shall have 30 days thereafter to submit a new mercury minimization plan.

(2) The commissioner may approve those parts of a mercury minimization plan that meet the requirements of section 4 of this act and disapprove the parts that do not comply with the requirements of section 4 of this act. The manufacturer shall implement the approved parts within 30 days after receipt of approval or as otherwise agreed to by the commissioner, and submit a revised mercury minimization plan for the disapproved parts within 30 days after receipt of notification of the disapproval of the commissioner. The commissioner shall review, and approve, conditionally approve, or disapprove a revised mercury minimization plan within 30 days after receipt.

(3) If, at the conclusion of the time period of 120 days after receipt of a mercury minimization plan, the commissioner has neither approved nor disapproved the mercury minimization plan pursuant to paragraph (1) or (2) of this subsection, the mercury minimization plan shall be considered to be conditionally approved. A manufacturer, subject to any modifications required by the commissioner, shall implement a conditionally approved mercury minimization plan within 30 days after receipt of approval or as otherwise agreed to by the commissioner.

b. The commissioner shall reserve the right to complete, at the conclusion of a time period 240 days after the date of enactment of this act, on behalf of a manufacturer, any portion of a mercury minimization plan that has not been approved pursuant to this section.

c. The commissioner may review a mercury minimization plan approved pursuant to this section and recommend modifications thereto at any time upon a finding that the approved mercury minimization plan is deficient.

**C.13:1E-99.87 Removal of mercury switches.**

6. a. Commencing 30 days after the approval or conditional approval of a mercury minimization plan pursuant to section 5 of this act, a vehicle recycler who sells, gives or otherwise conveys ownership of an end-of-life vehicle to a scrap recycling facility for recycling shall remove all mercury switches identified in the approved mercury minimization plan from the end-of-life vehicle prior to delivery to a scrap recycling facility, unless a mercury switch is inaccessible due to significant damage to the vehicle in the area surrounding the location of the mercury switch, in which case such damage shall be noted on the normal business records of the vehicle recycler who delivered the end-of-life vehicle to the scrap recycling facility.

b. Notwithstanding subsection a. of this section, a scrap recycling facility may agree to accept an end-of-life vehicle, which has not been intentionally flattened, crushed or baled, containing mercury switches, in which case the scrap recycling facility shall be responsible for removing the mercury switches identified in the mercury minimization plan approved pursuant to section 5 of this act before the end-of-life vehicle is intentionally flattened, crushed, baled, or shredded.

c. A vehicle recycler or scrap recycling facility who removes mercury switches pursuant to subsection a. or subsection b. of this section shall maintain records documenting the number of mercury switches collected, the number of end-of-life vehicles containing mercury switches, and the number of end-of-life vehicles processed for recycling. The records shall include the Vehicle Identification Number (VIN) of each vehicle from which one or more mercury switches were removed, and the number of mercury switches removed from that vehicle. These records shall be made available for review by the department upon the request of the department.

d. No person shall represent that mercury switches have been removed from an end-of-life vehicle being sold, given or otherwise conveyed for recycling if that person has not removed the mercury switches, or arranged with another person to remove the mercury switches.

e. Upon removal, mercury switches shall be collected, stored, transported, and otherwise handled in accordance with the mercury minimization plan approved pursuant to section 5 of this act.

f. Upon removal, mercury switches shall be collected, stored, transported, and otherwise handled in accordance with the provisions of the rules and regulations concerning universal waste adopted by the department pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and the "New Jersey Statewide Mandatory Source Separation and Recycling Act," P.L.1987, c.102 (C.13:1E-99.11 et al.), as applicable.

**C.13:1E-99.88 Manufacturer's report to commissioner relative to implementation of mercury minimization plan.**

7. a. One year after the implementation of a mercury minimization plan approved pursuant to section 5 of this act, and annually thereafter, a manufacturer subject to section 4 of this act shall, individually or as part of a group, report to the commissioner concerning the implementation of the mercury minimization plan. The report shall include, but need not be limited to, the following: (1) a detailed description and documentation of the capture rate achieved, with the goal of achieving a mercury switch capture rate of at least 90 percent, consistent with the principle that mercury switches shall be recovered unless the mercury switch is inaccessible due to significant damage to the end-of-life vehicle in the area surrounding where the mercury switch is located; (2) a description of additional or alternative actions that may be implemented to improve the mercury minimization plan and its implementation in the event that a mercury switch capture rate of at least 90 percent is not achieved; (3) the number of mercury switches collected, the number of end-of-life vehicles containing mercury switches, the number of end-of-life vehicles processed for recycling, and a description of how the mercury switches were managed; and (4) a description of the amounts paid to cover the costs of implementing the mercury minimization plan.

b. The commissioner may discontinue the requirement for the annual report pursuant to subsection a. of this section upon a finding that mercury switches in end-of-life vehicles no longer pose a significant threat to the environment or to public health.

**C.13:1E-99.89 Violations, civil action, penalty.**

8. a. Whenever the commissioner finds that a person has violated any provision of this act, or any rule or regulation adopted pursuant thereto, the commissioner may:

- (1) issue an order requiring the person found to be in violation to comply in accordance with subsection b. of this section;
- (2) bring a civil action in accordance with subsection c. of this section;
- (3) levy a civil administrative penalty in accordance with subsection d. of this section;
- (4) bring an action for a civil penalty in accordance with subsection e. of this section; or
- (5) petition the Attorney General to bring a criminal action in accordance with subsection f. of this section.

Pursuit of any of the remedies specified under this section shall not preclude the seeking of any other remedy specified.

b. Whenever the commissioner finds that a person has violated this act, or any rule or regulation adopted pursuant thereto, the commissioner may

issue an order specifying the provision or provisions of this act, or the rule or regulation adopted pursuant thereto, of which the person is in violation, citing the action that constituted the violation, ordering abatement of the violation, and giving notice to the person of the person's right to a hearing on the matters contained in the order. The ordered person shall have 20 calendar days from receipt of the order within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order. If no hearing is requested, the order shall become final after the expiration of the 20-day period. A request for hearing shall not automatically stay the effect of the order.

c. The commissioner may institute an action or proceeding in the Superior Court for injunctive and other relief to enforce the provisions of this act and to prohibit and prevent a violation of this act, or of any rule or regulation adopted pursuant thereto, and the court may proceed in the action in a summary manner. In any such proceeding the court may grant temporary or interlocutory relief.

Such relief may include, singly or in combination:

(1) a temporary or permanent injunction;  
(2) assessment of the violator for the reasonable costs of any inspection that led to the establishment of the violation, and for the reasonable costs of preparing and litigating the case under this subsection.

d. The commissioner may assess a civil administrative penalty of not more than \$7,500 for a first offense, not more than \$10,000 for a second offense and not more than \$25,000 for a third and every subsequent offense. Each day that a violation continues shall constitute an additional, separate, and distinct offense.

No assessment may be levied pursuant to this section until after the violator has been notified by certified mail or personal service. The notice shall include a reference to the section of the statute, rule, regulation, or order violated, a concise statement of the facts alleged to constitute a violation, a statement of the amount of the civil administrative penalties to be imposed, and a statement of the person's right to a hearing. The ordered person shall have 20 calendar days from receipt of the notice within which to deliver to the commissioner a written request for a hearing.

After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 20-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy a civil administrative penalty is in addition to all other enforcement provisions in this act, and the payment of any assessment shall

not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The commissioner may compromise any civil administrative penalty assessed under this section in an amount the commissioner determines appropriate.

e. A person who violates this act, or any rule or regulation adopted pursuant thereto, shall be liable for a penalty of not more than \$7,500 per day, to be collected in a civil action commenced by the commissioner.

A person who violates an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay an administrative assessment in full pursuant to subsection d. of this section is subject upon order of a court to a civil penalty not to exceed \$50,000 per day of each violation.

Any penalty imposed pursuant to this subsection may be collected, with costs, in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this act.

f. A person who willfully or negligently violates this act shall be guilty, upon conviction, of a crime of the fourth degree and shall be subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation. A second offense under this subsection shall subject the violator to a fine of not less than \$5,000 nor more than \$50,000 per day of violation. A person who knowingly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under this act, or who falsifies, tampers with or knowingly renders inaccurate, any monitoring device or method required to be maintained pursuant to this act, shall, upon conviction, be subject to a fine of not more than \$10,000.

**C.13:1E-99.90 Revision of policies of Department of the Treasury relative to purchase of vehicles.**

9. Notwithstanding any other policies and guidelines for the procurement of vehicles to the contrary, the Department of the Treasury shall, within one year after the effective date of this act, revise its policies, rules and procedures to give priority and preference to the purchase of vehicles that do not contain mercury, taking into consideration competition, price, availability and performance.

10. This act shall take effect immediately.

Approved March 24, 2005.



## CHAPTER 55

AN ACT concerning payment for patients in psychiatric facilities 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.1987, c.116 (C.30:4-27.2) is amended to read as follows:

**C.30:4-27.2 Definitions.**

2. As used in this act:
  - a. "Chief executive officer" means the person who is the chief administrative officer of an institution or psychiatric facility.
  - b. "Clinical certificate" means a form prepared by the division and approved by the Administrative Office of the Courts, that is completed by the psychiatrist or other physician who has examined the person who is subject to commitment within three days of presenting the person for admission to a facility for treatment, and which states that the person is in need of involuntary commitment. The form shall also state the specific facts upon which the examining physician has based his conclusion and shall be certified in accordance with the Rules of the Court. A clinical certificate may not be executed by a person who is a relative by blood or marriage to the person who is being screened.
  - c. "Clinical director" means the person who is designated by the director or chief executive officer to organize and supervise the clinical services provided in a screening service, short-term care or psychiatric facility. The clinical director shall be a psychiatrist, however, those persons currently serving in the capacity will not be affected by this provision. This provision shall not alter any current civil service laws designating the qualifications of such position.
  - d. "Commissioner" means the Commissioner of Human Services.
  - e. "County counsel" means the chief legal officer or advisor of the governing body of a county.
  - f. "Court" means the Superior Court or a municipal court.
  - g. "Custody" means the right and responsibility to ensure the provision of care and supervision.
  - h. "Dangerous to self" means that by reason of mental illness the person has threatened or attempted suicide or serious bodily harm, or has behaved in such a manner as to indicate that the person is unable to satisfy his need for nourishment, essential medical care or shelter, so that it is probable that

substantial bodily injury, serious physical debilitation or death will result within the reasonably foreseeable future; however, no person shall be deemed to be unable to satisfy his need for nourishment, essential medical care or shelter if he is able to satisfy such needs with the supervision and assistance of others who are willing and available.

i. "Dangerous to others or property" means that by reason of mental illness there is a substantial likelihood that the person will inflict serious bodily harm upon another person or cause serious property damage within the reasonably foreseeable future. This determination shall take into account a person's history, recent behavior and any recent act or threat.

j. "Department" means the Department of Human Services.

k. "Director" means the chief administrative officer of a screening service, a short-term care facility or a special psychiatric hospital.

l. "Division" means the Division of Mental Health Services in the Department of Human Services.

m. "In need of involuntary commitment" means that an adult with mental illness, whose mental illness causes the person to be dangerous to self or dangerous to others or property and who is unwilling to be admitted to a facility voluntarily for care, and who needs care at a short-term care, psychiatric facility or special psychiatric hospital because other services are not appropriate or available to meet the person's mental health care needs.

n. "Institution" means any State or county facility providing inpatient care, supervision and treatment for persons with developmental disabilities; except that with respect to the maintenance provisions of Title 30 of the Revised Statutes, institution also means any psychiatric facility for the treatment of persons with mental illness.

o. "Mental health agency or facility" means a legal entity which receives funds from the State, county or federal government to provide mental health services.

p. "Mental health screener" means a psychiatrist, psychologist, social worker, registered professional nurse or other individual trained to do outreach only for the purposes of psychological assessment who is employed by a screening service and possesses the license, academic training or experience, as required by the commissioner pursuant to regulation; except that a psychiatrist and a State licensed clinical psychologist who meet the requirements for mental health screener shall not have to comply with any additional requirements adopted by the commissioner.

q. "Mental hospital" means, for the purposes of the payment and maintenance provisions of Title 30 of the Revised Statutes, a psychiatric facility.

r. "Mental illness" means a current, substantial disturbance of thought, mood, perception or orientation which significantly impairs judgment,

capacity to control behavior or capacity to recognize reality, but does not include simple alcohol intoxication, transitory reaction to drug ingestion, organic brain syndrome or developmental disability unless it results in the severity of impairment described herein. The term mental illness is not limited to "psychosis" or "active psychosis," but shall include all conditions that result in the severity of impairment described herein.

s. "Patient" means a person over the age of 18 who has been admitted to, but not discharged from a short-term care or psychiatric facility.

t. "Physician" means a person who is licensed to practice medicine in any one of the United States or its territories, or the District of Columbia.

u. "Psychiatric facility" means a State psychiatric hospital listed in R.S.30:1-7, a county psychiatric hospital, or a psychiatric unit of a county hospital.

v. "Psychiatrist" means a physician who has completed the training requirements of the American Board of Psychiatry and Neurology.

w. "Psychiatric unit of a general hospital" means an inpatient unit of a general hospital that restricts its services to the care and treatment of persons with mental illness who are admitted on a voluntary basis.

x. "Psychologist" means a person who is licensed as a psychologist by the New Jersey Board of Psychological Examiners.

y. "Screening certificate" means a clinical certificate executed by a psychiatrist or other physician affiliated with a screening service.

z. "Screening service" means a public or private ambulatory care service designated by the commissioner, which provides mental health services including assessment, emergency and referral services to persons with mental illness in a specified geographic area.

aa. "Screening outreach visit" means an evaluation provided by a mental health screener wherever the person may be when clinically relevant information indicates the person may need involuntary commitment and is unable or unwilling to come to a screening service.

bb. "Short-term care facility" means an inpatient, community based mental health treatment facility which provides acute care and assessment services to a person with mental illness whose mental illness causes the person to be dangerous to self or dangerous to others or property. A short-term care facility is so designated by the commissioner and is authorized by the commissioner to serve persons from a specified geographic area. A short-term care facility may be a part of a general hospital or other appropriate health care facility and shall meet certificate of need requirements and shall be licensed and inspected by the Department of Health and Senior Services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and in accordance with standards developed jointly with the Commissioner of Human Services.

cc. "Special psychiatric hospital" means a public or private hospital licensed by the Department of Health and Senior Services to provide voluntary and involuntary mental health services, including assessment, care, supervision, treatment and rehabilitation services to persons with mental illness.

dd. "Treatment team" means one or more persons, including at least one psychiatrist or physician, and may include a psychologist, social worker, nurse and other appropriate services providers. A treatment team provides mental health services to a patient of a screening service, short-term care or psychiatric facility.

ee. "Voluntary admission" means that adult with mental illness, whose mental illness causes the person to be dangerous to self or dangerous to others or property and is willing to be admitted to a facility voluntarily for care, needs care at a short-term care or psychiatric facility because other facilities or services are not appropriate or available to meet the person's mental health needs. A person may also be voluntarily admitted to a psychiatric facility if his mental illness presents a substantial likelihood of rapid deterioration in functioning in the near future, there are no appropriate community alternatives available and the psychiatric facility can admit the person and remain within its rated capacity.

ff. "County adjuster" means the person appointed pursuant to R.S.30:4-34.

2. R.S.30:4-34 is amended to read as follows:

**County adjuster for commitment of persons with mental illness.**

30:4-34. In each county where county counsel, county solicitor, county clerk, county physician or county probation officer, or any of their assistants is in charge and supervision of the preparation of papers relating to the commitment of persons with mental illness, such person shall be known as "county adjuster" and such duties shall, except as otherwise provided in section 2 of P.L.1981, c.403 (C.30:4-34.1), continue to pertain to the office of such county counsel, county solicitor, county clerk, county physician or county probation officer or their successors in office, but, notwithstanding the foregoing, in case any other county official or employee shall be at the time of the adoption of this act, in charge and supervision of the preparation of papers relating to the commitment of persons with mental illness, the governing body of the county may designate that county official or employee as county adjuster. In all other counties the county governing body shall designate some county official or employee as county adjuster.

The county adjuster shall have charge and supervision of the preparation of papers relating to the commitment of persons with mental illness in such

county, and in cases arising in other counties in which the legal settlement appears to be in his county. Classification under civil service rules shall not be affected by reason of such designation or additional duties, and additional compensation, if any, for such services may be fixed by the county governing body and paid in the same manner as other county employees are paid. Each county governing body shall notify the various institutions for persons with mental illness of the name and address of the county adjuster.

The judge of the Superior Court within the county may appoint the county adjuster to act as referee for the purpose of taking testimony bearing solely on the question of legal settlement and the financial ability of the person with mental illness or the parent of the person with mental illness, if the person is under the age of 18, to pay the cost of maintenance, in accordance with the provisions of R.S.30:4-60, and shall make return to the court of his findings, conclusions and recommendations. Such findings, conclusions and recommendations shall be subject to the approval of the court and shall not be effective until incorporated in an appropriate order or judgment of the court. The county adjuster, acting as such referee, may subpoena witnesses and compel their attendance on forms approved by the court.

3. R.S.30:4-56 is amended to read as follows:

**Judgment of commitment; expense; filing fee.**

30:4-56. The final judgment of commitment shall contain a determination of the legal settlement of the person with mental illness and shall provide for the payment of the expense of the care and treatment of the person. The judgment, together with the complaint or a certified copy thereof, shall be filed in the office of the clerk of the county, who shall forward within 10 days after receipt of same a certified copy of the judgment, and in all cases a certified copy of the complaint on which the judgment is founded, to the chief executive officer of the institution to which the person is committed.

In the case of a person with mental illness against whom a final judgment of commitment has been entered, the county adjuster shall, within a reasonable period of time after the person is discharged from a psychiatric facility, provide the person or the person's parent, if the person is under the age of 18, with notice of the amount required to be paid by the terms of the court order.

At the time of making the final judgment, the court shall further tax a filing fee of \$1.00 to be paid to the clerk for the use of the county in each case, which fee shall be paid in all nonindigent cases by the person made chargeable in the judgment, and in all indigent cases by the county in which the action is had unless the indigent person is chargeable to another county in which case such other county shall be liable for the fee.

## 4. R.S.30:4-60 is amended to read as follows:

**Payments, determination of amount, liability therefor.**

30:4-60. a. If the court shall determine that the person has a mental illness and is in need of treatment at a psychiatric facility, it may determine the legal settlement of the person and, consistent with the laws governing civil commitment and the Rules of Court, direct the admission or hospitalization of the person to the care of the Commissioner of Human Services for treatment in a psychiatric facility, short-term care facility or special psychiatric hospital in this State.

b. If the Department of Human Services determines that the person has a developmental disability and is eligible for functional services from the Division of Developmental Disabilities, the department, using a formula of financial ability to pay as promulgated annually by the Department of the Treasury, shall determine if the person with a developmental disability has sufficient income, assets, resources or estate to pay for his maintenance as fixed by the State Board of Human Services, or is able to make any payment towards his maintenance, or if the person's chargeable relatives or other persons chargeable by contract are able to pay the person's maintenance or make any payment toward the person's maintenance on the person's behalf. The department shall determine the legal settlement of the developmentally disabled person pursuant to section 86 of P.L.1965, c.59 (C.30:4-165.3).

The department shall send written notice of the periodic payment amount to the person or his parent or guardian, chargeable relative or other person chargeable by contract for the person's support. All required payments shall be made directly to the department unless otherwise specified in the notice. The notice may, in the discretion of the department, contain such direction as may seem proper concerning security to be given for the payment. The payment notice shall be separate and independent of any order of commitment to the care and custody of the commissioner or any order of guardianship.

The department shall annually review and revise, as appropriate, its payment calculations. If the financial circumstances of the person or persons chargeable by law or contract for the support of the developmentally disabled person change prior to the annual review, the chargeable person or persons shall immediately notify the department in writing.

c. (1) A person with mental illness who is 18 years of age or older and is being treated in a psychiatric facility as defined in section 2 of P.L.1987, c.116 (C.30:40-27.2) shall be liable for the full cost of his treatment, maintenance and all necessary and related expenses of the person's hospitalization until he is determined to be ineligible for or has exhausted any third party insurance benefits or medical assistance program that will pay an amount

toward the facility's bill. The obligation by the person with mental illness for the remainder of the facility's bill, after the credit for all available third party insurance payments or medical assistance program payment, will be in an amount based upon the sliding scale fee schedule established for charity care pursuant to subsection b. of section 10 of P.L.1992, c.160 (C.26:2H-18.60).

(2) The obligation of the parent of a person with mental illness under the age of 18 for the remainder of the facility's bill shall be based upon the lesser of the sliding scale fee schedule established for charity care pursuant to subsection b. of section 10 of P.L.1992, c.160 (C.26:2H-18.60), or the formula of financial ability to pay as promulgated annually by the Department of the Treasury pursuant to subsection b. of this section.

(3) A person with mental illness or a person responsible under a court order for the cost of care and maintenance of a person with mental illness who, without good cause, (a) refuses to submit information and authorizations sufficient to enable the facility to access any available third-party payer, or (b) refuses to apply for public medical assistance for which the person with mental illness may be eligible, shall be responsible for the full cost of the person's care and maintenance at the facility without the application of the criteria set forth in paragraphs (1) and (2) of this subsection.

(4) Based upon the criteria set forth in paragraphs (1) and (2) of this subsection, the Department of Human Services or county adjuster in the county of settlement, as applicable, shall make a determination of the amount the person with mental illness who is 18 years of age or older, or the parent of a person with mental illness under the age of 18, shall be liable to contribute toward the cost of the person's treatment, maintenance and all necessary and related expenses of the person's hospitalization. The liability may be enforced by the Commissioner of Human Services in the manner set forth in section 1 of P.L.1962, c.207 (C.30:4-75.1).

(5) In the case of a person with mental illness who is married, the department shall establish a spousal share of the combined assets of the couple that shall be preserved for the noninstitutionalized spouse and immune from execution to satisfy the person's liability to contribute toward the cost of treatment, maintenance and all necessary and related expenses of the person's hospitalization. In order to determine the spousal share of the combined assets to be preserved, the Commissioner of Human Services shall employ the same methodology used by the State Medicaid program to determine the resources that are preserved for the needs of the community spouse of an institutionalized individual in accordance with N.J.A.C.10:71-4.8.

(6) The Commissioner of Human Services shall act on any request by a person with mental illness who is 18 years of age or older, or the parent of

a person with mental illness under the age of 18, to compromise for settlement of the obligation established pursuant to this section. With respect to the request, the commissioner shall allow the person or parent to retain adequate funds to:

- (a) maintain the person's or parent's housing and usual standard of living in the community;
- (b) provide for any necessary medical expenses or special needs;
- (c) support any minor, disabled, elderly or other dependent;
- (d) establish a trust to ensure future self-sufficiency; or
- (e) provide for any other genuine financial needs.

Requests to compromise for settlement of the obligation shall be liberally granted by the commissioner and shall promote the person's or his parent's opportunity to obtain and maintain employment, purchase property, both real and personal, and achieve full reintegration into the community, as applicable. The commissioner shall ensure that all persons and parents are notified of their right to request a compromise and the procedure for doing so.

5. R.S.30:4-63 is amended to read as follows:

**Commitment of person with mental illness, payment.**

30:4-63. a. The court may, after final hearing, commit any person with mental illness to any State or county psychiatric institution irrespective of the person's legal settlement where provision is made for his care and maintenance, in an amount approved by the State Board of Human Services or by the board of chosen freeholders, as the case may be. The person may remain as a full paying patient in such institution as long as such sum shall be regularly paid out of the estate of the person, or by the person or persons chargeable by law with his care and maintenance, or under contract. In the event that such sum cannot be paid because of a change in the financial circumstances of the person with mental illness or his legally responsible relatives then the court may make such order as may be necessary with regard to the manner and the amount of maintenance which shall be paid on behalf of the person with mental illness and by whom.

b. The Department of Human Services may admit a person found eligible for functional services from the Division of Developmental Disabilities to a residential functional services placement irrespective of the person's legal settlement if provision is made for the payment of the full cost of the person's care and maintenance, in an amount approved by the State Board of Human Services. The person may remain as a full paying person in the residential functional services placement, or in another residential functional services placement deemed appropriate by the department, as long as the full per capita amount for the placement is regularly paid from the person's



income, benefits, assets, resources or estate, or by the person chargeable by law or under contract with his care and maintenance.

6. R.S.30:4-66 is amended to read as follows:

**Liability for support.**

30:4-66. Every person supported in a State or county charitable institution or other residential functional service pursuant to section 13 of P.L.1965, c.59 (C.30:4-25.1) shall be personally liable for his maintenance and for all necessary expenses incurred by the institution or other residential functional service in his behalf and the father or mother of a child under 18 years of age, severally and respectively, being of sufficient ability, of every person so confined, whose estate is not sufficient for his support, shall support, and maintain the patient in the institution or other residential functional service, as the case may be, in such manner and to such an amount as the court shall direct pursuant to subsection c. of R.S.30:4-60 in the case of mentally ill patients, and in the case of developmentally disabled persons, as required pursuant to subsection b. of R.S.30:4-60. But no payment shall be ordered to be made by a chargeable relative 55 years of age or over except with respect to the maintenance of his or her natural or adopted child under the age of 18 years.

7. Section 1 of P.L.1938, c.239 (C.30:4-80.1) is amended to read as follows:

**C.30:4-80.1 Lien against property of persons confined, receiving services.**

1. Every institution or other residential service maintained in whole or in part by State or county funds, which provides inpatient care, supervision and treatment for persons with developmental disabilities, shall have a lien against the property of a person receiving functional services from that institution or service for the total cost of the care and maintenance of the person in the institution at the per capita cost rate of maintenance fixed in accordance with law. The lien shall also attach to the real and personal property of any person chargeable by law with the support and maintenance of the person and against whom a court of competent jurisdiction has entered an order directing the person to pay all or a part of the cost of maintaining the person in an institution, provided that the amount of the lien shall not exceed the amount of maintenance required to be paid by the order of court. The lien shall also attach to the real and personal property of any person chargeable by law with the support and maintenance of the person pursuant to subsection b. of R.S.30:4-60, but the amount of the lien shall not exceed the amount of maintenance to be paid. Liens under this section, when properly filed as set forth herein, shall have priority over all unrecorded

encumbrances and shall be at the rate to be determined as provided in Title 30 of the Revised Statutes.

**C.30:4-80.6a Liens, certain; extinguished.**

8. All liens filed against a person treated at a psychiatric facility as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2), prior to the effective date of P.L.2005, c.55, are hereby extinguished and shall have no legal effect. No new liens shall be filed by a psychiatric facility on or after the effective date of P.L.2005, c.55, against a person treated at the facility.

9. Section 6 of P.L.1938, c. 239 (C. 30:4-80.6) is amended to read as follows:

**C.30:4-80.6 Discharge of liens, certain.**

6. a. Upon the request of a person treated at a psychiatric facility as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2), or that person's legally responsible relative, against whom a lien was recorded prior to the effective date of P.L.2005, c.55, the Department of Human Services shall arrange for the discharge of the lien by the clerk of the county, register of deeds and mortgages or clerk of the Superior Court, as the case may be. No fee shall be charged by the clerk of the county, register of deeds and mortgages or clerk of the Superior Court for the removal of a lien pursuant to this section.

b. To discharge any lien or liens filed hereunder, the chief executive officer of the institution claiming the lien or his duly constituted agent shall file with the clerk of the county, register of deeds and mortgages or clerk of the Superior Court, as the case may be, a duly acknowledged certificate setting forth the fact that the institution desires to discharge the lien of record.

c. In the case of any lien not covered by the provisions of subsection a. of this section, the Commissioner of Human Services is hereby authorized to compromise for settlement any lien filed under the provisions of this act for the maintenance of any patient. A memorandum of the compromise and settlement shall be entered in the records of the institution affected thereby and shall be sufficient authorization for a complete discharge of the lien.

**C.30:4-60a Regulations concerning sliding scale fee and patient liability.**

10. The Department of Human Services shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) concerning the establishment of a sliding scale fee schedule and determination of patient liability to contribute to the cost of care and maintenance pursuant to R.S.30:4-60.

11. This act shall take effect on the 180th day after enactment; except that the provisions of section 8 of this act shall take effect immediately. The

Commissioner of Human Services may take such anticipatory administrative action in advance of the effective date as shall be necessary for the implementation of the act.

Approved March 24, 2005.

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CHAPTER 56

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, 2005 and regulating the disbursement thereof," approved June 30, 2004 (P.L.2004, c.71).

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

1. Upon certification by the Director of the Division of Budget and Accounting in the Department of the Treasury that federal funds to support the expenditures listed below are available, the following sum is appropriated:

**10 DEPARTMENT OF AGRICULTURE**

***40 Community Development and Environmental Management***

***49 Agricultural Resources, Planning and Regulation***

06-3360 Marketing and Development Services . . . . .	\$1,000,000
Total Appropriation, Agricultural Resources, Planning and Regulation . . . . .	\$1,000,000

*Federal Funds:*

Garden State Ethanol Project . . . . .	(\$1,000,000)
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2. This act shall take effect immediately.

Approved March 28, 2005.

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CHAPTER 57

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, 2005 and regulating the disbursement thereof," approved June 30, 2004 (P.L.2004, c.71).

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

1. Upon certification by the Director of the Division of Budget and Accounting in the Department of the Treasury that federal funds to support the expenditures listed below are available, the following sum is appropriated:

**10 DEPARTMENT OF AGRICULTURE**  
**40 *Community Development and Environmental Management***  
**49 *Agricultural Resources, Planning and Regulation***

02-3320 Plant Pest and Disease Control . . . . .	\$1,300,000
Total Appropriation, Agricultural Resources, Planning and Regulation . . . . .	\$1,300,000

*Federal Funds:*

Asian Longhorn Beetle Program . . . . . (\$1,300,000)

2. This act shall take effect immediately.

Approved March 28, 2005.

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CHAPTER 58

AN ACT concerning the State Commission of Investigation and amending P.L.1968, c.266, P.L.1996, c.44, P.L.1979, c.254, P.L.1993, c.29 and supplementing Title 52 of the Revised Statutes.

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

1. Section 1 of P.L.1968, c.266 (C.52:9M-1) is amended to read as follows:

**C.52:9M-1 State Commission of Investigation.**

1. There is hereby created a permanent State Commission of Investigation. The commission shall consist of four members, to be known as commissioners.

Two members of the commission shall be appointed by the Governor. One each shall be appointed by the President of the Senate and by the Speaker of the General Assembly. Each member shall serve for a term of

four years and until the appointment and qualification of his successor. No person shall serve, in succession, more than two four-year terms and any portion of an unexpired term as a member of the commission. The Governor shall designate one of the members to serve as chairman of the commission.

The members of the commission appointed by the President of the Senate and the Speaker of the General Assembly and at least one of the members appointed by the Governor shall be attorneys admitted to the bar of this State. No member or employee of the commission shall hold any other public office or public employment. No member of the commission shall have held any elective office or have been a candidate for any elective office within the one year preceding his appointment to the commission. No member of the commission shall hold any elective office or be a candidate for any elective office within the one year subsequent to his termination of service as a member of the commission. Not more than two of the members shall belong to the same political party.

Each member of the commission shall receive an annual salary of \$35,000. Each member shall also be entitled to reimbursement for his expenses actually and necessarily incurred in the performance of his duties, including expenses of travel outside of the State.

Vacancies on the commission shall be filled for the unexpired terms in the same manner as original appointments. Vacancies on the commission shall be filled by the appropriate appointing authority within 120 days. If the appropriate appointing authority does not fill a vacancy within that time period, the vacancy shall be filled by the Chief Justice of the Supreme Court within 60 days. A vacancy on the commission shall not impair the right of the remaining members to exercise all the powers of the commission.

Any determination made by the commission shall be by majority vote. "Majority vote" means the affirmative vote of at least three members of the commission if there are no vacancies on the commission or the affirmative vote of at least two members of the commission if there is a vacancy.

2. Section 8 of P.L.1996, c.44 (C.52:9M-12.2) is amended to read as follows:

**C.52:9M-12.2 Notification to person criticized; response.**

8. a. The commission shall make a good faith effort to notify any person whose conduct it intends to criticize in a proposed report.

b. The notice required under subsection a. of this section shall describe the general nature and the context of the criticism, but need not

include any portion of the proposed report or any testimony or evidence upon which the report is based.

c. A person receiving notice under subsection a. of this section shall have 15 days to submit a response, signed by that person under oath or affirmation. Thereafter the commission shall consider the response and shall include the response in the report together with any relevant evidence submitted by that person; except that the commission may redact from the response any discussion or reference to a person who has not received a notice under subsection a. of this section.

d. Nothing in this section shall be construed to prevent the commission from granting such further rights and privileges, as it may determine, to any person whose conduct it intends to criticize in a proposed report.

e. Notwithstanding the provisions of R.S.1:1-2, nothing in this section shall be deemed to apply to any entity other than a natural person.

3. Section 15 of P.L.1968, c.266 (C.52:9M-15) is amended to read as follows:

**C.52:9M-15 Disclosure of information, violation, penalties; privilege, certain; OPRA not applicable.**

15. a. Any person conducting or participating in any examination or investigation who shall disclose or any person who, coming into possession of or knowledge of the substance of any examination or investigation, shall disclose, or any person who shall cause, encourage or induce a person, including any witness or informant, to disclose, other than as authorized or required by law, to any person other than the commission or an officer having the power to appoint one or more of the commissioners the name of any witness examined, or any information obtained or given upon such examination or investigation, except as directed by the Governor or commission, or any person other than a member or employee of the commission or any person entitled to assert a legal privilege who, coming into possession of or knowledge of the substance of any pending examination or investigation who fails to advise the Attorney General and the commission of such possession or knowledge and to deliver to the Attorney General and the commission any documents or materials containing such information, shall be guilty of a misdemeanor until September 1, 1979 when such person shall be guilty of a crime of the third degree. Any member or employee of the commission who shall violate this section shall be dismissed from his office or discharged from his employment.

b. Any statement made by a member of the commission or an employee thereof relevant to any proceedings before or investigative activities of the commission shall be absolutely privileged and such privilege shall

be a complete defense to any action for libel or slander; provided, however, that nothing in this subsection shall be deemed to grant immunity for conduct that was outside the scope of his employment or constituted a crime, actual fraud, actual malice or willful misconduct.

c. Nothing contained in this section shall in any way prevent the commission from furnishing information or making reports, as required by this act, or from furnishing information to the Legislature, or to a standing reference committee thereof, pursuant to a resolution duly adopted by a standing reference committee or pursuant to a duly authorized subpoena or subpoena duces tecum, provided, however, that nothing herein shall be deemed to preclude the commission from seeking from a court of competent jurisdiction a protective order to avoid compliance with such subpoena or duces tecum.

d. Nothing in P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented by P.L.2001, c.404, shall be construed to require the commission to disclose any information acquired or any records created, except as provided by this section.

4. Section 2 of P.L.1979, c.254 (C.52:9M-1.1) is amended to read as follows:

**C.52:9M-1.1 Terms of member appointed after December 1, 1978.**

2. Terms of members appointed after December 1, 1978. Notwithstanding the provisions of section 1 of this act (C.52:9M-1) and in order to effect the staggering of the terms of members of the commission notwithstanding the term for which they were originally appointed, the terms of the members appointed after December 1, 1978 shall be as follows: the first member appointed by the Governor, 36 months; the second member appointed by the Governor, 18 months; the member appointed by the President of the Senate, 30 months; the member appointed by the Speaker of the General Assembly, 24 months. Thereafter, the terms of the members shall be as provided in P.L.1968, c.266, s.1 (C.52:9M-1).

**C.52:9M-1.2 Terms of member of the State Commission of Investigation serving on or appointed after the effective date of P.L.2005, c.58 (C.52:9M-1.2 et al)**

5. Terms of members of the State Commission of Investigation serving on or appointed after the effective date of P.L.2005, c.58 (C.52:9M-1.2 et al).

a. End of Terms. Notwithstanding the provisions of section 1 of P.L.1968, c.266 (C.52:9M-1) and the terms for which the members were originally appointed, the terms of the members in office on the effective date of P.L.2005, c.58 (C.52:9M-1.2 et al) shall end before 12 o'clock noon on the following dates: the term of the member appointed by the

Governor on or after November 5, 2004 would end on December 31, 2008; the term of the member appointed by the Governor after December 31, 2001 but before November 2004 would end on December 31, 2007; the term of the member appointed by the President of the Senate before December 31, 2002 would end on December 31, 2006; and the term of the member appointed by the Speaker of the General Assembly after December 31, 2001 would end on December 31, 2005.

b. Beginning of Terms. After terms end pursuant to subsection a. of this section, the four-year terms of the members appointed shall be as provided in section 1 of P.L.1968, c. 266 (C. 52:9M-1) in order to effect the staggering of terms, with each term of the members next appointed beginning at 12 o'clock noon as follows: one appointment by the Governor for which the member's term shall begin on December 31, 2008; a second appointment by the Governor for which the member's term shall begin on December 31, 2007; an appointment by the Senate President for which the member's term shall begin on December 31, 2006; and an appointment by the Speaker of the General Assembly for which the member's term shall begin on December 31, 2005.

**C.52:9M-1.3 Limitation on terms of certain members.**

6. Any member of the State Commission of Investigation who is currently serving the member's first or second three-year term or portion of an unexpired term on the effective date of P.L.2005, c.58 (C.52:9M-1.2 et al) shall be subject to the provisions of subsection a. of section 5 of P.L.2005, c.58 (C.52:9M-1.2) and shall be eligible to be reappointed to the commission for not more than one additional four-year term beginning as set forth in subsection b. of section 5 of P.L.2005, c.58 (C.52:9M-1.2).

7. Section 23 of P.L.1993, c.29 (C.2A:156A-29) is amended to read as follows:

**C.2A:156A-29 Requirements for access.**

23. Requirements for access.

a. A law enforcement agency, but no other governmental entity, may require the disclosure by a provider of electronic communication service or remote computing service of the contents of an electronic communication without notice to the subscriber or the customer if the law enforcement agency obtains a warrant.

b. Except as provided in subsection c. of this section, a provider of electronic communication service or remote computing service may disclose a record or other information pertaining to a subscriber or customer of the service to any person other than a governmental entity. This



subsection shall not apply to the contents covered by subsection a. of this section.

c. A provider of electronic communication service or remote computing service shall disclose a record or other information pertaining to a subscriber or customer of the service, other than contents covered by subsections a. and f. of this section, to a law enforcement agency under the following circumstances:

- (1) the law enforcement agency has obtained a warrant;
- (2) the law enforcement agency has obtained the consent of the subscriber or customer to the disclosure; or
- (3) the law enforcement agency has obtained a court order for such disclosure under subsection e. of this section.

A law enforcement agency receiving records or information pursuant to this subsection is not required to provide notice to the customer or subscriber.

d. Notwithstanding any other provision of law to the contrary, no service provider, its officers, employees, agents or other specified persons shall be liable in any civil action for damages as a result of providing information, facilities or assistance in accordance with the terms of a court order or warrant under this section.

e. A court order for disclosure under subsection b. or c. may be issued by a judge of competent jurisdiction and shall issue only if the law enforcement agency offers specific and articulable facts showing that there are reasonable grounds to believe that the record or other information pertaining to a subscriber or customer of an electronic communication service or remote computing service is relevant and material to an ongoing criminal investigation. A judge who has issued an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify such order, if the information or records requested are unusually voluminous in nature or compliance with such order otherwise would cause an undue burden on such provider.

f. A provider of electronic communication service or remote computing service shall disclose to a law enforcement agency or to the State Commission of Investigation the name, address, telephone number or other subscriber number or identity, and length of service provided to a subscriber or customer of such service and the types of services the subscriber or customer utilized, when the law enforcement entity obtains a grand jury or trial subpoena or when the State Commission of Investigation issues a subpoena.

g. Upon the request of a law enforcement agency, a provider of wire or electronic communication service or a remote computing service shall take all necessary steps to preserve, for a period of 90 days, records and

other evidence in its possession pending the issuance of a warrant. The preservation period shall be extended for an additional 90 days upon the request of the law enforcement agency.

8. This act shall take effect immediately.

Approved March 28, 2005.

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## CHAPTER 59

AN ACT creating a World War II Veterans' Memorial Fund and supplementing Title 38A of the New Jersey Statutes.

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

**C.38A:3-2.4 World War II Veterans' Memorial Fund.**

1. There is created in the Department of the Treasury a dedicated, non-lapsing fund to be known as the World War II Veterans' Memorial Fund. The fund shall be credited with any money received by the World War II Memorial Commission established pursuant to Executive Order No. 107 of 2004 by Governor McGreevey through fundraising efforts and as donations or grants, and any monies as may thereafter be donated by members of the public or appropriated to the fund by law. All interest on monies in the fund shall be credited to the fund. Investment of such monies shall be consistent with policies of the Division of Investment. The monies in the fund shall be administered by the State Treasurer, to be held in the fund until appropriated by law. Not later than 180 days after the effective date of this act, and periodically thereafter, the State Treasurer shall certify to the Legislature the total amount of monies in the fund.

**C.38A:3-2.5 Donations, grants for World War II Memorial.**

2. The Adjutant General of the Department of Military and Veterans' Affairs and the Deputy Commissioner of Veterans' Affairs, on behalf of the World War II Memorial Commission established pursuant to Executive Order No. 107 of 2004 by Governor McGreevey, may solicit and accept donations or grants of money or property from any source for the purposes of the World War II Memorial and may distribute appropriations made by law for that purpose. Any donations or grants received shall be credited to the World War II Veterans' Memorial Fund created in section 1 of this act.

3. This act shall take effect immediately.

Approved March 28, 2005.

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CHAPTER 60

AN ACT concerning the State Tuition Aid Grant Program and supplementing chapter 71B 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:71B-20.1 Tuition aid grant eligibility for children of persons transferred to a military installation in New Jersey.**

1. Notwithstanding the provisions of section 1 of P.L.1979, c.361 (C.18A:62-4) or any other law to the contrary, a dependent child of a parent or guardian who has been transferred to a military installation located in this State shall be considered a resident of this State for the purposes of qualifying for a State tuition aid grant pursuant to N.J.S.18A:71B-18 et seq.

2. This act shall take effect immediately.

Approved March 28, 2005.

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CHAPTER 61

AN ACT concerning surety requirements for perishable agricultural commodities, and amending R.S.4:11-20.

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

1. R.S.4:11-20 is amended to read as follows:

**Bond accompanying application; securities or letter of credit in lieu of bonds; Perishable Agricultural Commodity Surety Fund.**

4:11-20. a. A license shall not be issued unless and until the applicant has filed a good and sufficient surety bond executed in favor of the secretary in the secretary's official capacity, for the benefit of all growers with

whom the applicant shall transact business, by a surety company duly authorized to transact business in this State in the sum of at least \$5,000 annually in accordance with a formula established by rule or regulation adopted by the Department of Agriculture. The bond shall be executed upon a form prescribed by the secretary and shall be subject to the secretary's approval as to form and sufficiency. The applicant may in lieu of the bond deposit with the secretary securities approved by the department in an amount equal to the sum secured by the bond required to be filed as herein provided; or may, in the alternative, obtain and deposit with the secretary an irrevocable letter of credit to equal the amount of the bond. The securities or letters of credit so deposited with the secretary shall constitute a separate fund and shall be held in trust for and applied exclusively to the payment of claims arising under the provisions of this article against the licensee making such deposit for the period for which the license is issued. All proceeds from surety bonds, money, or securities shall be distributed to the grower-creditors by the secretary or returned to the licensee if no claims are made. The Department of Agriculture shall establish an annual maximum for all such bonds, securities, or irrevocable letters of credit which shall not exceed \$150,000.

b. The secretary may require a licensee to file an additional surety after a hearing on any complaint lodged against the licensee, but the total amount of all sureties filed by the licensee shall not exceed \$300,000.

c. (1) Each licensee shall pay, in addition to the fee required pursuant to R.S.4:11-19, an annual assessment in such amount as may be established by rule or regulation adopted by the Department of Agriculture. All monies collected from this additional assessment shall be deposited into the "Perishable Agricultural Commodity Surety Fund" established pursuant to paragraph (2) of this subsection. No additional assessment paid pursuant to this paragraph shall be returned or otherwise refunded to a licensee for any reason.

(2) The secretary may establish a dedicated nonlapsing, revolving fund, to be known as the "Perishable Agricultural Commodity Surety Fund," for the benefit of growers selling perishable agricultural commodities to licensees. Any interest or other investment income earned from monies deposited in the fund shall accrue and be credited to the fund. The fund shall be held by the State Treasurer and monies therefrom shall be used by the Department of Agriculture for the purposes of paragraph (3) of this section. Monies in the fund may also be used by the Department of Agriculture to pay for expenses associated with the administration of the surety program established pursuant to this section.

(3) In the event of a default by a licensee with respect to the purchase of perishable agricultural commodities from a grower, the secretary shall

disburse monies from the fund to the grower-creditor in such manner and amounts as may be established by rule or regulation adopted by the Department of Agriculture.

d. To implement the provisions of this section, the secretary, with the approval of the Board of Agriculture, may:

(1) appoint an advisory board or council to advise the secretary with respect to the creation, operation, and administration of the surety program;

(2) establish procedures for the creation, operation, administration, and enforcement of the surety program;

(3) charge fees or other assessments to cover the reasonable costs and claims associated with the surety program; and

(4) 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 this section and the surety program, which rules and regulations may include, but need not be limited to, provisions concerning the investigation of claims, compliance assurance, disbursement of monies, record-keeping, and assessment of fees and penalties in addition to those established in this article.

2. This act shall take effect immediately.

Approved March 28, 2005.

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## CHAPTER 62

AN ACT concerning access to toll monitoring system reports and information and amending P.L.1997, c.59 and P.L.1996, c.98.

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

1. Section 8 of P.L.1997, c.59 (C.27:23-34.3) is amended to read as follows:

**C.27:23-34.3 Violations of toll collection monitoring system regulations; penalties.**

8. a. If a violation of the toll collection monitoring system regulations is committed as evidenced by a toll collection monitoring system, the authority or the agent of the authority may send an advisory and payment request within 60 days of the date of the violation to the owner of the vehicle by regular mail at the address of record for that owner with the

New Jersey Motor Vehicle Commission or with any other motor vehicle licensing authority of another jurisdiction, providing the owner with the opportunity to resolve the matter prior to the issuance of a summons and complaint that charges a violation of the toll collection monitoring system regulations. The advisory and payment request shall contain sufficient information to inform the owner of the nature, date, time and location of the alleged violation. The authority or its agent may require as part of the advisory and payment request that the owner pay to the agent the proper toll and a reasonable administrative fee established by the authority and based upon the actual cost of processing and collecting the violation. If the owner fails to pay the required toll and fee within 30 days of the date the advisory and payment request was sent, the owner shall be subject to liability on the 31st day following the date the advisory and payment request was sent for the violation of the toll collection monitoring system regulations by the vehicle operator pursuant to the issuance of a complaint and summons.

b. An owner of a vehicle who is a lessor of the vehicle used in violation of the toll collection monitoring system regulations of the authority shall not be liable for the violation of the regulations if the lessor submits to the authority, in a timely manner, a copy of the rental agreement, lease or other contract document covering that vehicle on the date of the violation, with the name and address of the lessee clearly legible to the authority and to the court having jurisdiction over the violation. If the lessor fails to provide the information in a timely manner, the lessor shall be held liable for the violation of the regulations. If the lessor provides the required information to the authority, the lessee of the vehicle on the date of the violation shall be deemed to be the owner of the vehicle for the purposes of sections 6 through 10 of P.L.1997, c.59 (C.27:23-34.1 through C.27:23-34.5) and the toll collection monitoring system regulations and shall be subject to liability for the violation of the regulations.

c. Except as otherwise provided in this subsection, a certified report of an employee or agent of the authority reporting a violation of the toll collection monitoring system regulations and any information obtained from a toll collection monitoring system shall be available for the exclusive use of the authority and any law enforcement official for the purposes of discharging their duties pursuant to sections 6 through 10 of P.L.1997, c.59 (C.27:23-34.1 through C.27:23-34.5) and the toll collection monitoring system regulations. Any such report or information shall not be deemed a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or the common law concerning access to public records. The certified reports and information, including but not limited to, any recorded image of any motor vehicle, the license plate of any motor vehicle or the operator or any

passenger in any motor vehicle, shall not be discoverable as a public record by any person, entity or governmental agency, except upon a subpoena issued by a grand jury or a court order in a criminal matter, nor shall they be offered in evidence in any civil or administrative proceeding, not directly related to a violation of the toll collection monitoring system regulations, or in any municipal court prosecution for a violation of any of the provisions of Title 39 of the Revised Statutes. However, in the event that, notwithstanding the provisions of subsection c. of section 7 of this act, a recorded image of the face of the operator or any passenger in a motor vehicle is produced by the toll collection monitoring system, that image shall not be used by the authority for any purpose nor shall the image or any record or copy thereof be transmitted or communicated to any person, governmental, non-governmental, or judicial or administrative entity.

d. A complaint and summons charging a violation of the toll collection monitoring system regulations shall be on a form prescribed by the Administrative Director of the Courts pursuant to the Rules Governing the Courts of the State of New Jersey. The authority may authorize by regulation an employee or agent to be a complaining witness to make, sign, and initiate complaints and to issue summonses in the name of the authority on behalf of the State of New Jersey, pursuant to the Rules Governing the Courts of the State of New Jersey. The complaints and summonses may be made on information based upon evidence obtained by a toll collection monitoring system, the toll collection monitoring system record and the records of the New Jersey Motor Vehicle Commission or of any other state, province, or motor vehicle licensing authority.

Service may be made by means provided by the Rules Governing the Courts of the State of New Jersey.

Except as provided in subsection c. of this section, the recorded images produced by a toll collection monitoring system shall be considered an official record kept in the ordinary course of business and shall be admissible in a proceeding for a violation of any toll collection monitoring system regulations.

e. The municipal court of the municipality wherein a toll collection monitoring system record was made shall have jurisdiction to hear violations of the toll collection monitoring system regulations. Violations shall be enforced and penalties collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). A proceeding and a judgment arising therefrom shall be pursued and entered in accordance with the provisions of N.J.S.2B:12-1 et seq. and the Rules Governing the Courts of the State of New Jersey.

In addition to the civil penalty that may be assessed by a court having jurisdiction for a violation of the toll collection monitoring system regulations, a court shall require the defendant to pay the proper toll and shall require the defendant to pay a reasonable administrative fee as determined by the authority. Following collection and distribution of the fees set forth in section 11 of P.L.1953, c.22 (C.22A:3-4), any tolls and administrative fees imposed and collected by the court for a violation of the toll collection monitoring system regulations shall be promptly remitted to the authority by the court. The civil penalty shall be distributed pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

2. Section 13 of P.L.1997, c.59 (C.27:25A-21.3) is amended to read as follows:

**C.27:25A-21.3 Violations of toll collection monitoring system regulations; penalties.**

13. a. If a violation of the toll collection monitoring system regulations is committed as evidenced by a toll collection monitoring system, the authority or the agent of the authority may send an advisory and payment request within 60 days of the date of the violation to the owner of the vehicle by regular mail at the address of record for that owner with the New Jersey Motor Vehicle Commission or with any other motor vehicle licensing authority of another jurisdiction, providing the owner with the opportunity to resolve the matter prior to the issuance of a summons and complaint that charges a violation of the toll collection monitoring system regulations. The advisory and payment request shall contain sufficient information to inform the owner of the nature, date, time and location of the alleged violation. The authority or its agent may require as part of the advisory and payment request that the owner pay to the agent the proper toll and a reasonable administrative fee established by the authority and based upon the actual cost of processing and collecting the violation. If the owner fails to pay the required toll and fee within 30 days of the date the advisory and payment request was sent, the owner shall be subject to liability on the 31st day following the date the advisory and payment request was sent for the violation of the toll collection monitoring system regulations by the vehicle operator pursuant to the issuance of a complaint and summons.

b. An owner of a vehicle who is a lessor of the vehicle used in violation of the toll collection monitoring system regulations of the authority shall not be liable for the violation of the regulations if the lessor submits to the authority, in a timely manner, a copy of the rental agreement, lease or other contract document covering that vehicle on the date of the violation, with the name and address of the lessee clearly legible to the authority



and to the court having jurisdiction over the violation. If the lessor fails to provide the information in a timely manner, the lessor shall be held liable for the violation of the regulations. If the lessor provides the required information to the authority, the lessee of the vehicle on the date of the violation shall be deemed to be the owner of the vehicle for the purposes of sections 11 through 15 of P.L.1997, c.59 (C.27:25A-21.1 through C.27:25A-21.5) and the toll collection monitoring system regulations and shall be subject to liability for the violation of the regulations.

c. Except as otherwise provided in this subsection, a certified report of an employee or agent of the authority reporting a violation of the toll collection monitoring system regulations and any information obtained from a toll collection monitoring system shall be available for the exclusive use of the authority and any law enforcement official for the purposes of discharging their duties pursuant to sections 11 through 15 of P.L.1997, c.59 (C.27:25A-21.1 through C.27:25A-21.5) and the toll collection monitoring system regulations. Any such report or information shall not be deemed a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or the common law concerning access to public records. The certified reports and information, including but not limited to, any recorded image of any motor vehicle, the license plate of any motor vehicle or the operator or passenger of any motor vehicle, shall not be discoverable as a public record by any person, entity or governmental agency, except upon a subpoena issued by a grand jury or a court order in a criminal matter, nor shall they be offered in evidence in any civil or administrative proceeding, not directly related to a violation of the toll collection monitoring system regulations, or in any municipal court prosecution for a violation of any of the provisions of Title 39 of the Revised Statutes. However, in the event that, notwithstanding the provisions of subsection c. of section 12 of this act, a recorded image of the face of the operator or any passenger in a motor vehicle is produced by the toll collection monitoring system, that image shall not be used by the authority for any purpose nor shall the image or any record or copy thereof be transmitted or communicated to any person, governmental, non-governmental or judicial or administrative entity.

d. A complaint and summons charging a violation of the toll collection monitoring system regulations shall be on a form prescribed by the Administrative Director of the Courts pursuant to the Rules Governing the Courts of the State of New Jersey. The authority may authorize by regulation an employee or agent to be a complaining witness to make, sign, and initiate complaints and to issue summonses in the name of the authority on behalf of the State of New Jersey, pursuant to the Rules Governing the Courts of the State of New Jersey. The complaints and summonses may

be made on information based upon evidence obtained by a toll collection monitoring system, the toll collection monitoring system record and the records of the New Jersey Motor Vehicle Commission or of any other state, province, or motor vehicle licensing authority.

Service may be made by means provided by the Rules Governing the Courts of the State of New Jersey.

Except as provided in subsection c. of this section, the recorded images produced by a toll collection monitoring system shall be considered an official record kept in the ordinary course of business and shall be admissible in a proceeding for a violation of any toll collection monitoring system regulations.

e. The municipal court of the municipality wherein a toll collection monitoring system record was made shall have jurisdiction to hear violations of the toll collection monitoring system regulations. Violations shall be enforced and penalties collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). A proceeding and a judgment arising therefrom shall be pursued and entered in accordance with the provisions of N.J.S.2B:12-1 et seq. and the Rules Governing the Courts of the State of New Jersey.

In addition to the civil penalty that may be assessed by a court having jurisdiction for a violation of the toll collection monitoring system regulations, a court shall require the defendant to pay the proper toll and shall require the defendant to pay a reasonable administrative fee as established by the authority. Following collection and distribution of the fees set forth in section 11 of P.L.1953, c.22 (C.22A:3-4), any tolls and administrative fees imposed and collected by the court for a violation of the toll collection monitoring system regulations shall be promptly remitted to the authority by the court. The civil penalty shall be distributed pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

3. Section 3 of P.L.1996, c.98 (C.32:1-154.2c.) is amended to read as follows:

**C.32:1-154.2c Imposition of liability.**

3. a. The liability set forth in section 1 of this act shall be imposed upon an owner for a violation by an operator of the toll collection regulations of the Port Authority occurring within the territorial limits of the State of New Jersey in the same manner as a violation of section 2 of P.L.1950, c.192 (C.32:1-154.2) and the punishment for such violation shall be as set forth in section 16 of P.L.1950, c.192 (C.32:1-154.16).

b. An owner who is a lessor of a vehicle operated in violation of the toll collection regulations of the Port Authority shall not be liable for the

violation of the toll collection regulations if the lessor submits a copy of the rental, lease or other contract document covering that vehicle on the date of the violation, with the name and address of the lessee clearly legible to the Port Authority and to the court or other entity having jurisdiction over the violation in a timely manner. Failure to provide such information in a timely manner shall render the lessor liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this subsection, the lessee of such vehicle on the date of the violation shall be deemed the owner of the vehicle for purposes of this section and shall be subject to liability for the violation of the toll collection regulations of the Port Authority.

c. A certified report of an employee or agent of the Port Authority reporting a violation of the toll collection regulations and any information obtained from a photo-monitoring system shall be deemed records kept in the ordinary business of the Port Authority and shall, when relevant, be made available for inspection and admission into evidence in a proceeding concerning a violation of the toll collection regulations, but shall not be deemed public records for the purpose of P.L.1963, c.73 (C.47:1A-1 et seq.) or the common law of access to public records. The certified reports and information, including but not limited to, any recorded image of any motor vehicle, the license plate of any motor vehicle or the operator or any passenger in any motor vehicle, shall not be discoverable as a public record by any person, entity or governmental agency, except upon a subpoena issued by a grand jury or a court order in a criminal matter; nor shall it be admissible in evidence in any civil or administrative proceeding not directly related to a violation of the toll collection regulations or in any municipal court prosecution for a violation of any of the provisions of Title 39 of the Revised Statutes.

4. This act shall take effect immediately.

Approved April 7, 2005.

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## CHAPTER 63

AN ACT excluding housing and subsistence allowances of certain military personnel from gross income under the gross income tax, amending Title 54A of the New Jersey Statutes.

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

1. N.J.S.54A:6-7 is amended to read as follows:

**Certain pay of members of the armed forces, NJNG, exemption from taxable gross income.**

54A:6-7. a. Compensation paid by the United States for service in the Armed Forces of the United States performed by an individual not domiciled in this State.

b. Amounts received during the taxable year as mustering-out payments with respect to service in the Armed Forces of the United States.

c. Amounts received during the taxable year as housing and subsistence allowances by members of the active and reserve components of the Armed Forces of the United States, and by New Jersey National Guard members while on State active duty.

2. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2004.

Approved April 7, 2005.

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## CHAPTER 64

AN ACT extending certain benefits to veterans of Operations Northern and Southern Watch and amending various parts of the statutory law.

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

1. N.J.S.11A:5-1 is amended to read as follows:

**Definitions.**

11A:5-1. As used in this chapter: "Disabled veteran" means any veteran who is eligible to be compensated for a service-connected disability from war service by the United States Veterans Administration or who receives or is entitled to receive equivalent compensation for a service-connected disability which arises out of military or naval service as set forth in this chapter and who has submitted sufficient evidence of the record of disability incurred in the line of duty to the Adjutant General of the Department of Military and Veterans' Affairs on or before the closing date for filing an application for an examination;

b. "Veteran" means any honorably discharged soldier, sailor, marine or nurse who served in any army or navy of the allies of the United States in World War I, between July 14, 1914 and November 11, 1918, or who served in any army or navy of the allies of the United States in World War

II, between September 1, 1939 and September 2, 1945 and who was inducted into that service through voluntary enlistment, and was a citizen of the United States at the time of the enlistment, and who did not renounce or lose his or her United States citizenship; or any soldier, sailor, marine, airman, nurse or army field clerk, who has served in the active military or naval service of the United States and has been discharged or released under other than dishonorable conditions from that service in any of the following wars or conflicts and who has presented to the Adjutant General of the Department of Military and Veterans' Affairs sufficient evidence of the record of service on or before the closing date for filing an application for an examination:

(1) World War I, between April 6, 1917 and November 11, 1918;

(2) World War II, on or after September 16, 1940, who shall have served at least 90 days beginning on or before December 31, 1946 in such active service, exclusive of any period of assignment for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or as a cadet or midshipman at one of the service academies; except that any person receiving an actual service-incurred injury or disability shall be classed a veteran whether or not that person has completed the 90-day service;

(3) Korean conflict, on or after June 23, 1950, who shall have served at least 90 days beginning on or before January 31, 1955, in active service, exclusive of any period of assignment for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or as a cadet or midshipman at one of the service academies; except that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service;

(4) Lebanon crisis, on or after July 1, 1958, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 1, 1958 or the date of termination of that conflict, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(5) Vietnam conflict, on or after December 31, 1960, who shall have served at least 90 days beginning on or before May 7, 1975, in active service, exclusive of any period of assignment for a course of education

or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or as a cadet or midshipman at one of the service academies, and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, or exclusive of any service performed pursuant to enlistment in the National Guard or the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; except that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as provided;

(6) Lebanon peacekeeping mission, on or after September 26, 1982, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before December 1, 1987 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(7) Grenada peacekeeping mission, on or after October 23, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 21, 1983 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(8) Panama peacekeeping mission, on or after December 20, 1989 or the date of inception of that mission, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before January 31, 1990 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(9) Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or the date of inception of that operation, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(10) Operation Northern Watch and Operation Southern Watch, on or after August 27, 1992, or the date of inception of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of inception is earliest, who served in the theater of operation, including in the Arabian peninsula and the Persian Gulf, and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date of termination of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of termination is the latest; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(11) Operation "Restore Hope" in Somalia, on or after December 5, 1992, or the date of inception of that operation as proclaimed by the President of the United States or the Congress, whichever date is earliest, who has served in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before March 31, 1994; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14-day service as herein provided;

(12) Operations "Joint Endeavor" and "Joint Guard" in the Republic of Bosnia and Herzegovina, on or after November 20, 1995, who served in such active service in direct support of one or both of the operations for at least 14 days, continuously or in the aggregate, commencing on or before June 20, 1998, and (1) was deployed in that nation or in another area in the region, or (2) was on board a United States naval vessel operating in the Adriatic Sea, or (3) operated in airspace above the Republic of Bosnia and Herzegovina; provided that any person receiving an actual

service-incurred injury or disability shall be classed as a veteran whether or not that person completed the 14-day service requirement;

(13) Operation "Uphold Democracy" in Haiti, on or after September 19, 1994, who served in Haiti or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before March 31, 1995, and who received an Armed Forces Expeditionary Medal for such service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided or received an Armed Forces Expeditionary Medal;

(14) Operation "Enduring Freedom", on or after September 11, 2001, who served in a theater of operation and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided; and

(15) Operation "Iraqi Freedom", on or after the date the President of the United States or the United States Secretary of Defense designates as the inception date of that operation, who served in Iraq or in another area in the region in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided.

c. "War service" means service by a veteran in any war or conflict described in this chapter during the periods specified.

2. N.J.S.18A:66-2 is amended to read as follows:

**Definitions.**

18A:66-2. As used in this article:

a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by or in behalf of the member, including interest credited to January 1, 1956,



standing to the credit of the member's individual account in the annuity savings fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this article.

c. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this article.

d. "Compensation" means the contractual salary, for services as a teacher as defined in this article, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular school day or the regular school year.

e. "Employer" means the State, the board of education or any educational institution or agency of or within the State by which a teacher is paid.

f. "Final compensation" means the average annual compensation for which contributions are made for the three years of creditable service in New Jersey immediately preceding the member's retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or the member's beneficiary.

g. "Fiscal year" means any year commencing with July 1, and ending with June 30, next following.

h. "Pension" means payments for life derived from appropriations made by the State or employers to the Teachers' Pension and Annuity Fund.

i. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this article, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

j. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension granted to a member from the Teachers' Pension and Annuity Fund, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

k. "Present-entrant" means any member of the Teachers' Pension and Annuity Fund who had established status as a "present-entrant member" of said fund prior to January 1, 1956.

l. "Rate of contribution initially certified" means the rate of contribution certified by the retirement system in accordance with N.J.S.18A:66-29.

m. "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

n. "Retirement allowance" means the pension plus the annuity.

o. "School service" means any service as a "teacher" as defined in this section.

p. "Teacher" means any regular teacher, special teacher, helping teacher, teacher clerk, principal, vice-principal, supervisor, supervising principal, director, superintendent, city superintendent, assistant city superintendent, county superintendent, State Commissioner or Assistant Commissioner of Education, members of the State Department of Education who are certificated, unclassified professional staff and other members of the teaching or professional staff of any class, public school, high school, normal school, model school, training school, vocational school, truant reformatory school, or parental school, and of any and all classes or schools within the State conducted under the order and superintendence, and wholly or partly at the expense of the State Board of Education, of a duly elected or appointed board of education, board of school directors, or board of trustees of the State or of any school district or normal school district thereof, and any persons under contract or engagement to perform one or more of these functions. It shall also mean any person who serves, while on an approved leave of absence from regular duties as a teacher, as an officer of a local, county or State labor organization which represents, or is affiliated with an organization which represents, teachers as defined in this subsection. No person shall be deemed a teacher within the meaning of this article who is a substitute teacher. In all cases of doubt the board of trustees shall determine whether any person is a teacher as defined in this article.

q. "Teachers' Pension and Annuity Fund," hereinafter referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this article, including the several funds placed under said system. By that name all its business shall be transacted, its funds in-

vested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

r. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and December 31, 1946, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the

service academies, any part of which 90 days was served between said dates; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as herein provided;

(11) Korean conflict on or after June 23, 1950, and on or prior to January 31, 1955, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as herein provided; and provided further that any member classed as a veteran pursuant to this subsection prior to August 1, 1966, shall continue to be classed as a veteran, whether or not that person completed the 90-day service between said dates as herein provided;

(12) Lebanon crisis, on or after July 1, 1958, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 1, 1958 or the date of termination of that conflict, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(13) Vietnam conflict, on or after December 31, 1960, and on or prior to May 7, 1975, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as herein provided;

(14) Lebanon peacekeeping mission, on or after September 26, 1982, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before December 1, 1987 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(15) Grenada peacekeeping mission, on or after October 23, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 21, 1983 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(16) Panama peacekeeping mission, on or after December 20, 1989 or the date of inception of that mission, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before January 31, 1990 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(17) Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or the date of inception of that operation, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or

disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(18) Operation Northern Watch and Operation Southern Watch, on or after August 27, 1992, or the date of inception of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of inception is earliest, who served in the theater of operation, including in the Arabian peninsula and the Persian Gulf, and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service, commencing on or before the date of termination of the operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of termination is latest; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(19) Operation "Restore Hope" in Somalia, on or after December 5, 1992, or the date of inception of that operation as proclaimed by the President of the United States or Congress, whichever date is earliest, who has served in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before March 31, 1994; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14-day service as herein provided;

(20) Operations "Joint Endeavor" and "Joint Guard" in the Republic of Bosnia and Herzegovina, on or after November 20, 1995, who served in such active service in direct support of one or both of the operations for at least 14 days, continuously or in the aggregate, commencing on or before June 20, 1998, and (1) was deployed in that nation or in another area in the region, or (2) was on board a United States naval vessel operating in the Adriatic Sea, or (3) operated in airspace above the Republic of Bosnia and Herzegovina; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person completed the 14-day service requirement;

(21) Operation "Enduring Freedom", on or after September 11, 2001, who served in a theater of operation and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service

shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided; and

(22) Operation "Iraqi Freedom", on or after the date the President of the United States or the United States Secretary of Defense designates as the inception date of that operation, who served in Iraq or in another area in the region in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided.

"Veteran" also means any honorably discharged member of the American Merchant Marine who served during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits.

s. "Child" means a deceased member's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and the impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

t. (1) "Widower," for employees of the State, means the man to whom a member was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at least five years before the date of her death and to whom she continued to be married or a domestic partner until the date of her death and who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of, or establishment of a domestic partnership by, the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widower," for employees of public employers other than the State, means the man to whom a member was married at least five years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower shall be considered terminated by

marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widower" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

u. (1) "Widow," for employees of the State, means the woman to whom a member was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at least five years before the date of his death and to whom he continued to be married or a domestic partner until the date of his death and who was receiving at least one-half of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow will be considered terminated by the marriage of, or establishment of a domestic partnership by, the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widow," for employees of public employers other than the State, means the woman to whom a member was married at least five years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least one-half of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow shall be considered terminated by the marriage of the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widower" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

v. "Parent" means the parent of a member who was receiving at least one-half of the parent's support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

w. "Medical board" means the board of physicians provided for in N.J.S.18A:66-56.



x. (1) "Spouse," for employees of the State, means the husband or wife, or domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), of a member.

(2) Subject to the provisions of paragraph (1) of this subsection, "spouse," for employees of public employers other than the State, means the husband or wife of a member.

(3) A public employer other than the State may adopt a resolution providing that the term "spouse" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

3. Section 6 of P.L.1954, c.84 (C.43:15A-6) is amended to read as follows:

**C.43:15A-6 Definitions.**

6. As used in this act:

a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by or on behalf of the member, standing to the credit of the member's individual account in the annuity savings fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this act.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this act, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

d. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this act.

e. "Child" means a deceased member's unmarried child either (1) under the age of 18 or (2) of any age who, at the time of the member's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and the impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

f. "Parent" shall mean the parent of a member who was receiving at least 1/2 of the parent's support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

g. (1) "Widower," for employees of the State, means the man to whom a member was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at least five years before the date of her death and to whom she continued to be married or a domestic partner until the date of her death and who was receiving at least 1/2 of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of, or establishment of a domestic partnership by, the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widower," for employees of public employers other than the State, means the man to whom a member was married at least five years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least 1/2 of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower shall be considered terminated by marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widower" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

h. "Final compensation" means the average annual compensation for which contributions are made for the three years of creditable service in New Jersey immediately preceding the member's retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or the member's beneficiary.

i. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

j. "Medical board" shall mean the board of physicians provided for in section 17 (C.43:15A-17).

k. "Pension" means payments for life derived from appropriations made by the employer as provided in this act.

l. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension granted under the provisions of this act, computed on the basis of such mortality

tables recommended by the actuary as the board of trustees adopts, with regular interest.

m. "Public Employees' Retirement System of New Jersey," hereinafter referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this act including the several funds placed under said system. By that name all of its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

n. "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of the assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

o. "Retirement allowance" means the pension plus the annuity.

p. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I, between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk, who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions, or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and December 31, 1946, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90-day service as herein provided;

(11) Korean conflict on or after June 23, 1950, and on or prior to January 31, 1955, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90-day service as herein provided; and provided further, that any member classed as a veteran pursuant to this paragraph prior to August 1, 1966, shall continue to be classed as a veteran whether or not that person completed the 90-day service between said dates as herein provided;

(12) Lebanon crisis, on or after July 1, 1958, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 1, 1958 or the date of termination of that conflict, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred

injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(13) Vietnam conflict on or after December 31, 1960, and on or prior to May 7, 1975, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90 days' service as herein provided;

(14) Lebanon peacekeeping mission, on or after September 26, 1982, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before December 1, 1987 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(15) Grenada peacekeeping mission, on or after October 23, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 21, 1983 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(16) Panama peacekeeping mission, on or after December 20, 1989 or the date of inception of that mission, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the

aggregate, of at least 14 days commencing on or before January 31, 1990 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(17) Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or the date of inception of that operation, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(18) Operation Northern Watch and Operation Southern Watch, on or after August 27, 1992, or the date of inception of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of inception is earliest, who served in the theater of operation, including in the Arabian peninsula and the Persian Gulf, and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service, commencing on or before the date of termination of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of termination is the latest; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(19) Operation "Restore Hope" in Somalia, on or after December 5, 1992, or the date of inception of that operation as proclaimed by the President of the United States or Congress, whichever date is earliest, who has served in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before March 31, 1994; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14-day service as herein provided;

(20) Operations "Joint Endeavor" and "Joint Guard" in the Republic of Bosnia and Herzegovina, on or after November 20, 1995, who served

in such active service in direct support of one or both of the operations for at least 14 days, continuously or in the aggregate, commencing on or before June 20, 1998 and (1) was deployed in that nation or in another area in the region, or (2) was on board a United States naval vessel operating in the Adriatic Sea, or (3) operated in airspace above the Republic of Bosnia and Herzegovina; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person completed the 14-day service requirement;

(21) Operation "Enduring Freedom", on or after September 11, 2001, who served in a theater of operation and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided; and

(22) Operation "Iraqi Freedom", on or after the date the President of the United States or the United States Secretary of Defense designates as the inception date of that operation, who served in Iraq or in another area in the region in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided.

"Veteran" also means any honorably discharged member of the American Merchant Marine who served during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits.

q. (1) "Widow," for employees of the State, means the woman to whom a member was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at least five years before the date of his death and to whom he continued to be married or a domestic partner until the date of his death and who was receiving at least 1/2 of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow will be considered terminated by the marriage of, or establishment of a domestic partnership by, the

widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widow," for employees of public employers other than the State, means the woman to whom a member was married at least five years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least 1/2 of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow shall be considered terminated by the marriage of the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widow" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

r. "Compensation" means the base or contractual salary, for services as an employee, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular workday or the regular work year. In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

4. Section 1 of P.L.1983, c.391 (C.43:16A-11.7) is amended to read as follows:

**C.43:16A-11.7 Definition of veteran.**

1. For purposes of this act "veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I, between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk, who has served in the active military or naval service of the United



States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions, or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and December 31, 1946, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90-day service as herein provided;

(11) Korean conflict on or after June 23, 1950, and on or prior to January 31, 1955, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or

not that person has completed the 90-day service as herein provided; and provided further, that any member classed as a veteran pursuant to this subparagraph prior to August 1, 1966, shall continue to be classed as a veteran whether or not the member completed the 90-day service between said dates as herein provided;

(12) Lebanon crisis, on or after July 1, 1958, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 1, 1958 or the date of termination of that conflict, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(13) Vietnam conflict on or after December 31, 1960, and on or prior to May 7, 1975, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511 (d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90 days' service as herein provided;

(14) Lebanon peacekeeping mission, on or after September 26, 1982, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before December 1, 1987 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(15) Grenada peacekeeping mission, on or after October 23, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the

aggregate, of at least 14 days commencing on or before November 21, 1983 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(16) Panama peacekeeping mission, on or after December 20, 1989 or the date of inception of that mission, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before January 31, 1990 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(17) Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or the date of inception of that operation, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(18) Operation Northern Watch and Operation Southern Watch, on or after August 27, 1992, or the date of inception of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of inception is earliest, who served in the theater of operation, including in the Arabian peninsula and the Persian Gulf, and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service, commencing on or before the date of termination of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of termination is the latest; provided, that any person receiving an actual service-incurred injury or disability

while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(19) Operation "Restore Hope" in Somalia, on or after December 5, 1992, or the date of inception of that operation as proclaimed by the President of the United States or Congress, whichever date is earliest, who has served in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before March 31, 1994; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14-day service as herein provided;

(20) Operations "Joint Endeavor" and "Joint Guard" in the Republic of Bosnia and Herzegovina, on or after November 20, 1995, who served in such active service in direct support of one or both of the operations for at least 14 days, continuously or in the aggregate, commencing on or before June 20, 1998, and (1) was deployed in that nation or in another area in the region, or (2) was on board a United States naval vessel operating in the Adriatic Sea, or (3) operated in airspace above the Republic of Bosnia and Herzegovina; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person completed the 14-day service requirement;

(21) Operation "Enduring Freedom", on or after September 11, 2001, who served in a theater of operation and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided; and

(22) Operation "Iraqi Freedom", on or after the date the President of the United States or the United States Secretary of Defense designates as the inception date of that operation, who served in Iraq or in another area in the region in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided.

"Veteran" also means any honorably discharged member of the American Merchant Marine who served during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits.

5. Section 1 of P.L.1963, c.171 (C.54:4-8.10) is amended to read as follows:

**C.54:4-8.10 Definitions.**

1. (a) "Active service in time of war" means active service at some time during one of the following periods:

Operation "Iraqi Freedom", on or after the date the President of the United States or the United States Secretary of Defense designates as the inception date of that operation, who served in Iraq or in another area in the region in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

Operation "Enduring Freedom", on or after September 11, 2001, who served in a theater of operation and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

Operation "Restore Hope" in Somalia, on or after December 5, 1992, or the date of inception of that operation as proclaimed by the President of the United States or Congress, whichever date is earliest, who has served in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before March 31, 1994; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14-day service as herein provided;

Operations "Joint Endeavor" and "Joint Guard" in the Republic of Bosnia and Herzegovina, on or after November 20, 1995, who served in

such active service in direct support of one or both of the operations for at least 14 days, continuously or in the aggregate, commencing on or before June 20, 1998, and (1) was deployed in that nation or in another area in the region, or (2) was on board a United States naval vessel operating in the Adriatic Sea, or (3) operated in airspace above the Republic of Bosnia and Herzegovina; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person completed the 14-day service requirement;

Operation Northern Watch and Operation Southern Watch, on or after August 27, 1992, or the date of inception of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of inception is earliest, who served in the theater of operation, including in the Arabian peninsula and the Persian Gulf, and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service, commencing on or before the date of termination as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of termination is the latest; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or the date of inception of that operation, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

The Panama peacekeeping mission, on or after December 20, 1989 or the date of inception of that mission, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before January 31, 1990 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual ser-

vice-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

The Grenada peacekeeping mission, on or after October 23, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 21, 1983 or the date of termination of that mission as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

The Lebanon peacekeeping mission, on or after September 26, 1982, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before December 1, 1987 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

The Vietnam conflict, December 31, 1960, to May 7, 1975;

The Lebanon crisis, on or after July 1, 1958, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 1, 1958 or the date of termination of that conflict, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

The Korean conflict, June 23, 1950 to January 31, 1955;

World War II, September 16, 1940 to December 31, 1946;

World War I, April 6, 1917 to November 11, 1918, and in the case of service with the United States military forces in Russia, April 6, 1917 to April 1, 1920;

Spanish-American War, April 21, 1898 to August 13, 1898;

Civil War, April 15, 1861 to May 26, 1865; or, as to any subsequent war, during the period from the date of declaration of war to the date on which actual hostilities shall cease.

(b) "Assessor" means the assessor, board of assessors or any other official or body of a taxing district charged with the duty of assessing real and personal property for the purpose of general taxation.

(c) "Collector" means the collector or receiver of taxes of a taxing district.

(d) "Honorably discharged or released under honorable circumstances from active service in time of war," means and includes every form of separation from active, full-time duty with military or naval pay and allowances in some branch of the Armed Forces of the United States in time of war, other than those marked "dishonorable," "undesirable," "bad conduct," "by sentence of general court martial," "by sentence of summary court martial" or similar expression indicating that the discharge or release was not under honorable circumstances. A disenrollment certificate or other form of release terminating temporary service in a military or naval branch of the armed forces rendered on a voluntary and part-time basis without pay, or a release from or deferment of induction into the active military or naval service shall not be deemed to be included in the aforementioned phrase.

(e) "Pre-tax year" means the particular calendar year immediately preceding the "tax year."

(f) "Resident" means one legally domiciled within the State of New Jersey. Mere seasonal or temporary residence within the State, of whatever duration, shall not constitute domicile within the State for the purposes of this act. Absence from this State for a period of 12 months shall be prima facie evidence of abandonment of domicile in this State. The burden of establishing legal domicile within the State shall be upon the claimant.

(g) "Tax year" means the particular calendar year in which the general property tax is due and payable.

(h) "Veteran" means any citizen and resident of this State honorably discharged or released under honorable circumstances from active service in time of war in any branch of the Armed Forces of the United States.

(i) "Veteran's deduction" means the deduction against the taxes payable by any person, allowable pursuant to this act.

(j) "Surviving spouse" means the surviving wife or husband of any of the following, while he or she is a resident of this State, during widowhood or widowerhood:

1. A citizen and resident of this State who has died or shall die while on active duty in time of war in any branch of the Armed Forces of the United States; or

2. A citizen and resident of this State who has had or shall hereafter have active service in time of war in any branch of the Armed Forces of



the United States and who died or shall die while on active duty in a branch of the Armed Forces of the United States; or

3. A citizen and resident of this State who has been or may hereafter be honorably discharged or released under honorable circumstances from active service in time of war in any branch of the Armed Forces of the United States.

(k) "Cooperative" means a housing corporation or association incorporated or organized under the laws of New Jersey which entitles a shareholder thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by the corporation or association.

(l) "Mutual housing corporation" means a corporation not-for-profit incorporated under the laws of New Jersey on a mutual or cooperative basis within the scope of section 607 of the "National Defense Housing Act," Pub.L.76-849 (42 U.S.C.s.1521 et seq.), which acquired a National Defense Housing Project pursuant to that act.

6. This act shall take effect immediately, and section 1 shall apply to eligible lists prepared on or after the effective date and section 5 shall apply to the tax year next following enactment.

Approved April 7, 2005.

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## CHAPTER 65

AN ACT concerning risk based capital requirements for health maintenance organizations, amending P.L.1997, c.192 and amending and supplementing P.L.1973, c.337.

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

**C.26:2J-18.2 Definitions relative to risk based capital requirements for HMOs.**

1. As used in sections 1 through 5 of P.L.2005, c.65 (C.26:2J-18.2 et seq.):

"Commissioner" means the Commissioner Banking and Insurance.

"Health maintenance organization" means an entity authorized to transact business in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.).

**C.26:2J-18.3 Increase of capital, surplus; methods, procedures.**

2. The commissioner may increase the amount of capital or surplus required of a health maintenance organization, or subsequently revise or

redetermine that increase, using appropriate methods and procedures established by rules and regulations adopted by the commissioner, in order to provide adequate protection against risks affecting the health maintenance organization's financial condition that are not adequately or fully covered by its reserves or other assets, but under no circumstances shall a health maintenance organization's capital or surplus be less than the capital or surplus required pursuant to regulation as prescribed by the commissioner; provided, however, that any increase required by a subsequent revision or redetermination pursuant to this section, shall be made only after a formal departmental hearing, on the record, unless that hearing is waived by the affected health maintenance organization. All matters pertaining to a hearing or to an increase in capital or surplus pursuant to this section shall be confidential and not subject to subpoena or public inspection, except to the extent that the commissioner finds release of that information necessary to protect the public. The hearing shall be initiated within 20 days after written notice to the health maintenance organization. Any declaration regarding an increase required by a subsequent revision or redetermination shall contain findings specifying the factors deemed significant in regard to the particular health maintenance organization, and shall set forth the reasons supporting the increase of capital or surplus ordered by the commissioner. In determining any increase, revision or redetermination in the amount of capital or surplus, the commissioner shall consider the risks of:

- a. Increases or decreases in the frequency and severity of losses under normal operating conditions, as well as increases or decreases in those values, above or below the levels contemplated by the rates that it charged for coverage and above or below those reasonably expected under normal conditions;
- b. Increases or decreases in expenses under normal operating conditions, as well as increases or decreases in those values, above or below the levels contemplated by the rates it charged for coverage and above or below those reasonably expected under normal conditions;
- c. Increases or decreases in the value of, or return on, invested assets under normal operating conditions, as well as increases or decreases in those values, above or below those levels anticipated under normal conditions;
- d. Changes in economic, social and market conditions that could adversely or favorably affect the financial condition of the health maintenance organization, including conditions that would make liquidity more or less important than contemplated and would prevent or facilitate timely investments or force or prohibit untimely sales of assets; and

e. Any other contingencies, including reinsurance and unfunded or extra contractual obligations, which may affect the health maintenance organization's financial condition.

**C.26:2J-18.4 Factors in determining change in capital, surplus.**

3. In determining any increase, revision or redetermination in the capital or surplus of a health maintenance organization pursuant to the provisions of section 2 of P.L.2005, c.65 (C.26:2J-18.3) the commissioner shall take into account the following factors:

a. Methods and techniques used to measure risk exposure and variability;

b. The information available relating to the magnitude of the various risks described in section 2 of P.L.2005, c.65 (C.26:2J-18.3);

c. The extent to which risks described in section 2 of P.L.2005, c.65 (C.26:2J-18.3) are independent or interrelated, and whether any dependency is direct or inverse;

d. The extent to which the health maintenance organization has provided protection against contingencies in ways other than the establishment of surplus, including, but not limited to: redundancy of premiums; margin in reserves and liabilities; adjustability of contracts pursuant to the terms of the contracts; voluntary or mandatory investment valuation reserves; reinsurance; the use of conservative actuarial assumptions to provide a margin of security; reserve adjustments after rate increases for policies written at earlier and less adequate rates; contingency or catastrophe reserves; and diversification of assets and underwriting risk; and

e. Any other relevant factors, including the National Association of Insurance Commissioners' reports and independent judgments of the soundness of the health maintenance organization's financial condition, as evidenced by the rating and reports of reliable professional financial services.

**C.26:2J-18.5 Noncompliance, penalties.**

4. The commissioner may suspend or revoke the authority to do business in this State of any health maintenance organization that does not comply with the provisions of P.L.2005, c.65 (C.26:2J-18.2 et al.).

**C.26:2J-18.6 Regulations.**

5. The commissioner may promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of P.L.2005, c.65 (C.26:2J-18.2 et al.).

6. Section 26 of P.L.1973, c.337 (C.26:2J-26) is amended to read as follows:

**C.26:2J-26 Filings and reports as public documents.**

## 26. Filings and reports as public documents.

All applications, filings and reports required under this act shall be treated as public documents and, except for any examination being conducted pursuant to section 20 of P.L.1997, c.192 (C.26:2J-18.1), any matter pertaining to a change in capital or surplus pursuant to the provisions of P.L.2005, c.65 (C.26:2J-18.2 et al.) and contracts referred to in paragraphs (4) and (5) of subsection c. of section 3 of P.L.1973, c. 337 (C.26:2J-3), shall not be considered to be confidential.

7. Section 20 of P.L.1997, c.192 (C.26:2J-18.1) is amended to read as follows:

**C.26:2J-18.1 Examination of HMO by Commissioner of Banking and Insurance.**

20. The Commissioner of Banking and Insurance may conduct an examination of a health maintenance organization in accordance with the procedures provided in P.L.1993, c.236 (C.17:23-20 et seq.) as often as he deems necessary in order to protect the interests of providers, contract holders, members, and the residents of this State. An organization shall make its relevant books and records available for examination by the Commissioner of Banking and Insurance, and retain its records in accordance with a schedule established by the Commissioner of Banking and Insurance by regulation. The reasonable expenses of the examination shall be borne by the organization being examined. In lieu of such examination, the Commissioner of Banking and Insurance may accept the report of an examination made by the commissioner of another state.

8. This act shall take effect immediately.

Approved April 7, 2005.

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**CHAPTER 66**

AN ACT concerning rental assistance grants and employment and training services, supplementing P.L.2004, c. 140 and making an appropriation.

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

1. In addition to the amounts allocated pursuant to section 3 of P.L.2004, c.140 (C.52:27D-287.3), there is appropriated from the General Fund \$15,000,000 to fund rental assistance grants authorized by P.L.2004,

c.140 (C.52:27D-287.1 et seq.), of which \$4.5 million shall be allocated for the purposes of subsection c. of section 1 of P.L.2004, c.140 (C.52:27D-287.1) and \$10.5 million shall be allocated for the purposes of subsection a. of section 1 of P.L.2004, c.140 (C.52:27D-287.1).

**C.52:27D-287.4 Requirements for certain recipients of rental assistance grants.**

2. a. Any individual under the age of 65, who is not disabled and who receives a rental assistance grant provided pursuant to subsection a. of section 1 of P.L.2004, c.140 (C.52:27D-287.1), shall apply for employment and training services and seek the counseling required to obtain the employment and training services pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7).

b. The counselor shall develop a written Employability Development Plan in a manner consistent with the provisions of section 7 of P.L.1992, c.43 (C.34:15D-7), if the counselor, after conducting the testing, assessment, and evaluation of, disclosures of information to, and discussions with, the individual required pursuant to that section, determines that:

(1) The individual is eligible for employment and training services under P.L.1992, c.48 (C.34:15B-35 et seq.), P.L.1992, c.43 (C.34:15D-1 et seq.), or P.L.1992, c.47 (C.43:21-57 et seq.);

(2) The individual lacks the basic skills or occupational skills needed to obtain employment which provides self-sufficiency; and

(3) Funds are available to the individual for any remedial education and vocational training needed to permit the individual to obtain employment providing self-sufficiency and that the education and training are available and accessible to the individual in a time and manner which does not result in a reduction of the individual's family income or substantial additional expenses.

c. If the counselor determines that any of the requirements of subsection b. of this section are not met, the counselor shall certify that an Employability Development Plan is not required for continued eligibility for the rental assistance grant. If the requirements are met and an Employability Development Plan is developed pursuant to this section, the individual, to maintain eligibility for the rental assistance grant, shall be required to show satisfactory progress in carrying out the training and educational activities provided under the plan. The Commissioner of Labor and Workforce Development shall adopt regulations setting forth standards regarding what constitutes satisfactory progress, including reasonable adjustments in participation requirements for good cause, including verifiable needs related to physical or mental health problems, illness, accident or death or serious personal or family problems that necessitate reduced participation, and shall develop a system for monitoring satisfac-

tory progress and providing, on a timely basis, notification to the Department of Community Affairs of the loss of eligibility of any individual for rental assistance grants due to a failure to make satisfactory progress.

d. For the purposes of this section, "employment and training services," "remedial education," "self-sufficiency," and "vocational training" have the meanings set forth in section 3 of P.L.1992, c.43 (C.34:15D-3).

3. This act shall take effect immediately.

Approved April 7, 2005.

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## CHAPTER 67

AN ACT authorizing value engineering change orders and supplementing P.L.1971, c.198 (C.40A:11-1 et seq.).

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

**C.40A:11-16.6 Definitions relative to value engineering change orders; requirement for certain contracts.**

1. a. For the purpose of this act:

"Construction" means the construction, reconstruction, demolition, erection, alteration, or repair of a structure or other improvement to real property, other than the construction, reconstruction, demolition, or renovation of a public building.

"Value engineering construction change order" means a change order that results in cost reductions to a project or any portion of the work from the original bid specifications after a construction contract is awarded.

"Value engineering construction proposal" means a cost reduction proposal based on analysis by a contractor of the functions, systems, equipment, facilities, services, supplies, means and methods of construction, and any other item needed for the completion of the contract consistent with the required performance, quality, reliability, and safety.

b. All construction contracts issued by a contracting unit when the total price of the originally awarded contract equals or exceeds \$5,000,000, shall allow for value engineering construction change orders to be approved after the award of the contract.

c. Value engineering construction change orders shall be subject to the following provisions:

(1) Value engineering construction change orders shall not be used to impair any of the essential functions, or characteristics of the project, or any portion of the work involved.

(2) The contractor shall submit a value engineering construction proposal that completely describes the changes to the original specifications or proposal, impact on other project components, advantages and disadvantages of the proposed change, cost estimates and calculations on which they are based, any impact on the contract time schedule, and any other relevant information that the contracting unit may require in order to review the value engineering construction proposal. The contractor's cost for developing the value engineering construction proposal shall not be eligible for reimbursement by the contracting unit.

(3) The contractor shall be liable for all reasonable costs incurred by the contracting unit for the technical evaluation and engineering review of a value engineering construction proposal presented by the contractor.

(4) The contracting unit's engineer shall prepare a written report for the governing body that shall evaluate the value engineering construction proposal, make a recommendation on whether or not it should be accepted, rejected, or modified, and state to the contracting unit and contractor the amount of any projected cost savings.

(5) The proposal shall not be approved unless the engineer reports to the governing body that the proposal appears consistent with the required performance, quality, reliability, and safety of the project and does not impair any of the essential functions, or characteristics of the project, or any portion of the work involved.

(6) The contracting unit shall have the sole discretion to approve or disapprove a value engineering construction proposal.

(7) The contractor and the contracting unit shall equally share in the cost savings generated on the contract as a result of an approved value engineering construction change order. Once the project is completed, the contracting unit's engineer shall verify the cost savings to reflect the actual cost of the work, and such verified cost saving shall be the basis for the savings shared equally with the contractor.

(8) The contractor shall have no claim against the contracting unit as a result of the contracting unit's disapproval of a value engineering construction proposal.

(9) A contracting unit shall include in its bid specifications and contract documents procedures to regulate the value engineering construction change order process. Such procedures shall be based on procedures established by the New Jersey Department of Transportation, or any other appropriate State agency, or rules adopted by the director of the Division of Local Government Services.

d. This section shall not invalidate or impair rules regarding change orders adopted by the director of the Division of Local Government Services prior to the effective date of this act. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the director deems necessary to implement the provisions of P.L.2005, c.67 (C.40A:11-16.6) which shall be effective for a period not to exceed 12 months. The regulations shall thereafter be amended, adopted or readopted in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

2. This act shall take effect on the first day of the fourth month next following enactment.

Approved April 7, 2005.

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## CHAPTER 68

AN ACT distinguishing campgrounds from private residential leasehold communities and amending P.L.1991, c.483 (C.46:8C-10 et seq.).

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

1. Section 1 of P.L.1991, c.483 (C.46:8C-10) is amended to read as follows:

**C.46:8C-10 Definitions.**

1. a. For the purposes of P.L.1991, c.483 (C.46:8C-10 et seq.):

"Campground facility" means real property designed and used for the purpose of renting or leasing individual portions thereof to occupants who are to have access for the purposes of camping and the recreation associated therein, which may not be used as a permanent dwelling place or domicile for occupants, other than by the owner, and upon which recreational vehicles, as defined in this section, in excess of 400 square feet, and mobile homes and manufactured homes, as those terms are defined in section 3 of the "Manufactured Home Taxation Act," P.L.1983, c.400 (C.54:4-1.4), in excess of 400 square feet, may not enter;

"Camping trailer" means a recreational vehicle that is mounted on wheels and constructed with collapsible partial side walls that fold for towing and unfold for use;



"Fifth wheel trailer" means a recreational vehicle designed to be towed by a motorized vehicle containing a towing mechanism mounted above or forward of the tow vehicle's rear axle;

"Motor home" means a recreational vehicle built on or permanently attached to a self-propelled motor vehicle chassis, chassis cab or van that is an integral part of the completed vehicle;

"Owner" means the person or persons having legal authority to permit the occupancy of a campground facility;

"Park trailer" means a recreational vehicle that is built on a single chassis mounted on wheels and certified by the manufacturer as complying with the American National Standards Institute (ANSI) standard A119.5;

"Private residential leasehold community" means a community on a parcel of land, or two or more contiguous parcels of land, containing no fewer than ten home sites where such sites are under common ownership and control, other than a cooperative or a campground facility, for the purpose of leasing such sites to the owners of certain homes, including, but not limited to, mobile homes and manufactured homes as those terms are defined in section 3 of the "Manufactured Home Taxation Act," P.L.1983, c.400 (C.54:4-1.4), and specifically including homes constructed entirely or partly on site, the location and use of which may or may not be permanent, and where the owner or owners of the land provide services to the homeowners which are provided by the municipality in which the community is located for the property owners outside the community, which services may include but shall not be limited to:

- (1) The construction and maintenance of streets;
- (2) Lighting of streets and other common areas;
- (3) Garbage removal;
- (4) Snow removal;
- (5) Provisions for the drainage of surface water from home sites and common areas;

"Recreational vehicle" means a vehicular-type unit primarily designed as temporary living quarters for recreational camping or travel use. The vehicle shall have either its own motive power or be mounted on or towed by another vehicle. Recreational vehicles include, but are not limited to, camping trailers, fifth wheel trailers, motor homes, park trailers, travel trailers, and truck campers;

"Travel trailer" means a recreational vehicle designed to be towed by a motorized vehicle containing a towing mechanism which is mounted behind the tow vehicle's bumper;

"Truck camper" means a recreational vehicle consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.

b. As used in sections 2 and 3 of P.L.1991, c.483 (C.46:8C-11 and C.46:8C-12), "notify" means to place in the United States mail a notice addressed to the officers of the homeowners' association. Each such notice shall be deemed to have been given upon the deposit thereof in the United States mail.

c. As used in section 2 of P.L.1991, c.483 (C.46:8C-11), "offer" means any solicitation by the landowner to the general public.

2. This act shall take effect immediately.

Approved April 7, 2005.

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## CHAPTER 69

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, 2005 and regulating the disbursement thereof," approved June 30, 2004 (P.L.2004, c.71).

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

1. The following language provision on page 83 of P.L.2004, c.71, the fiscal year 2005 appropriations act, is amended to read as follows:

**46 DEPARTMENT OF HEALTH AND SENIOR SERVICES**  
**20 *Physical and Mental Health***  
**26 *Senior Services***  
**GRANTS-IN-AID**

Reimbursement for pediatric and adult day health services, including services provided in nursing home-based, hospital-based, and free-standing facilities, as appropriated hereinabove in the Medical Day Care Services account, shall be paid at the rate provided under applicable law or regulation, except that the reimbursement rate for such services shall be calculated without regard to any increase in the rate base attributable to the nursing home provider assessment established pursuant to P.L.2003, c.105 (C.26:2H-92 et seq.).

2. This act shall take effect immediately.

Approved April 7, 2005.

## CHAPTER 70

AN ACT increasing the minimum wage, establishing the New Jersey Minimum Wage Advisory Commission and amending and supplementing P.L.1966, c.113.

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

1. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to read as follows:

**C.34:11-56a4 Minimum wage rate; exemptions.**

5. Every employer shall pay to each of his employees wages at a rate of not less than \$5.05 per hour as of April 1, 1992 and, after January 1, 1999 the federal minimum hourly wage rate set by section 6(a)(1) of the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206(a)(1)), and, as of October 1, 2005, \$6.15 per hour, and as of October 1, 2006, \$7.15 per hour for 40 hours of working time in any week and 1 1/2 times such employee's regular hourly wage for each hour of working time in excess of 40 hours in any week, except this overtime rate shall not include any individual employed in a bona fide executive, administrative, or professional capacity or, if an applicable wage order has been issued by the commissioner under section 17 (C.34:11-56a16) of this act, not less than the wages prescribed in said order. The wage rates fixed in this section shall not be applicable to part-time employees primarily engaged in the care and tending of children in the home of the employer, to persons under the age of 18 not possessing a special vocational school graduate permit issued pursuant to section 15 of P.L.1940, c.153 (C.34:2-21.15), or to persons employed as salesmen of motor vehicles, or to persons employed as outside salesmen as such terms shall be defined and delimited in regulations adopted by the commissioner, or to persons employed in a volunteer capacity and receiving only incidental benefits at a county or other agricultural fair by a nonprofit or religious corporation or a nonprofit or religious association which conducts or participates in that fair.

The provisions of this section for the payment to an employee of not less than 1 1/2 times such employee's regular hourly rate for each hour of working time in excess of 40 hours in any week shall not apply to employees engaged to labor on a farm or employed in a hotel or to an employee of a common carrier of passengers by motor bus or to a limousine driver who is an employee of an employer engaged in the business of operating

limousines or to employees engaged in labor relative to the raising or care of livestock.

Employees engaged on a piece-rate or regular hourly rate basis to labor on a farm shall be paid for each day worked not less than the minimum hourly wage rate multiplied by the total number of hours worked.

Full-time students may be employed by the college or university at which they are enrolled at not less than 85% of the effective minimum wage rate.

Notwithstanding the provisions of this section to the contrary, every trucking industry employer shall pay to all drivers, helpers, loaders and mechanics for whom the Secretary of Transportation may prescribe maximum hours of work for the safe operation of vehicles, pursuant to section 31502(b) of the federal Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less than 1 1/2 times the minimum wage required pursuant to this section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking industry shall be paid no less than the minimum wage rate as provided in this section and N.J.A.C. 12:56-3.1. As used in this section, "trucking industry employer" means any business or establishment primarily operating for the purpose of conveying property from one place to another by road or highway, including the storage and warehousing of goods and property. Such an employer shall also be subject to the jurisdiction of the Secretary of Transportation pursuant to the federal Motor Carrier Act, 49 U.S.C.s.31501 et seq., whose employees are exempt under section 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29 U.S.C. s.213(b)(1), which provides an exemption to employees regulated by section 207 of the federal "Fair Labor Standards Act of 1938," 29 U.S.C.s.207, and the Interstate Commerce Act, 49 U.S.C.s.501 et al.

The provisions of this section shall not be construed as prohibiting any political subdivision of the State from adopting an ordinance, resolution, regulation or rule, or entering into any agreement, establishing any standard for vendors, contractors and subcontractors of the subdivision regarding wage rates or overtime compensation which is higher than the standards provided for in this section, and no provision of any other State or federal law establishing a minimum standard regarding wages or other terms and conditions of employment shall be construed as preventing a political subdivision of the State from adopting an ordinance, resolution, regulation or rule, or entering into any agreement, establishing a standard for vendors, contractors and subcontractors of the subdivision which is higher than the State or federal law or which otherwise provides greater protections or rights to employees of the vendors, contractors and subcontractors of the subdivision, unless the State or federal law expressly pro-

hibits the subdivision from adopting the ordinance, resolution, regulation or rule, or entering into the agreement.

**C.34:11-56a4.7 "New Jersey Minimum Wage Advisory Commission."**

2. a. There is created a commission to be known as the "New Jersey Minimum Wage Advisory Commission," which shall be a permanent, independent body in but not of the Department of Labor and Workforce Development. The commission shall consist of five members as follows: the Commissioner of Labor and Workforce Development, ex officio, who shall serve as chair of the commission, and four members appointed by the Governor as follows: two persons who shall be nominated by organizations who represent the interests of the business community in this State and two persons who shall be nominated by the New Jersey State AFL-CIO.

b. Members shall be appointed not later than December 31, 2005. Members shall be appointed for four-year terms and may be re-appointed for any number of terms. Any member of the commission may be removed from office by the Governor, for cause, upon notice and opportunity to be heard. Vacancies shall be filled in the same manner as the original appointment for the balance of the unexpired term. A member shall continue to serve upon the expiration of his term until a successor is appointed and qualified, unless the member is removed by the Governor.

c. Action may be taken by the commission by an affirmative vote of a majority of its members and a majority of the commission shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the commission.

d. Members of the commission shall serve without compensation, but may be reimbursed for the actual and necessary expenses incurred in the performance of their duties as members of the commission within the limits of funds appropriated or otherwise made available for that purpose.

**C.34:11-56a4.8 Annual evaluation of adequacy of minimum wage.**

3. a. The commission shall annually evaluate the adequacy of the minimum wage relative to the following factors:

- (1) The overall cost of living in the State;
- (2) Changes in the components of the cost of living which have the greatest impact on low-income families, including increases in the cost of housing, food, transportation, health care and child care;
- (3) The cost of living in the State compared to that of other states;
- (4) Changes in the purchasing power of the minimum wage; and
- (5) Changes in the value of the minimum wage relative to the federal poverty guidelines, the federal lower living standard income level guidelines and the self-sufficiency standards established as goals for State and

federal employment and training services pursuant to section 3 of P.L.1992, c.43 (C.34:15D-3) and section 1 of P.L.1992, c.48 (C.34:15B-35).

b. In furtherance of its evaluation, the commission may hold public meetings or hearings within the State on any matter or matters related to the provisions of this act, and call to its assistance and avail itself of the services of the John J. Heldrich Center for Workforce Development and the employees of any other State department, board, commission or agency which the commission determines possesses relevant data, analytical and professional expertise or other resources which may assist the commission in discharging its duties under this act. Each department, board, commission or agency of this State is hereby directed, to the extent not inconsistent with law, to cooperate fully with the commission and to furnish such information and assistance as is necessary to accomplish the purposes of this act.

c. The commission shall submit a written report of its findings regarding the adequacy of the minimum wage and its recommendations as to whether, or how much, to increase the minimum wage to the Governor and to the Legislature, who shall immediately review the commission report upon its receipt. Each House of the Legislature shall consider the commission report within 120 days of the receipt of the report. The first report shall be submitted to the Legislature no sooner than October 1, 2007 and no later than December 31, 2007, and subsequent reports shall be submitted in one year intervals thereafter.

4. This act shall take effect immediately.

Approved April 12, 2005.

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## CHAPTER 71

AN ACT concerning residential fire safety and amending P.L.1991, c.92.

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

1. Section 1 of P.L.1991, c. 92 (C.52:27D-198.1) is amended to read as follows:

**C.52:27D-198.1 Residential structures to have smoke-sensitive alarm devices, portable fire extinguishers.**

1. A structure used or intended for use for residential purposes by not more than two households shall have a smoke-sensitive alarm device on

each level of the structure and outside each separate sleeping area in the immediate vicinity of the bedrooms and located on or near the ceiling in accordance with National Fire Protection Association Standard No. 74-1984 for the installation, maintenance, and use of household fire warning equipment. The installation of battery operated smoke-sensitive alarm devices shall be accepted as meeting the requirements of this section. The smoke-sensitive device shall be tested and listed by a product certification agency recognized by the Bureau of Fire Safety.

Each structure, other than a seasonal rental unit, shall also be equipped with at least one portable fire extinguisher in conformance with rules and regulations promulgated by the Commissioner of Community Affairs pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). For the purposes of this section, "portable fire extinguisher" means an operable portable device, carried and operated by hand, containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing fire, and which is: (1) rated for residential use consisting of an ABC type; (2) no larger than a 10 pound rated extinguisher; and (3) mounted within 10 feet of the kitchen area, unless otherwise permitted by the enforcing agency. "Seasonal rental unit" means a dwelling unit rented for a term of not more than 125 consecutive days for residential purposes by a person having a permanent residence elsewhere, but shall not include use or rental of living quarters by migrant, temporary or seasonal workers in connection with any work or place where work is being performed.

This section shall not be enforced except pursuant to sections 2 and 3 of P.L.1991, c.92 (C.52:27D-198.2 and 52:27D-198.3).

2. Section 2 of P.L.1991, c.92 (C52:27D-198.2) is amended to read as follows:

**C.52:27D-198.2 Municipal officer, agency to determine compliance.**

2. a. In any case where a change of occupancy of any building subject to the requirements of section 1 of P.L.1991, c.92 (C.52:27D-198.1) is subject to a municipal ordinance requiring the issuance of a certificate of occupancy, certificate of inspection or other documentary certification of compliance with laws and regulations relating to safety, healthfulness and upkeep of the premises, no such certificate shall issue until the municipal officer or agency responsible for its issuance has determined that the building is equipped with an alarm device or devices and a portable fire extinguisher as required by section 1 of P.L.1991, c.92 (C.52:27D-198.1).

b. In the case of change of occupancy of any building subject to the requirements of section 1 of P.L.1991, c.92 (C.52:27D-198.1) to which

the provisions of subsection a. of this section do not apply, no owner shall sell, lease or otherwise permit occupancy for residential purposes of that building without first obtaining from the relevant enforcement agency under the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.) a certificate evidencing compliance with the requirements of P.L.1991, c.92 (C.52:27D-198.1 et seq.). The local governing body having jurisdiction over the said enforcing agency or, where the Bureau of Fire Safety is the enforcing agency, the Commissioner of Community Affairs shall establish a fee which covers the cost of inspection and of issuance of the certificate.

3. Section 3 of P.L.1991, c.92 (C.52:27D-198.3) is amended to read as follows:

**C.52:27D-198.3 Fine for noncompliance.**

3. An owner who sells, leases, rents or otherwise permits to be occupied for residential purposes any premises subject to the provisions of P.L.1991, c.92 (C.52:27D-198.1 et seq.) when the premises do not comply with the requirements of section 1 of P.L.1991, c.92 (C.52:27D-198.1), or without complying with the inspection and certification requirements of section 2 of P.L.1991, c.92 (C.52:27D-198.2), shall be subject to a fine of not more than \$500.00 in the case of a violation for an alarm device, or a fine of not more than \$100 in the case of a violation for a portable fire extinguisher, which may be collected and enforced by the local enforcing agency as defined in subsection g. of section 5 of P.L.1983, c.383 (C.52:27D-196) by summary proceedings pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

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

Approved April 14, 2005.

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CHAPTER 72

AN ACT concerning the training of law enforcement personnel and supplementing chapter 17B of Title 52 of the Revised Statutes.

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



**C.52:17B-77.7 Findings, declarations relative to Alzheimer's disease.**

1. The Legislature finds and declares that:
  - a. Alzheimer's disease is a progressive neurodegenerative disorder causing dementia and resulting in such conditions as anxiety, poor judgment, confusion, mood swings and loss of intellectual functioning;
  - b. Of the four million Americans currently diagnosed with Alzheimer's disease, 60% of them will become disoriented and wander off at some point during the disease;
  - c. If a person with Alzheimer's disease wanders off and is not found within the first 24 hours, there is a nearly 50% chance the person will be at risk for serious injury or death;
  - d. Safe Return is a national identification, support and registration program working in conjunction with local law enforcement agencies to safely return individuals with Alzheimer's disease and related disorders, who become lost, to their families and caregivers; and
  - e. It is in the interest of protecting the health and welfare of our State residents diagnosed with Alzheimer's disease and related disorders to establish a requirement that all State Police and local law enforcement personnel receive instruction on the utilization of the Safe Return program to facilitate the safe recovery of those who wander off and become lost.

**C.52:17B-77.8 Training protocols for law enforcement for Safe Return Program.**

2. a. The Department of Law and Public Safety shall establish training protocols for the State Police and local law enforcement personnel in the utilization of the Safe Return program to facilitate the safe recovery of individuals with Alzheimer's disease and related disorders who wander off and become lost.
  - b. These training protocols shall include, but need not be limited to, the following:
    - (1) guidelines for identifying persons with Alzheimer's disease and related disorders;
    - (2) guidelines on communicating with persons with Alzheimer's disease and related disorders;
    - (3) guidelines for caring for persons with Alzheimer's disease and related disorders who become lost and disoriented; and
    - (4) guidelines for instruction on the procedures the Safe Return program uses in locating lost individuals with Alzheimer's disease and related disorders.

**C.52:17B-77.9 In-service training.**

3. The State Police or a local law enforcement agency may provide in-service training of its personnel according to the training protocols established by the Department of Law and Public Safety pursuant to

section 2 of P.L.2005, c.72 (C.52:17B-77.8) on the specialized needs of persons with Alzheimer's disease and related disorders who become lost.

**C.52:17B-77.10 Rules, regulations.**

4. The Attorney General may, pursuant to 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.

5. This act shall take effect on the 180th day following enactment, but the Attorney General may take such anticipatory administrative action in advance as shall be necessary for implementation of this act.

Approved April 18, 2005.

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CHAPTER 73

AN ACT concerning sex crime victim treatment services, amending N.J.S.2C:46-1, N.J.S.2C:46-2, P.L.1979, c.396, and P.L.1991, c. 329 and supplementing Title 2C of the New Jersey Statutes and Title 52 of the Revised Statutes.

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

**C.2C:14-10 Additional penalties for sex offenders; collection; use.**

1. a. In addition to any fine, fee, assessment or penalty authorized under the provisions of Title 2C of the New Jersey Statutes, a person convicted of a sex offense, as defined in section 2 of P.L.1994, c.133 (C.2C:7-2), shall be assessed a penalty for each such offense not to exceed:

- (1) \$2,000, when the conviction is a crime of the first degree;
- (2) \$1,000, when the conviction is a crime of the second degree;
- (3) \$750, when the conviction is a crime of the third degree; and
- (4) \$500, when the conviction is a crime of the fourth degree.

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

c. All moneys collected pursuant to this section shall be forwarded to the Department of the Treasury to be deposited in the "Sex Crime Victim Treatment Fund" established in the State Treasury by section 2 of P.L.2005, c.73 (C.52:4B-43.2).

**C.52:4B-43.2 "Sex Crime Victim Treatment Fund."**

2. a. The "Sex Crime Victim Treatment Fund" shall be a separate, nonlapsing, revolving fund and shall be administered by the Victims of Crime Compensation Board established pursuant to section 3 of P.L.1971, c.317 (C.52:4B-3), and all moneys deposited in that fund pursuant to this act shall be used for the provision of counseling and treatment services to victims of specified sex offenses as set forth in section 1 of P.L.2005, c.73 (C.2C:14-10) and the families of these victims.

b. The development and provision of counseling and treatment services to victims and their families shall be pursuant to rules and regulations promulgated by the Victims of Crime Compensation Board. The board shall coordinate these counseling and treatment services with other services offered by the State Office of Victim and Witness Advocacy, the 21 county offices of Victim and Witness Advocacy and as otherwise deemed appropriate for the implementation of the Attorney General Standards to Ensure the Rights of Crime Victims.

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

**Time and method of payment; disposition of funds.**

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

a. When a defendant is sentenced to pay an assessment pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed pursuant to N.J.S.2C:35-20, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), a penalty imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6), a penalty imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10) or to make restitution, the court may grant permission for the payment to be made within a specified period of time or in specified installments. If no such permission is embodied in the sentence, the assessment, fine, penalty, fee or restitution shall be payable forthwith, and the court shall file a copy of the judgment of conviction with the Clerk of the Superior Court who shall enter the following information upon the record of docketed judgments:

- (1) the name of the convicted person as judgment debtor;
- (2) the amount of the assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) and the Victims of Crime Compensation Board as a judgment creditor in that amount;
- (3) the amount of any restitution ordered and the name of any persons entitled to receive payment as judgment creditors in the amount and according to the priority set by the court;

(4) the amount of any fine and the governmental entity entitled to receive payment pursuant to section 3 of P.L.1979, c.396 (C.2C:46-4);

(5) the amount of the mandatory Drug Enforcement and Demand Reduction penalty imposed;

(6) the amount of the forensic laboratory fee imposed;

(7) the amount of the penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5);

(8) the date of the order;

(9) the amount of the penalty imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6); and

(10) the amount of the penalty imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10).

b. (1) When a defendant sentenced to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed pursuant to N.J.S.2C:35-20, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), a penalty imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6), a penalty imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10) or to make restitution is also sentenced to probation, the court shall make continuing payment of installments on the assessment and restitution a condition of probation, and may make continuing payment of installments on the fine, the mandatory Drug Enforcement and Demand Reduction penalty, the mandatory penalty pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), the penalty pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6), the mandatory penalty pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10) or the forensic laboratory fee a condition of probation.

(2) When a defendant sentenced to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed pursuant to N.J.S.2C:35-20, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), a penalty imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6), a penalty imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10) or to make restitution is also sentenced to a custodial term in a State correctional facility, the court may require the defendant to pay installments on the assessment, penalty, fee, fine and restitution.

c. The defendant shall pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), restitution, penalty, fee or fine or any installment thereof to the officer entitled by law to collect the payment. In the event of default in payment, such agency shall take appropriate action for its collection.

d. (1) When, in connection with a sentence of probation, a defendant is sentenced to pay an assessment imposed pursuant to section 2 of P.L.1979,

c.396 (C.2C:43-3.1), a fine, a penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed pursuant to N.J.S.2C:35-20, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), a penalty imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6), a penalty imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10) or to make restitution, the defendant, in addition, shall be sentenced to pay a transaction fee on each occasion that the defendant makes a payment or an installment payment, until the defendant has paid the full amount he is sentenced to pay. All other individuals making payments on court ordered financial obligations through the probation division shall also pay a transaction fee on each payment or installment payment. The Administrative Office of the Courts shall promulgate a transaction fee schedule for use in connection with installment payments made pursuant to this paragraph; provided, however, the transaction fee on an installment payment shall not exceed \$2.00.

(2) When, in connection with a custodial sentence in a State correctional institution, a defendant is sentenced to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed pursuant to N.J.S.2C:35-20, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), a penalty imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6), a penalty imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10) or to make restitution, the defendant, in addition, shall be sentenced to pay a transaction fee on each occasion that the defendant makes a payment or an installment payment until the defendant has paid the full amount he is sentenced to pay. The Department of Corrections shall promulgate a transaction fee schedule for use in connection with installment payments made pursuant to this paragraph; provided, however, the transaction fee on an installment payment shall not exceed \$1.00.

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

**Consequences of nonpayment; summary collection.**

2C:46-2. Consequences of Nonpayment; Summary Collection. a. When a defendant sentenced to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a penalty imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6), a penalty imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10), monthly probation fee, fine, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), other court imposed financial penalties or to make restitution defaults in the payment thereof or of any installment, upon the motion of the person authorized by law to collect the payment, the motion of the prosecutor, the motion of the victim entitled to payment of restitution, the motion of the Victims of Crime Com-

pensation Board, the motion of the State or county Office of Victim and Witness Advocacy or upon its own motion, the court shall recall him, or issue a summons or a warrant of arrest for his appearance. The court shall afford the person notice and an opportunity to be heard on the issue of default. Failure to make any payment when due shall be considered a default. The standard of proof shall be by a preponderance of the evidence, and the burden of establishing good cause for a default shall be on the person who has defaulted.

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

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

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

(c) Notify the Chief Administrator of the New Jersey Motor Vehicle Commission of the action taken; and

(d) Take such other actions as may be authorized by law.

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

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

(4) When failure to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee, restitution, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), a penalty imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6), a penalty imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10), or other financial penalties or to perform enforced community service or to participate in a labor assistance program is determined to be willful, the failure to do so shall be considered to be contumacious.

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

b. Upon any default in the payment of a fine, assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), a penalty imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6), a penalty imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10), other financial penalties, restitution, or any installment thereof, execution may be levied and such other measures may be taken for collection of it or the unpaid balance thereof as are authorized for the collection of an unpaid civil judgment entered against the defendant in an action on a debt.

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

d. Upon any default in the payment of an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or any installment thereof, the Victims of Crime Compensation Board or the party responsible for collection may institute summary collection proceedings authorized by subsection b. of this section.

e. When a defendant sentenced to make restitution to a public entity other than the Victims of Crime Compensation Board, defaults in the payment thereof or any installment, the court may, in lieu of other modification of the sentence, order the defendant to perform work in a labor assistance program or enforced community service program.

f. If a defendant ordered to participate in a labor assistance program or enforced community service program fails to report for work or to perform the assigned work, the comprehensive enforcement hearing officer may revoke the work order and impose any sentence permitted as a consequence of the original conviction.

g. If a defendant ordered to participate in a labor assistance program or an enforced community service program pays all outstanding assessments, the comprehensive enforcement hearing officer may review the work order, and modify the same to reflect the objective of the sentence.

h. As used in this section:

(1) "Comprehensive enforcement program" means the program established pursuant to the "Comprehensive Enforcement Program Fund Act," P.L.1995, c.9 (C.2B:19-1 et seq.).

(2) The terms "labor assistance program" and "enforced community service" have the same meaning as those terms are defined in section 5 of the "Comprehensive Enforcement Program Fund Act," P.L.1995, c.9 (C.2B:19-5).

(3) "Public entity" means the State, any county, municipality, district, public authority, public agency and any other political subdivision or public body in the State.

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

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

3. a. All fines, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), all penalties imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), all penalties imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6), all penalties imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10) and restitution shall be collected as follows:

(1) All fines, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), all penalties imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), all penalties imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6), all penalties imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10) and restitution imposed by the Superior Court or otherwise imposed at the county level, shall be collected by the county probation division except when such fine, assessment or restitution is imposed in conjunction with a custodial sentence to a State correctional facility or in conjunction with a term of incarceration imposed pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44) in which event such fine, assessment or restitution shall be collected by the Department of Corrections or the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170). An adult prisoner of a State correctional institution or a juvenile serving a term of incarceration imposed pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44) who has not paid an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) a penalty imposed



pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10) or restitution shall have the assessment, penalty, fine or restitution deducted from any income the inmate receives as a result of labor performed at the institution or on any type of work release program or, pursuant to regulations promulgated by the Commissioner of the Department of Corrections or the Juvenile Justice Commission, from any personal account established in the institution for the benefit of the inmate.

(2) All fines, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), any penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) and restitution imposed by a municipal court shall be collected by the municipal court administrator except if such fine, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), or restitution is ordered as a condition of probation in which event it shall be collected by the county probation division.

b. Except as provided in subsection c. with respect to fines imposed on appeals following convictions in municipal courts and except as provided in subsection i. with respect to restitution imposed under the provisions of P.L.1997, c.253 (C.2C:43-3.4 et al.), all fines imposed by the Superior Court or otherwise imposed at the county level, shall be paid over by the officer entitled to collect same to:

(1) The county treasurer with respect to fines imposed on defendants who are sentenced to and serve a custodial term, including a term as a condition of probation, in the county jail, workhouse or penitentiary except where such county sentence is served concurrently with a sentence to a State institution; or

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

c. All fines imposed by municipal courts, except a central municipal court established pursuant to N.J.S.2B:12-1 on defendants convicted of crimes, disorderly persons offenses and petty disorderly persons offenses, and all fines imposed following conviction on appeal therefrom, and all forfeitures of bail shall be paid over by the officer entitled to collect same to the treasury of the municipality wherein the municipal court is located.

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

In the case of a central municipal court, established by a county pursuant to N.J.S.2B:12-1, all costs, fines, fees and forfeitures of bail shall be paid into the county treasury of the county where the central municipal court is located.

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

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

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

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

h. All assessments imposed pursuant to section 11 of P.L.1993, c.220 (C.2C:43-3.2) shall be forwarded and deposited as provided in that section.

i. All restitution imposed on defendants under the provisions of P.L.1997, c.253 (C.2C:43-3.4 et al.) for costs incurred by a law enforcement entity in extraditing the defendant from another jurisdiction shall be paid over by the officer entitled to collect same to the law enforcement entities which participated in the extradition of the defendant.

j. All penalties imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) shall be forwarded and deposited as provided in that section.

k. All penalties imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6) shall be forwarded and deposited as provided in that section.

l. All mandatory penalties imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10) shall be forwarded and deposited as provided in that section.

6. Section 13 of P.L.1991, c. 329 (C. 2C:46-4.1) is amended to read as follows:

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

13. Moneys that are collected in satisfaction of any assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), or in satisfaction of restitution or fines imposed in accordance with the provisions of Title 2C of the New Jersey Statutes or with the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), shall be applied in the following order:

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

b. second, except as provided in subsection f. of this section, in satisfaction of any restitution ordered;

c. third, in satisfaction of all assessments imposed pursuant to section 11 of P.L.1993, c.220 (C.2C:43-3.2);

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

- e. fifth, in satisfaction of any mandatory Drug Enforcement and Demand Reduction penalty assessed pursuant to N.J.S.2C:35-15;
- f. sixth, in satisfaction of any anti-drug profiteering penalty imposed pursuant to N.J.S.2C:35A-1 et seq.;
- g. seventh, in satisfaction of any anti-money laundering profiteering penalty imposed pursuant to section 9 of P.L.1999, c.25;
- h. eighth, in satisfaction of restitution for any extradition costs imposed pursuant to section 4 of P.L.1997, c.253 (C.2C:43-3.4);
- i. ninth, in satisfaction of any penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5);
- j. tenth, in satisfaction of any penalty imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6);
- k. eleventh, in satisfaction of the mandatory penalty imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10); and
- l. twelfth, in satisfaction of any fine.

7. This act shall take effect immediately.

Approved April 26, 2005.

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#### CHAPTER 74

AN ACT concerning teachers employed by approved private schools for the disabled and amending N.J.S.18A:26-10.

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

1. N.J.S.18A:26-10 is amended to read as follows:

**Suspension of certificate for wrongful cessation of performance of duties; "approved private school for the disabled" defined.**

18A:26-10. Any teaching staff member employed by a board of education or an approved private school for the disabled, who shall, without the consent of the board or, in the case of an approved private school for the disabled, the board of directors of the school, cease to perform his duties before the expiration of the term of his employment, shall be deemed guilty of unprofessional conduct, and the commissioner may, upon receiving notice thereof, suspend his certificate for a period not exceeding one year.

As used in this section, "approved private school for the disabled" means a private entity approved by the Department of Education to provide special education and related services to students with disabilities who have been

placed by the district board of education or charter school responsible for providing their education.

2. This act shall take effect immediately.

Approved April 26, 2005.

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CHAPTER 75

AN ACT concerning certain costs incurred in the training and hiring of certain law enforcement employees 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:14-178.1 Liability for certain costs for training certain law enforcement personnel; definitions.**

1. a. If a person appointed as a Class Two special resigns or refuses reappointment after serving less than 30 days with the municipality that incurred the costs of examining, training and initially hiring him and, within 120 days of that resignation, accepts an appointment as a Class Two special with another municipal law enforcement agency, that appointing municipality shall be liable to the officer's former municipal employer for the total certified costs incurred by the former employer in the examination, hiring, and training of the officer.

b. If a person appointed as a Class Two special resigns or refuses reappointment after serving less than two years with the municipality that incurred the costs of examining, training and initially hiring him and, within 120 days of that resignation or refusal of reappointment, accepts an appointment as a Class Two special with another municipal law enforcement agency, that appointing municipality shall be liable to the officer's former municipal employer for one-half of the total certified costs incurred by the former employer in the examination, hiring, and training of the officer.

c. Upon the appointment of a Class Two special subject to the provisions of this act, the appointing municipal law enforcement agency shall notify the officer's former employer immediately upon appointment and shall reimburse the former employer within 120 days of the receipt of the certified costs.

- d. As used in this act:

"Class Two special" means a special law enforcement officer, appointed pursuant to P.L.1985, c.439 (C.40A:14-146.8 et seq.), who is authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time law enforcement officer.

"Examination costs" means and includes, but is not limited to, the costs of all qualifying examinations and the public advertisements for these examinations; and

"Training costs" means the police training course fees and the base salary, if any, received while attending the police training course, as required by P.L.1961, c.56 (C.52:17B-66 et seq.) and P.L.1985, c.439 (C.40A:14-146.8 et seq.).

2. This act shall take effect immediately.

Approved April 26, 2005.

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## CHAPTER 76

AN ACT concerning the licensing of certain farm trucks and amending R.S.39:3-25.

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

1. R.S.39:3-25 is amended to read as follows:

**"Farmer" license plate, issuance, fee, expiration.**

39:3-25. In addition to the motor vehicle licenses authorized to be issued pursuant to the provisions of this chapter, the administrator shall issue, upon application therefor, a license plate for trucks marked "farmer," which shall be issued upon evidence satisfactory to the administrator that the applicant is a farmer and is actually engaged in the growing, raising and producing of farm products as an occupation. License plates issued under authority of this section shall be placed upon motor trucks engaged in the carrying or transportation of farm products, and farm supplies, and not engaged in hauling for hire, except for a truck being operated under contract with a municipality to remove snow.

Applicants for license plates herein authorized shall pay a registration fee of \$25 plus \$4.25 for each 1,000 pounds or portion thereof in excess of 5,000 pounds. If the registration cycle established by the administrator is for more or less than 11 months, applicants shall pay amounts proportionately less or greater than the fees established by law.

Except as otherwise provided in this section, every registration for a farm truck shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued; except that the administrator may require registrations which shall expire, and issue certificates thereof which shall become void, on a date fixed by the administrator, which shall not be sooner than three months or later than 26 months after the date of issuance of such certificates, and the fees for such registrations, including any other fees or charges collected in connection with the registration fee, shall be fixed by the administrator in amounts proportionately less or greater than the fees established by law. The administrator may fix the expiration date for registration certificates at a date other than 11 months if the administrator determines that such change is necessary, appropriate or convenient in order to aid in implementing the vehicle inspection requirements of chapter 8 of Title 39 or for other good cause.

The term "farmer" as used in this section means any person engaged in the commercial raising, growing and producing of farm products on a farm not less than five acres in area; the term "farm products" means any crop, livestock or fur products; and the term "farm supplies" means any farm-related supply or repair item.

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

Approved April 26, 2005.

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## CHAPTER 77

AN ACT concerning human trafficking and amending and supplementing various parts of the statutory law.

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

**C.2C:13-8 Human trafficking.**

1. Human trafficking. a. A person commits the crime of human trafficking if he :

(1) knowingly holds, recruits, lures, entices, harbors, transports, provides or obtains, by any means, another, to engage in sexual activity as defined in paragraph (2) of subsection a. of N.J.S.2C:34-1 or to provide labor or services:

(a) by threats of serious bodily harm or physical restraint against the person or any other person;

(b) by means of any scheme, plan or pattern intended to cause the person to believe that the person or any other person would suffer serious bodily harm or physical restraint;

(c) by committing a violation of N.J.S.2C:13-5 against the person; or

(d) by destroying, concealing, removing, confiscating, or possessing any passport, immigration-related document as defined in section 1 of P.L.1997, c.1 (C.2C:21-31), or other document issued by a governmental agency to any person which could be used as a means of verifying the person's identity or age or any other personal identifying information; or

(e) by means of the abuse or threatened abuse of the law or legal process; or

(2) receives anything of value from participation as an organizer, supervisor, financier or manager in a scheme or course of conduct which violates paragraph (1) of this subsection.

b. An offense under this section constitutes a crime of the first degree.

c. It is an affirmative defense to prosecution for a violation of this section that, during the time of the alleged commission of the offense of human trafficking created by this section, the defendant was a victim of human trafficking.

d. Notwithstanding the provisions of N.J.S.2C:43-6, the term of imprisonment imposed for a crime of the first degree under paragraph (2) of subsection a. shall be either a term of 20 years during which the actor shall not be eligible for parole, or a specific term between 20 years and life imprisonment, of which the actor shall serve 20 years before being eligible for parole.

e. In addition to any other disposition authorized by law, any person who violates the provisions of this section shall be sentenced to make restitution to any victim. The court shall award to the victim restitution which is the greater of:

(1) the gross income or value to the defendant of the victim's labor or services; or

(2) the value of the victim's labor or services as determined by the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), the "New Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.), the Seasonal Farm Labor Act, P.L.1945, c.71 (C.34:9A-1 et seq.), the laws concerning the regulation of child labor in chapter 2 of Title 34 of the Revised Statutes, or any other applicable State law, and the "Fair Labor Standards Act of 1938," 29 U.S.C. s.201 et seq. or any other applicable federal law.

2. N.J.S.2C:34-1 is amended to read as follows:

**Prostitution and related offenses.**

## 2C:34-1. Prostitution and Related Offenses.

## a. As used in this section:

(1) "Prostitution" is sexual activity with another person in exchange for something of economic value, or the offer or acceptance of an offer to engage in sexual activity in exchange for something of economic value.

(2) "Sexual activity" includes, but is not limited to, sexual intercourse, including genital-genital, oral-genital, anal-genital, and oral-anal contact, whether between persons of the same or opposite sex; masturbation; touching of the genitals, buttocks, or female breasts; sadistic or masochistic abuse and other deviate sexual relations.

(3) "House of prostitution" is any place where prostitution or promotion of prostitution is regularly carried on by one person under the control, management or supervision of another.

## (4) "Promoting prostitution" is:

(a) Owning, controlling, managing, supervising or otherwise keeping, alone or in association with another, a house of prostitution or a prostitution business;

(b) Procuring an inmate for a house of prostitution or place in a house of prostitution for one who would be an inmate;

(c) Encouraging, inducing, or otherwise purposely causing another to become or remain a prostitute;

(d) Soliciting a person to patronize a prostitute;

(e) Procuring a prostitute for a patron;

(f) Transporting a person into or within this State with purpose to promote that person's engaging in prostitution, or procuring or paying for transportation with that purpose; or

(g) Knowingly leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution or promotion of prostitution, or failure to make a reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities, or other legally available means.

## b. A person commits an offense if:

(1) The actor engages in prostitution;

(2) The actor promotes prostitution;

(3) The actor knowingly promotes prostitution of a child under 18 whether or not the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable;

(4) The actor knowingly promotes prostitution of the actor's child, ward, or any other person for whose care the actor is responsible;

(5) The actor compels another to engage in or promote prostitution;

(6) The actor promotes prostitution of the actor's spouse; or



(7) The actor knowingly engages in prostitution with a person under the age of 18, or if the actor enters into or remains in a house of prostitution for the purpose of engaging in sexual activity with a child under the age of 18, or if the actor solicits or requests a child under the age of 18 to engage in sexual activity. It shall be no defense to a prosecution under this paragraph that the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable.

c. Grading of offenses under subsection b.

(1) An offense under subsection b. constitutes a crime of the second degree if the offense falls within paragraph (3) or (4) of that subsection.

(2) An offense under subsection b. constitutes a crime of the third degree if the offense falls within paragraph (5), (6) or (7) of that subsection.

(3) An offense under paragraph (2) of subsection b. constitutes a crime of the third degree if the conduct falls within subparagraph (a), (b), or (c) of paragraph (4) of subsection a. Otherwise the offense is a crime of the fourth degree.

(4) An offense under subsection b. constitutes a disorderly persons offense if the offense falls within paragraph (1) of that subsection except that a second or subsequent conviction for such an offense constitutes a crime of the fourth degree. In addition, where a motor vehicle was used in the commission of any offense under paragraph (1) of subsection b. the court shall suspend for six months the driving privilege of any such offender who has a valid driver's license issued by this State. Upon conviction, the court shall immediately collect the offender's driver's license and shall forward it, along with a report stating the first and last day of the suspension imposed pursuant to this paragraph, to the New Jersey Motor Vehicle Commission.

d. Presumption from living off prostitutes. A person, other than the prostitute or the prostitute's minor child or other legal dependent incapable of self-support, who is supported in whole or substantial part by the proceeds of prostitution is presumed to be knowingly promoting prostitution.

e. It is an affirmative defense to prosecution for a violation of this section that, during the time of the alleged commission of the offense, the defendant was a victim of human trafficking pursuant to section 1 of P.L.2005, c.77 (C.2C:13-8).

3. N.J.S.2C:41-1 is amended to read as follows:

**Definitions.**

2C:41-1. Definitions.

For purposes of this section and N.J.S.2C:41-2 through N.J.S.2C:41-6:

a. "Racketeering activity" means (1) any of the following crimes which are crimes under the laws of New Jersey or are equivalent crimes under the laws of any other jurisdiction:

- (a) murder
  - (b) kidnapping
  - (c) gambling
  - (d) promoting prostitution
  - (e) obscenity
  - (f) robbery
  - (g) bribery
  - (h) extortion
  - (i) criminal usury
  - (j) violations of Title 33 of the Revised Statutes
  - (k) violations of Title 54A of the New Jersey Statutes and Title 54 of the Revised Statutes
  - (l) arson
  - (m) burglary
  - (n) theft and all crimes defined in chapter 20 of Title 2C of the New Jersey Statutes
  - (o) forgery and fraudulent practices and all crimes defined in chapter 21 of Title 2C of the New Jersey Statutes
  - (p) fraud in the offering, sale or purchase of securities
  - (q) alteration of motor vehicle identification numbers
  - (r) unlawful manufacture, purchase, use or transfer of firearms
  - (s) unlawful possession or use of destructive devices or explosives
  - (t) violation of sections 112 through 116 inclusive of the "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116)
  - (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6 and all crimes involving illegal distribution of a controlled dangerous substance or controlled substance analog, except possession of less than one ounce of marijuana
  - (v) violation of subsection b. of N.J.S.2C:24-4 except for subparagraph (b) of paragraph (5) of subsection b.
  - (w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16), leader of firearms trafficking network
  - (x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14), weapons training for illegal activities
  - (y) violation of section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism.
  - (z) violation of section 1 of P.L.2005, c.77 (C.2C:13-8), human trafficking.
- (2) any conduct defined as "racketeering activity" under Title 18, U.S.C.s.1961(1)(A), (B) and (D).
- b. "Person" includes any individual or entity or enterprise as defined herein holding or capable of holding a legal or beneficial interest in property.

c. "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business or charitable trust, association, or other legal entity, any union or group of individuals associated in fact although not a legal entity, and it includes illicit as well as licit enterprises and governmental as well as other entities.

d. "Pattern of racketeering activity" requires

(1) Engaging in at least two incidents of racketeering conduct one of which shall have occurred after the effective date of this act and the last of which shall have occurred within 10 years (excluding any period of imprisonment) after a prior incident of racketeering activity; and

(2) A showing that the incidents of racketeering activity embrace criminal conduct that has either the same or similar purposes, results, participants or victims or methods of commission or are otherwise interrelated by distinguishing characteristics and are not isolated incidents.

e. "Unlawful debt" means a debt

(1) Which was incurred or contracted in gambling activity which was in violation of the law of the United States, a state or political subdivision thereof; or

(2) Which is unenforceable under state or federal law in whole or in part as to principal or interest because of the laws relating to usury.

f. "Documentary material" includes any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic or recording or video tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into useable form or other tangible item.

g. "Attorney General" includes the Attorney General of New Jersey, his assistants and deputies. The term shall also include a county prosecutor or his designated assistant prosecutor if a county prosecutor is expressly authorized in writing by the Attorney General to carry out the powers conferred on the Attorney General by this chapter.

h. "Trade or commerce" shall include all economic activity involving or relating to any commodity or service.

4. 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) (Deleted by amendment, P.L.1995, c.135).
- (3) threats to do bodily harm;
- (4) lewd, indecent, or obscene acts;
- (5) indecent acts with children;
- (6) kidnapping;
- (7) murder;
- (8) manslaughter;
- (9) aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact;
- (10) any other crime involving violence including domestic violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or section 3 of P.L.1991, c.261 (C.2C:25-19);
- (11) burglary;
- (12) tampering with a cosmetic, drug or food product;
- (13) a violation of human trafficking, section 1 of P.L.2005, c.77 (C.2C:13-8); or
  - c. the commission of a violation of R.S.39:4-50, section 5 of P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236 (C.12:7-34.19) or section 3 of P.L.1952, c.157 (C.12:7-46); or
  - d. theft of an automobile pursuant to N.J.S.2C:20-2, eluding a law enforcement officer pursuant to subsection b. of N.J.S.2C:29-2 or unlawful taking of a motor vehicle pursuant to subsection b., c. or d. of N.J.S.2C:20-10 where injuries to the victim occur in the course of operating an automobile in furtherance of the offense.

5. Section 6 of P.L.1985, c.404 (C.52:4B-44) is amended to read as follows:

**C.52:4B-44 Standards for law enforcement agencies to ensure rights of crime victims.**

6. a. The Attorney General shall, through the Office of Victim-Witness Advocacy in the Division of Criminal Justice in the Department of Law and Public Safety and in consultation with the county prosecutors, promulgate standards for law enforcement agencies to ensure that the rights of crime victims are enforced.

b. The standards shall require that the Office of Victim-Witness Advocacy in the Division of Criminal Justice and each county prosecutor's office provide the following services upon request for victims and witnesses involved in the prosecution of a case:

- (1) Orientation information about the criminal justice system and the victim's and witness's role in the criminal justice process;
- (2) Notification of any change in the case status and of final disposition;

- (3) Information on crime prevention and on available responses to witness intimidation;
- (4) Information about available services to meet needs resulting from the crime and referrals to service agencies, where appropriate;
- (5) Advance notice of the date, time and place of the defendant's initial appearance before a judicial officer, submission to the court of any plea agreement, the trial and sentencing;
- (6) Advance notice of when presence in court is not needed;
- (7) Advice about available compensation, restitution and other forms of recovery and assistance in applying for government compensation;
- (8) A waiting or reception area separate from the defendant for use during court proceedings;
- (9) An escort or accompaniment for intimidated victims or witnesses during court appearances;
- (10) Information about directions, parking, courthouse and courtroom locations, transportation services and witness fees, in advance of court appearances;
- (11) Assistance for victims and witnesses in meeting special needs when required to make court appearances, such as transportation and child care arrangements;
- (12) Assistance in making travel and lodging arrangements for out-of-State witnesses;
- (13) Notification to employers of victims and witnesses, if cooperation in the investigation or prosecution causes absence from work;
- (14) Notification of the case disposition, including the trial and sentencing;
- (15) Assistance to victims in submitting a written statement to a representative of the county prosecutor's office about the impact of the crime prior to the prosecutor's final decision concerning whether formal charges will be filed;
- (16) Advice to victims about their right to make a statement about the impact of the crime for inclusion in the presentence report or at time of parole consideration, if applicable;
- (17) Notification to victims of the right to make an in-person statement, prior to sentencing, directly to the sentencing court concerning the impact of the crime;
- (18) Expediting the return of property when no longer needed as evidence;
- (19) Advise and counsel, or refer for advice or counseling, victims of sexual assault, or other criminal acts involving a risk of transmission of disease, concerning available medical testing and assist such victims, or refer such victims for assistance, in obtaining appropriate testing, counseling and

medical care and in making application to the Victims of Crime Compensation Board for compensation for the costs of such testing, counseling and care;

(20) Assistance to victims in submitting a written impact statement to a representative of the county prosecutor's office concerning the impact of the crime which shall be considered prior to the prosecutor's accepting a negotiated plea agreement containing recommendations as to sentence and assistance to victims in securing an explanation of the terms of any such agreement and the reasons for the agreement;

(21) Notification to the victim of the defendant's release from custody which shall include:

(a) notice of the defendant's escape from custody and return to custody following escape;

(b) notice of any other release from custody, including placement in an Intensive Supervision Program or other alternative disposition, and any associated conditions of release;

(c) notice of the filing by an inmate of an application for commutation of sentence pursuant to N.J.S.2A:167-4 and its disposition;

(d) notice of parole consideration pursuant to provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.); and

(e) notice of the pending release of an inmate due to expiration of sentence; and

(22) Interpreting services for victims and witnesses when necessary to assist a victim or witness who is hearing impaired or developmentally disabled as defined in section 3 of P.L.1977, c.82 (C.30:6D-3) to understand questions and frame answers.

c. In a case involving a victim of aggravated sexual assault or sexual assault as defined in subsection a. or c. of N.J.S.2C:14-2, the Office of Victim-Witness Advocacy or the county prosecutor's office involved in the case shall:

(1) Notify the victim of the victim's right to obtain an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS, and assist the victim, or refer the victim for assistance, in obtaining a test and appropriate counseling and medical care;

(2) Notify the victim of the victim's right to obtain a court order pursuant to subsection a. of section 4 of P.L.1993, c.364 (C.2C:43-2.2) requiring the offender to submit to an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent

of AIDS in the event that the offender is indicted, formally charged, convicted or adjudicated delinquent;

(3) Communicate the request of a victim who agrees to seek an order pursuant to subsection a. of section 4 of P.L.1993, c.364 (C.2C:43-2.2) to the prosecutor handling the case and notify the victim or arrange for the victim to be notified of the test result; and

(4) Assist the victim in applying to the Victims of Crime Compensation Board for compensation for the costs of testing, counseling and medical care.

d. The Attorney General shall, through the Office of Victim-Witness Advocacy and in consultation with the Commissioner of Health and Senior Services, the Superintendent of State Police and representatives of providers of sexual assault services, to be designated by the Director of the Office of Victim-Witness Advocacy, coordinate the establishment of standard protocols for the provision of information and services to victims of sexual assault, and shall make such protocols available to victims upon request, except that the provision of information and services with regard to emergency contraception and sexually transmitted diseases shall be in accordance with P.L.2005, c.50 (C.26:2H-12.6b et al.).

e. In a case involving a victim of human trafficking as defined in section 1 of P.L.2005, c.77 (C.2C:13-8) the Office of Victim-Witness Advocacy or the county prosecutor's office involved in the case shall ensure that the victim of human trafficking obtains assistance in receiving any available benefits or services, including assistance in receiving any necessary certifications or endorsements needed to be recognized as having federal T non-immigrant status for the purpose of receiving any federal benefits or services available pursuant to the "Trafficking Victims Protection Reauthorization Act of 2003," 22 U.S.C. s. 7101 et seq.

f. The Attorney General shall, through the Office of Victim-Witness Advocacy and in consultation with the Commissioner of Health and Senior Services, the Superintendent of State Police and representatives of providers of services to victims of human trafficking, to be designated by the Director of the Office of Victim-Witness Advocacy, coordinate the establishment of standard protocols for the provision of information and services to victims of human trafficking, including coordination of efforts with the appropriate federal authorities pursuant to the "Trafficking Victims Protection Reauthorization Act of 2003," 22 U.S.C. s. 7101 et seq. and shall make such protocols available to victims upon request.

6. This act shall take effect immediately.

Approved April 26, 2005.

## CHAPTER 78

AN ACT concerning tourism and amending P.L.1992, c.165.

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

1. Section 3 of P.L.1992, c.165 (C.40:54D-3) is amended to read as follows:

**C.40:54D-3 Definitions relative to tourism improvement and development.**

3. As used in this act:

"Authority" means a tourism improvement and development authority created pursuant to section 18 of this act, P.L.1992, c.165 (C.40:54D-18).

"Beach operation offset payment" means a payment made by an authority to municipalities in its district for tourism development activities related to operating and maintaining public beaches within a zone to seaward of a line of demarcation located not more than 1,000 feet from the mean high water line.

"Bond" means any bond or note issued by an authority pursuant to the provisions of this act.

"Commissioner" means the Commissioner of the Department of Commerce and Economic Development.

"Construction" means the planning, designing, construction, reconstruction, rehabilitation, replacement, repair, extension, enlargement, improvement and betterment of a project, and includes the demolition, clearance and removal of buildings or structures on land acquired, held, leased or used for a project.

"Convention center facility" means any convention hall or center or like structure or building, and shall include all facilities, including commercial, office, community service, parking facilities and all property rights, easements and interests, and other facilities constructed for the accommodation and entertainment of tourists and visitors, constructed in conjunction with a convention center facility and forming reasonable appurtenances thereto but does not mean the Wildwood convention center facility as defined in this section.

"Tourism project" means the convention center facility or outdoor special events arena, or both, located in the territorial limits of the district, and any costs associated therewith but does not mean the Wildwood convention center facility as defined in this section.

"Cost" means all or any part of the expenses incurred in connection with the acquisition, construction and maintenance of any real property, lands,



structures, real or personal property rights, rights-of-way, franchises, easements, and interests acquired or used for a project; any financing charges and reserves for the payment of principal and interest on bonds or notes; the expenses of engineering, appraisal, architectural, accounting, financial and legal services; and other expenses as may be necessary or incident to the acquisition, construction and maintenance of a project, the financing thereof and the placing of the project into operation.

"County" means a county of the sixth class.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Fund" means a Reserve Fund created pursuant to section 13 of P.L.1992, c.165 (C.40:54D-13).

"Outdoor special events arena" means a facility or structure for the holding outdoors of public events, entertainments, sporting events, concerts or similar activities, and shall include all facilities, property rights and interests, and all appurtenances reasonably related thereto, constructed for the accommodation and entertainment of tourists and visitors.

"Participant amusement" means a sporting activity or amusement the charge for which is exempt from taxation under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) by virtue of the participation of the patron in the activity or amusement, such as bowling alleys, swimming pools, water slides, miniature golf, boardwalk or carnival games and amusements, baseball batting cages, tennis courts, and fishing and sightseeing boats.

"Predominantly tourism related retail receipts" means:

a. The rent for every occupancy of a room or rooms in a hotel subject to taxation pursuant to subsection (d) of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3);

b. Receipts from the sale of food and drink in or by restaurants, taverns, or other establishments in the district, or by caterers, including in the amount of such receipt any cover, minimum, entertainment or other charge made to patrons or customers, subject to taxation pursuant to subsection (c) of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3) but excluding receipts from sales of food and beverages sold through coin operated vending machines; and

c. Admissions charges to or the use of any place of amusement or of any roof garden, cabaret or similar place, subject to taxation pursuant to subsection (e) of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3).

"Purchaser" means any person purchasing or hiring property or services from another person, the receipts or charges from which are taxable by an ordinance authorized under P.L.1992, c.165 (C.40:54D-1 et seq.).

"Sports authority" means the New Jersey Sports and Exposition Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.).

"Tourism" means activities involved in providing and marketing services and products, including accommodations, for nonresidents and residents who travel to and in New Jersey for recreation and pleasure.

"Tourism assessment" means an assessment on the rent for every occupancy of a room or rooms in a hotel subject to taxation pursuant to subsection (d) of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3).

"Tourism development activities" include operations of the authority to carry out its statutory duty to promote, advertise and market the district, including making beach operation offset payments.

"Tourism development fee" means a fee imposed by ordinance pursuant to section 15 of P.L.1992, c.165 (C.40:54D-15).

"Tourism improvement and development district" or "district" means an area within two or more contiguous municipalities within a county of the sixth class established pursuant to ordinance enacted by those municipalities, for the purposes of promoting the acquisition, construction, maintenance, operation and support of a tourism project, and to devote the revenue and the proceeds from taxes upon predominantly tourism related retail receipts and from tourism development fees to the purposes as herein defined.

"Tourist industry" means the industry consisting of private and public organizations which directly or indirectly provide services and products to nonresidents and residents who travel to and in New Jersey for recreation and pleasure.

"Tourism lodging" means any dwelling unit, other than a dwelling unit in a hotel the rent for which is subject to taxation under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), regardless of the form of ownership of the unit, rented with or without a lease, whether rented by the owner or by an agent for the owner.

"Vendor" means a person selling or hiring property or services to another person, the receipts or charges from which are taxable by an ordinance authorized under P.L.1992, c.165 (C.40:54D-1 et seq.).

"Wildwood convention center facility" means the project authorized by paragraph (12) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6).

2. This act shall take effect immediately and shall be retroactive to July 1, 2004

Approved April 26, 2005.

## CHAPTER 79

AN ACT concerning executive directors of housing authorities and redevelopment agencies and amending P.L.1992, c.79.

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

1. Section 12 of P.L.1992, c.79 (C.40A:12A-12) is amended to read as follows:

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

12. The executive director of a redevelopment agency shall have attained a degree from an accredited four year college or university, and shall have at least five years' experience in public administration, public finance, realty, or similar professional employment. A master's degree in an appropriate program may substitute for two years of that experience. The executive director holding that position at the time P.L.2005, c.79 becomes effective, possessing the required work experience and holding appropriate certification from the National Association of Housing and Redevelopment Officials, or equivalent certification from a nationally recognized professional association in the housing and redevelopment field, shall not be required to meet the educational requirement, except as otherwise provided in section 45 of P.L.1992, c.79 (C.40A:12A-45) and shall be deemed qualified for continued employment as executive director of the agency in which he holds that post and eligible for equivalent employment in any other local redevelopment agency in this State. The executive director shall serve at the pleasure of the commissioners of the agency, and may be relieved of his duties only after 120 days' notice. The redevelopment agency may provide that the executive director shall be the appointing authority for all or any portion of the employees of the agency. The executive director shall assign and supervise employees in the performance of their duties. If the municipality which established the redevelopment agency has adopted the provisions of Title 11A of the New Jersey Statutes, the executive director shall be in the unclassified service of civil service, and all other employees shall be in the classified service of civil service, except as may be otherwise provided by that title. A redevelopment agency may adopt the provisions of Title 11A of the New Jersey Statutes separately from the establishing municipality.

2. Section 18 of P.L.1992, c.79 (C.40A:12A-18) is amended to read as follows:

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

18. a. A housing authority shall appoint and may enter into a contract to employ an executive director as the authority may determine necessary for its efficient operations. The contract shall set forth the executive director's duties, compensation, and term of office, subject to the limitations set forth in subsection b. of this section, as well as reasons for which the executive director may be removed for cause. An executive director shall be subject to an annual performance evaluation and shall comply with the provisions of section 46 or 47 of P.L.1992, c.79 (C.40A:12A-46 or 47), as appropriate. A housing authority may terminate an executive director for cause; however the contract shall provide an executive director with not less than 120 days' notice. A copy of the adopted contract shall be submitted to the Department of Community Affairs and filed with the clerk of the municipality or the county for which the authority has been created.

b. (1) The executive director of a housing authority shall have attained a degree from an accredited four-year college or university, and shall have at least five years' experience in public administration, public finance, realty, or similar professional employment. A master's degree in an appropriate program may substitute for two years of that experience. An executive director holding that position prior to or on the effective date of P.L.2005, c.79 and possessing the required work experience and holding certification as a Public Housing Manager (PHM) from the National Association of Housing and Redevelopment Officials, or equivalent certification from a nationally recognized professional association in the housing and redevelopment field, shall not be required to meet the educational requirement, except as otherwise provided in section 45 of P.L.1992, c.79 (C.40A:12A-45) and shall be deemed qualified for continued employment as executive director of the authority in which he holds that post and eligible for equivalent employment in any other local public housing authority in this State. An individual who meets the qualifications set forth in this paragraph may be awarded a contract which shall not exceed one year, except that any person serving as an executive director at the time this bill is adopted into law shall be eligible to be awarded a contract not exceeding five years.

(2) An individual who, in addition to having met the qualifications set forth in paragraph (1) of this subsection, has served for five years as an executive director of a housing authority, may be awarded a contract which shall not exceed five years.

c. An executive director who has not entered into a contract of employment shall serve at the pleasure of the members of the authority, and may be relieved of the duties of executive director only after not less than 120 days' notice. The authority may provide that the executive director shall be the

appointing authority for all or any portion of the employees of the authority. The executive director shall assign and supervise employees in the performance of their duties. A housing authority may elect to adopt or not to adopt the provisions of Title 11A of the New Jersey Statutes regardless of whether the establishing county or municipality has or has not adopted those provisions.

3. This act shall take effect immediately.

Approved April 26, 2005.

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## CHAPTER 80

AN ACT concerning mercury thermometers, and supplementing Title 13 of the Revised Statutes.

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

**C.13:1E-99.91 Sale of certain mercury thermometers prohibited.**

1. Within 180 days after the effective date of this act, no person shall sell, offer for sale, or offer for promotional purposes in this State a basal, oral or rectal mercury thermometer.

The provisions of this act shall not apply to thermometers utilized in research and development, for professional health care purposes, or for industrial, manufacturing or commercial purposes.

As used in this act, "mercury thermometer" means a device used for measuring temperature that contains liquid mercury.

**C.13:1E-99.92 DEP responsible for compliance, public education program.**

2. a. The Commissioner of Environmental Protection shall establish a means of addressing consumer complaints and a public education program to assure the widespread dissemination of information concerning the purpose of this act.

b. The Department of Environmental Protection shall have the right to enter, at any time during normal business hours and upon presentation of appropriate credentials, any retail establishment at which mercury thermometers are sold or offered for promotional purposes in order to determine compliance with the provisions of this act.

**C.13:1E-99.93 Violations, penalties.**

3. a. Any person convicted of a violation of this act shall be subject to a penalty of not less than \$500.00 nor more than \$1,000.00 for each offense,

to be collected in a civil action by a summary proceeding under "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The municipal court and the Superior Court shall have jurisdiction of proceedings for the enforcement of the penalty provided by this section.

If the violation is of a continuing nature, each day during which it continues constitutes an additional, separate, and distinct offense.

b. The Department of Environmental Protection may institute a civil action for injunctive relief to enforce this act and to prohibit and prevent a violation of this act, and the court may proceed in the action in a summary manner.

4. This act shall take effect immediately.

Approved April 26, 2005.

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## CHAPTER 81

AN ACT concerning adoption of children born in a foreign country, supplementing Title 9 of the Revised Statutes and amending R.S.26:8-40.1.

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

**C.9:3-43.1 Conditions for recognizing foreign adoptions, certain circumstances.**

1. a. Notwithstanding the provisions of P.L.1977, c.367 (C.9:3-37 et seq.) or any other law to the contrary, an adopting parent shall not be required to petition a court in this State for adoption of a child if:

(1) the child was adopted under the laws of a jurisdiction or country other than the United States; and

(2) the validity of the foreign adoption has been verified by the granting of an IR-3 immigrant visa, or a successor immigrant visa, for the child by the United States Citizenship and Immigration Services.

b. If an adopting parent chooses to file a petition for adoption in this State, a court may grant a judgment of adoption without requiring the consent of a parent otherwise required pursuant to section 5 of P.L.1977, c.367 (C.9:3-41) if the petitioner files with the petition a judgment of adoption, guardianship or termination of parental rights granted by a judicial, administrative or executive body of a jurisdiction or country other than the United States that is in compliance with the laws of that country.

**C.9:3-43.2 Force of final judgment of adoption in a foreign jurisdiction, certain circumstances.**

2. A final judgment of adoption granted by a judicial, administrative or executive body of a jurisdiction or country other than the United States

shall have the same force and effect in this State as that given to a judgment of adoption entered by another state, without additional proceedings or documentation if:

- a. the adopting parent is a resident of this State; and
- b. the validity of the foreign adoption has been verified by the granting of an IR-3 immigrant visa, or a successor immigrant visa, for the child by the United States Citizenship and Immigration Services.

3. R.S.26:8-40.1 is amended to read as follows:

**Adopted children, birth certificates; procedure.**

26:8-40.1. When any person born in New Jersey who has been adopted pursuant to provisions of the laws of any state or country, and which adoption has been certified to the State Registrar as required by paragraph B of section 15 of P.L.1953, c.264 (C.9:3-31) or there is submitted a certification or a certified copy of the decree or judgment of the court in such adoption proceedings, the State Registrar shall establish, in lieu of the original birth record, a certificate of birth showing (a) the name of the adopted person as changed by the decree of adoption, if changed, (b) the date and place of birth, (c) the names of the adopting parents or parent including the maiden name of the female adopting parent if such name is given in the certification or certified copy of the decree or judgment of the court, and (d) the date of filing. In any instance where the child has been adopted by the spouse of the natural parent the name of such parent shall also be entered on the new certificate of birth. Such certificate shall be of the same general type as is used in making a birth certificate for a person who has not been adopted. Upon application by an adopting parent or parents of any person born in the United States and adopted pursuant to the laws of this State, the court before which the adoption proceedings have been conducted, may, for good cause shown, direct and order that the place of birth shall be the residence of the adopting parent or parents at the time of said adoption; provided, however, that the adopting parent or parents were residents of this State at the time of said adoption.

Upon receipt of such application, certification or certified copy of the decree or judgment of a court in an adoption proceeding, the State Registrar shall make a new certificate of birth containing the information referred to in the preceding paragraph. The fee for such service shall be \$6.00 which includes the issuance of a certified copy of the new certificate.

The State Registrar may file such a new certificate:

- a. for any foundling, for any child born in any state, and for any child for whom an original birth report cannot be located, who has been adopted in New Jersey; provided that there is attached to the decree or judgment of

the court in such adoption proceeding or is submitted to the State Registrar a certified copy of the original birth record or acceptable evidence of birth. In the case of a foundling, the date and place of birth may be decided by the adopting parent or parents if not decided by the court before which the adoption proceedings were conducted; and

b. for any child born in a foreign country who was not a citizen of the United States at the time of the child's birth, whose adopting parent is a resident of this State, and who is adopted: (1) through a court of competent jurisdiction in this State; or (2) under the laws of a jurisdiction or country other than the United States and has been granted an IR-3 immigrant visa, or a successor immigrant visa, by the United States Citizenship and Immigration Services. The new certificate shall be filed upon receipt of: a request for the certificate from the court, the adopting parent, or the adopted person if that person is 18 years of age or older; proof that the adopting parent is a resident of this State; an official copy of the judgment from the jurisdiction or country in which the child was adopted; a certified translation of the foreign adoption; proof of the date and place of the child's birth; and proof of IR-3 immigrant visa status, or a successor immigrant visa status

When applicable, the State Registrar may file a new certificate for any child who is not a citizen of the United States and who is adopted by a resident of this State, which certificate shall bear the notation "by adoption," which shall also be shown upon any copy of the certificate issued; such notation may be removed at any subsequent date upon submission of acceptable proof that the child has become a citizen of the United States.

When a new certificate of birth is made, the State Registrar shall notify the local registrar of vital statistics of the place in which the birth occurred, if applicable, who shall enter the new certificate in his local record and place his copy of the original record under seal.

The State Registrar shall cause to be placed under seal the original certificate of birth and all papers pertaining to the new certificate of birth. Such seal shall not be broken except by order of a court of competent jurisdiction. Thereafter whenever a certificate of birth of such person is issued, it shall be made from the new certificate of birth except when an order of a court of competent jurisdiction shall require the issuance of a copy of the original certificate of birth.

4. This act shall take effect immediately.

Approved April 29, 2005.



## CHAPTER 82

AN ACT establishing an Alternative to Discipline Program for nurses and supplementing chapter 11 of Title 45 of the Revised Statutes.

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

**C.45:11-24.10 Alternative to Discipline Program for nurses; definitions.**

1. a. The New Jersey Board of Nursing shall establish an Alternative to Discipline Program for board licensees who are suffering from a chemical dependency or other impairment.

The program shall permit these licensees to disclose their dependency or impairment status to an intervention program designated by the board, which shall provide confidential oversight of the licensee during the period that the licensee seeks treatment for, and follows a plan for recovery from, the dependency or impairment.

b. The board shall designate at least one intervention program to provide services under this act and shall delineate, in a formal agreement, the responsibilities of the intervention program and its relationship to the board.

c. The board shall establish a five-member Alternative to Discipline Committee to review matters involving licensees suffering from chemical dependencies or other impairments.

(1) The committee shall be comprised of two members of the board who are appointed by the president of the board, at least one of whom is a registered professional nurse; two registered professional nurses with expertise in addiction recommended by the New Jersey State Nurses Association who represent a designated intervention program; and one individual designated by the Commissioner of Health and Senior Services.

(2) The committee shall meet on a regular basis. The executive director of the board and the director of the designated intervention program shall serve as staff to the committee and shall be available to assist the committee at its meetings.

(3) The committee shall perform the following duties, as well as such others as the board may require:

(a) accept from licensees, and from other members of the public, reports, which include the individual's identity, concerning licensees who may be suffering from chemical dependencies or other impairments;

(b) accept referrals, which include the individual's identity, from the board;

(c) accept coded summary reports from the designated intervention program, without any information from which the licensee's identity can be discerned;

(d) promptly review each referral to determine if participation in the program is appropriate, giving due consideration to factors for participation, as specified by regulation of the board;

(e) accept confidential reports from the intervention program regarding participating licensees and ensure that the identity of the licensee is maintained in a limited-access file of the committee with disclosure provided only to those persons whom the committee determines have a need to know the licensee's identity;

(f) require the program to conduct such supplemental inquiry concerning a licensee as may be directed by the committee, and authorize the program to request, through the committee, that further investigation be conducted by committee staff, investigative personnel or the Attorney General, as appropriate;

(g) require the program to immediately disclose to the committee the identity of a participating licensee in the event of noncompliance by the licensee with the conditions for participation or any other change in circumstances that may render the licensee inappropriate for participation in the program, as specified by regulation of the board; and

(h) transmit such reports as required by the board.

d. The executive director of the board shall advise the committee of any information concerning a concurrent investigation or consumer complaints, as may be necessary to enable the committee to assess whether participation of a licensee in the program is appropriate.

e. Upon receipt of disclosure of the identity of a participating licensee pursuant to subparagraph (g) of paragraph (3) of subsection c. of this section, the committee shall notify the board of the identity of the licensee.

f. Any information concerning the conduct of a licensee provided to the board pursuant to this act, is confidential and shall not be considered a public or government record under P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.), pending final disposition of the inquiry or investigation by the board, except for information required to be shared with the Division of Insurance Fraud Prevention in the Department of Banking and Insurance to comply with the provisions of section 9 of P.L.1983, c.320 (C.17:33A-9) or with any other law enforcement agency.

If the result of the inquiry or investigation is a finding of no basis for disciplinary action by the board, the information shall remain confidential and shall not be considered a public or government record under P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.), except that the board may release the information to a government agency, for good

cause shown, upon an order of the Superior Court after notice to the licensee who is the subject of the information and an opportunity to be heard. The application for the court order shall be placed under seal.

g. A licensee who files a report with the committee pursuant to subparagraph (a) of paragraph (3) of subsection c. of this section, shall be deemed to have discharged his duty to report an impairment to the board or division pursuant to regulation or law.

h. As used in this section:

"Chemical dependency" means a condition involving the continued misuse of chemical substances.

"Chemical substances" is to be construed to include alcohol, drugs or medications, including those taken pursuant to a valid prescription for legitimate medical purposes and in accordance with the prescriber's direction, as well as those used illegally.

"Impairment" means an inability to function at an acceptable level of competency, or an incapacity to continue to practice with the requisite skill, safety and judgment, as a result of alcohol or chemical dependency, a psychiatric or emotional disorder, senility or a disabling physical disorder.

"Licensee" means a registered professional nurse, licensed practical nurse or other professional subject to regulation by the board.

**C.45:11-24.11 Review of program after five years.**

2. Five years following the effective date of this act, the board shall determine, after study and consultation, whether the program established pursuant to this act should be continued, altered, expanded or discontinued. If the board concludes that the program should be terminated, those licensees currently participating shall be permitted to continue with the confidentiality protections provided in this act.

**C.45:11-24.12 Revision of fees; construction of act.**

3. a. The board may, by regulation, revise the fees charged pursuant to N.J.A.C.13:37-5.5 or establish a surcharge to these fees for costs related to the administration of the Alternative to Discipline Program and the committee established pursuant to this act.

b. Nothing in this act shall be construed to require the board to fund the testing, specimen monitoring or treatment of a licensee who participates in the Alternative to Discipline Program pursuant to this act.

**C.45:11-24.13 Rules, regulations.**

4. The board shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the purposes of this act.

5. This act shall take effect on the 90th day after enactment, but the New Jersey Board of Nursing may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved May 3, 2005.

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CHAPTER 83

AN ACT concerning health care professionals and revising parts of statutory law.

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

**C.45:1-33 Short title.**

1. This act shall be known and may be cited as the "Health Care Professional Responsibility and Reporting Enhancement Act."

**C.26:2H-12.2b Notification relative to certain impairments of health care professionals; definitions.**

2. a. A health care entity shall notify the division in writing if a health care professional who is employed by, under contract to render professional services to, or has privileges granted by, that health care entity, or who provides such services pursuant to an agreement with a health care services firm or staffing registry:

(1) for reasons relating to the health care professional's impairment, incompetency or professional misconduct, which incompetency or professional misconduct relates adversely to patient care or safety: (a) has full or partial privileges summarily or temporarily revoked or suspended, or permanently reduced, suspended or revoked; (b) has been removed from the list of eligible employees of a health services firm or staffing registry; (c) has been discharged from the staff; or (d) has had a contract to render professional services terminated or rescinded;

(2) has conditions or limitations placed on the exercise of clinical privileges or practice within the health care entity for reasons relating to the health care professional's impairment, incompetency or professional misconduct or, which incompetency or professional misconduct relates adversely to patient care or safety, including, but not limited to, second opinion requirements, non-routine concurrent or retrospective review of admissions or care, non-routine supervision by one or more members of the staff, or the completion of remedial education or training;

(3) voluntarily resigns from the staff if: (a) the health care entity is reviewing the health care professional's patient care or reviewing whether,

based upon its reasonable belief, the health care professional's conduct demonstrates an impairment or incompetence or is unprofessional, which incompetence or unprofessional conduct relates adversely to patient care or safety; or (b) the health care entity, through any member of the medical or administrative staff, has expressed an intention to do such a review;

(4) voluntarily relinquishes any partial privilege or authorization to perform a specific procedure if: (a) the health care entity is reviewing the health care professional's patient care or reviewing whether, based upon its reasonable belief, the health care professional's conduct demonstrates an impairment or incompetence or is unprofessional, which incompetence or unprofessional conduct relates adversely to patient care or safety; or (b) the health care entity, through any member of the medical or administrative staff, has expressed an intention to do such a review;

(5) while under, or subsequent to, a review by the health care entity of the health care professional's patient care or professional conduct is granted a leave of absence for reasons relating to a physical, mental or emotional condition or drug or alcohol use which impairs the health care professional's ability to practice with reasonable skill and safety, except that no report is required for pregnancy-related leaves of absence or if the health care professional has sought assistance from a professional assistance or intervention program approved or designated by the division or a board to provide confidential oversight of the health care professional and is following the treatment regimen or monitoring as that program requires; or

(6) is a party to a medical malpractice liability suit, to which the health care entity is also a party, and in which there is a settlement, judgment or arbitration award.

As used in this subsection, incompetence, professional misconduct and unprofessional conduct shall not include personal conduct, such as tardiness, insubordination or other similar behavior, which does not relate to patient care or safety.

b. A health care entity shall notify the division in writing if it is in possession of information that indicates that a health care professional has failed to comply with a request to seek assistance from a professional assistance or intervention program approved or designated by the division or a board to provide confidential oversight of the health care professional, or has failed to follow the treatment regimen or monitoring program required by that program to assure that the health care professional's physical, mental or emotional condition or drug or alcohol use does not impair the health care professional's ability to practice with reasonable skill and safety.

c. A health care entity shall notify the division in writing if any health care professional who has been the subject of a report pursuant to this section, has had conditions or limitations on the exercise of clinical privi-

leges or practice within the health care entity altered, or privileges restored, or has resumed exercising clinical privileges that had been voluntarily relinquished.

d. In the case of a health care professional who is providing services at a health care entity pursuant to an agreement with a health care services firm or staffing agency and is the subject of a notice pursuant to this section, the health care entity shall, when it submits a notice to the division concerning that health care professional, provide a copy of the notice to the health care services firm or staffing agency.

e. The form of notification shall be prescribed by the Commissioner or Health and Senior Services, in consultation with the Commissioner of Human Services in the case of psychiatric facilities and developmental centers, and shall contain such information as may be required by the division and shall be made within seven days of the date of the action, settlement, judgment or award.

f. A health care entity which fails to provide such notice to the division or fails to cooperate with a request for information by the division, the board or the Medical Practitioner Review Panel established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8) shall be subject to such penalties as the Department of Health and Senior Services may determine pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

g. A health care entity, or any employee thereof, which provides information to the division, the board, the Medical Practitioner Review Panel, a health care services firm or staffing agency, or the Department of Health and Senior Services, in good faith and without malice, regarding a health care professional pursuant to the provisions of this section or section 3 of P.L.1989, c.300 (C.26:2H-12.2a), is not liable for civil damages in any cause of action arising out of the provision or reporting of the information.

h. A health care entity shall provide the health care professional who is the subject of a notice pursuant to paragraphs (1), (2), (4) and (5) of subsection a. of this section and subsection c. of this section with a copy of the notice provided to the division, when the health care entity submits the notice to the division.

i. For the purposes of this section, section 3 of P.L.1989, c.300 (C.26:2H-12.2a) and section 15 of P.L.2005, c.83 (C.26:2H-12.2c):

"Board" means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety which licenses or otherwise authorizes a health care professional to practice a health care profession.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

“Health care entity” means a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a health maintenance organization authorized to operate pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), a carrier which offers a managed care plan regulated pursuant to P.L.1997, c.192 (C.26:2S-1 et seq.), a State or county psychiatric hospital, a State developmental center, a staffing registry, and a home care services agency as defined in section 1 of P.L.1947, c.262 (C.45:11-23).

“Health care professional” means a person licensed or otherwise authorized pursuant to Title 45 or Title 52 of the Revised Statutes to practice a health care profession that is regulated by the Director of the Division of Consumer Affairs or by one of the following boards: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the New Jersey State Board of Pharmacy, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council and the Certified Psychoanalysts Advisory Committee. “Health care professional” also includes a nurse aide and a personal care assistant certified by the Department of Health and Senior Services.

3. Section 3 of P.L.1989, c.300 (C.26:2H-12.2a) is amended to read as follows:

**C.26:2H-12.2a Maintenance of records of complaints, disciplinary actions.**

3. a. A health care entity shall maintain all records of all documented complaints of events related to patient care about, and disciplinary proceedings or actions against, a health care professional who is employed by or has an affiliation with the health care entity. The health care entity shall retain the information for a period of seven years and make the records, including any information the health care entity has pertaining to records maintained on the health care professional prior to the effective date of P.L.1989, c.300 (C.45:9-19.4 et al.), available to the division, the board which licenses or otherwise authorizes the health care professional to practice, the Medical Practitioner Review Panel established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8) and the Department of Health and Senior Services, as applicable, upon request.

b. A health care entity shall maintain for a period of four years all records and source data relating to its mortality, morbidity, complication, infection and readmission and shall make the records available to the division, the board which licenses or otherwise authorizes the health care professional, the review panel and the Department of Health and Senior Services, as applicable, upon request.

c. A health care entity which fails to maintain the records required pursuant to this section shall be subject to such penalties as the Department of Health and Senior Services shall determine pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14) and section 16 of P.L.1997, c.192 (C.26:2S-16), or the director shall determine pursuant to P.L.1989, c.331 (C.34:8-43 et seq.), as applicable.

4. Section 1 of P.L.2002, c.104 (C. 45:1-28) is amended to read as follows:

**C.45:1-28 Definitions relative to criminal history background checks for health care professionals.**

1. As used in this act:

"Applicant" means an applicant for licensure or other authorization to engage in a health care profession.

"Board" means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Health care professional" means a health care professional who is licensed or otherwise authorized, pursuant to Title 45 or Title 52 of the Revised Statutes, to practice a health care profession that is regulated by one of the following boards or by the Director of the Division of Consumer Affairs: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the New Jersey State Board of Pharmacy, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of



Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council or the Certified Psychoanalysts Advisory Committee.

Health care professional shall not include a nurse aide or personal care assistant who is required to undergo a criminal history record background check pursuant to section 2 of P.L.1997, c.100 (C.26:2H-83) or a home-maker-home health aide who is required to undergo a criminal history record background check pursuant to section 7 of P.L.1997, c.100 (C.45:11-24.3).

"Licensee" means an individual who has been issued a license or other authorization to practice a health care profession.

5. Section 2 of P.L.2002, c.104 (C.45:1-29) is amended to read as follows:

**C.45:1-29 Criminal history record background check required for licensure of health care professional.**

2. a. A professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety or the director who regulates the practice of a health care professional, as applicable, shall not issue an initial license or other authorization to practice a health care profession that is regulated by that board or the director to any applicant therefor unless the board or director, as applicable, first determines, consistent with section 8 of P.L.1978, c.73 (C.45:1-21), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which may disqualify the applicant from being licensed or otherwise authorized to practice as a health care professional.

b. A board or the director, as applicable, shall not renew or, if renewed, shall revoke a license or other authorization to practice a health care profession that is regulated by that board or the director of any applicant therefor unless the board or director determines, consistent with section 8 of P.L.1978, c.73 (C.45:1-21), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which may provide grounds for the refusal to renew the license or other authorization to practice as a health care professional.

The director shall establish, by regulation, a schedule of dates by which the requirements of this subsection shall be implemented, so that all licensees will have been required to submit to a criminal history record background check beginning no later than four years after the effective date of P.L.2005, c.83 (C.45:1-33 et al.).

The director may, in an emergent circumstance, temporarily waive the requirement to undergo a criminal history record background check as a

condition of renewal of a license or other authorization to practice a health care profession.

6. Section 3 of P.L.2002, c.104 (C.45:1-30) is amended to read as follows:

**C.45:1-30 Submission of information by applicant or licensee.**

3. a. An applicant or licensee who is required to undergo a criminal history record background check pursuant to section 2 of P.L.2002, c.104 (C.45:1-29) shall submit to the director that individual's name, address and fingerprints taken on standard fingerprint cards, or through any equivalent means, by a State or municipal law enforcement agency or by a private entity under contract with the State. The director is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required pursuant to this act.

b. Upon receipt of the criminal history record information for an applicant or licensee from the Federal Bureau of Investigation or the Division of State Police, the director shall immediately notify the board, as applicable.

c. If an applicant refuses to consent to, or cooperate in, the securing of a criminal history record background check, the board or director, as applicable, shall not issue a license or other authorization to practice a health care profession to the applicant and shall notify the applicant of that denial.

d. If a licensee refuses to consent to, or cooperate in, the securing of a criminal history record background check as required during the licensure or other authorization renewal process, the board or director, as applicable, shall refuse to renew the license or other authorization of the licensee, without a hearing, and shall notify the licensee of that denial.

e. A licensee who:

(1) has permitted a license or other authorization to lapse or whose license or other authorization has been suspended, revoked or otherwise has had licensure or other authorization privileges restricted, and

(2) has not already submitted to a criminal history record background check,

shall be required to submit fingerprints as part of the licensure or other authorization reinstatement process. If a reinstatement applicant refuses to consent to, or cooperate in, the securing of a criminal history record background check as required during the reinstatement process, the board or director, as applicable, shall automatically deny reinstatement of the license or other authorization, without a hearing, and shall notify the licensee of that denial.

7. Section 4 of P.L.2002, c.104 (C. 45:1-31) is amended to read as follows:

**C.45:1-31 Applicant or licensee to assume cost.**

4. An applicant or licensee shall be required to assume the cost of the criminal history record background check conducted pursuant to sections 1 through 3 of P.L.2002, c.104 (C.45:1-28 through 45:1-30) and section 14 of P.L.1997, c.100 (C.53:1-20.9a), in accordance with procedures determined by regulation of the director.

8. Section 9 of P.L.1989, c.300 (C.45:9-19.9) is amended to read as follows:

**C.45:9-19.9 Notice received by review panel; actions, recommendations.**

9. a. The review panel shall receive:

(1) Notice from a health care entity, provided through the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to section 2 of P.L.2005, c.83 (C.26:2H-12.2b);

(2) Notice from an insurer or insurance association or a practitioner, pursuant to section 2 of P.L.1983, c.247 (C.17:30D-17), regarding a medical malpractice claim settlement, judgment or arbitration award or a termination or denial of, or surcharge on, the medical malpractice liability insurance coverage of a practitioner; and

b. The review panel may receive referrals from the board which may include complaints alleging professional misconduct, incompetence, negligence or impairment of a practitioner from other health care providers and consumers of health care.

c. Upon receipt of a notice or complaint pursuant to this section, the review panel shall promptly investigate the information received and obtain any additional information that may be necessary in order to make a recommendation to the board. The review panel may seek the assistance of a consultant or other knowledgeable person, as necessary, in making its recommendation. The review panel may request the board or the Attorney General to exercise investigative powers pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) in the conduct of its investigation.

(1) If the review panel has reasonable cause to believe that a practitioner represents an imminent danger to his patients, the review panel shall immediately notify the State Board of Medical Examiners and the Attorney General and recommend the initiation of an application before the board to temporarily suspend or otherwise limit the practitioner's license pending further proceedings by the review panel or the board.

If the board temporarily suspends or otherwise limits the license, the board shall notify each health care entity with which the practitioner is

affiliated and every practitioner in the State with which the practitioner is directly associated in his private practice.

(2) A practitioner who is the subject of an investigation shall be promptly notified of the investigation, pursuant to procedures adopted by regulation of the board that give consideration to the health, safety and welfare of the practitioner's patients and to the necessity for a confidential or covert investigation by the review panel. At the panel's request or upon a good cause showing by the practitioner an informal hearing shall be scheduled before the review panel or a subcommittee of at least three review panel members, in accordance with regulations adopted by the board. The hearing shall be transcribed and the practitioner shall be entitled to a copy of the transcript, at his own expense. A practitioner who presents information to the review panel is entitled to be represented by counsel.

(3) Notwithstanding any provision of this section to the contrary, in any case in which the board determines to conduct an investigation of a practitioner who it has reasonable cause to believe represents an imminent danger to his patients, the board may direct the review panel to provide the board with its files pertaining to that practitioner and may direct the review panel to promptly terminate its investigation of that practitioner without making a recommendation pursuant to subsection d. of this section.

Upon request of the review panel, the State Board of Medical Examiners shall provide the review panel with any information contained in the board's files concerning a practitioner.

d. Upon completion of its review, the review panel shall prepare a report recommending one of the following dispositions:

(1) Recommend to the State Board of Medical Examiners that the matter be referred to the Attorney General for the initiation of disciplinary action against the practitioner who is the subject of the notice or complaint, pursuant to section 8 or 9 of P.L.1978, c.73 (C.45:1-21 or 45:1-22);

(2) Defer making a recommendation to the board pending the outcome of litigation or a health care entity disciplinary proceeding, if there is no evidence that the practitioner's professional conduct may jeopardize or improperly risk the health, safety or life of a patient;

(3) Refer the practitioner to the appropriate licensed health care practitioner treatment program recognized by the State Board of Medical Examiners and promptly notify the medical director of the board of the referral;

(4) Refer the practitioner to the appropriate focused education program recognized by the State Board of Medical Examiners and promptly notify the educational director of the board of the referral; or

(5) Find that no further action is warranted at this time.

e. A member of the State Board of Medical Examiners shall not participate by voting or any other action in any matter before the board on which the board member has participated previously as a review panel member.

f. The State Board of Medical Examiners may affirm, reject or modify any disposition of the review panel. After its consideration of the panel recommendation the board shall notify the practitioner who has been the subject of a notice or complaint of the review panel's recommendation and the board's determination.

g. Nothing in this section shall be construed to prevent or limit the State Board of Medical Examiners, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety or the Attorney General from taking any other action permitted by law against a practitioner who is the subject of an investigation by the review panel.

h. For the purposes of this section, "practitioner" means a person licensed to practice: medicine and surgery under chapter 9 of Title 45 of the Revised Statutes or a medical resident or intern; or podiatry under chapter 5 of Title 45 of the Revised Statutes.

i. As used in this section, "focused education program" means an individualized and systematic process to assess the educational needs of a licensee based on scientific analysis, technical skill and interpersonal evaluation as they relate to the licensee's professional practice, and the institution of remedial education and any supervision, monitoring or limitations of the licensee.

**C.45:1-34 Definitions relative to healthcare professionals.**

9. As used in sections 9 through 14 and 16 and 17 of P.L.2005, c.83 (C.45:1-34 through C.45:1-39 and C.26:2H-12.2d and C.45:1-40):

"Board" means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety which licenses or otherwise authorizes a health care professional to practice a health care profession.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety;

"Health care entity" means a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a health maintenance organization authorized to operate pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), a carrier which offers a managed care plan regulated pursuant to P.L.1997, c.192 (C.26:2S-1 et seq.), a State or county psychiatric hospital, a State developmental center, a staffing registry, and a home care services agency as defined in section 1 of P.L.1947, c.262 (C.45:11-23).

"Health care professional" means a person licensed or otherwise authorized pursuant to Title 45 or Title 52 of the Revised Statutes to practice a

health care profession that is regulated by the Director of the Division of Consumer Affairs or by one of the following boards: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the New Jersey State Board of Pharmacy, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council and the Certified Psychoanalysts Advisory Committee.

"Licensee" means an individual who has been issued a license or other authorization to practice a health care profession.

"Review panel" means the Medical Practitioner Review Panel established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8).

**C.45:1-35 Immunity from civil liability.**

10. A health care entity, health care professional or any other person who provides to the division, a board or the review panel, in good faith and without malice, any information concerning an act by a health care professional which the person has reasonable cause to believe involves misconduct that may be subject to disciplinary action by the division, board or review panel, as applicable, or any information relating to such conduct requested by the division, board or review panel in the exercise of its statutory responsibilities or which may be required by statute, shall not be liable for civil damages in any cause of action arising out of the provision of such information or services.

**C.45:1-36 Confidentiality of information.**

11. Any information provided to the division or a board concerning the conduct of a health care professional, pursuant to section 2 of P.L.2005, c.83 (C.26:2H-12.2b), section 5 of P.L.1978, c.73 (C.45:1-18) or any other provision of law, shall be treated as confidential pending final disposition of the inquiry or investigation, except for that information required to be shared with the Attorney General, Department of Health and Senior Services or any other government agency.

If the result of the inquiry or investigation is a finding of no basis for disciplinary action, the information shall remain confidential, except that the board or division, as applicable, may release the information to a government agency to facilitate the discharge of its public responsibilities.

The provisions of this section shall not apply to information that the division, or its designated agent, is required to include in a physician's profile pursuant to P.L.2003, c.96 (C.45:9-22.21 et seq.).

**C.45:1-37 Notification to division of impairment of health care professional.**

12. a. A health care professional shall promptly notify the division if that health care professional is in possession of information which reasonably indicates that another health care professional has demonstrated an impairment, gross incompetence or unprofessional conduct which would present an imminent danger to an individual patient or to the public health, safety or welfare. A health care professional who fails to so notify the division is subject to disciplinary action and civil penalties pursuant to sections 8, 9 and 12 of P.L.1978, c.73 (C.45:1-21, 45:1-22 and 45:1-25).

b. A health care professional shall be deemed to have satisfied the reporting requirement concerning another health care professional's impairment by promptly providing notice to the division, the board or a professional assistance or intervention program approved or designated by the division or a board to provide confidential oversight of the licensee.

c. (1) There shall be no private right of action against a health care professional for failure to comply with the notification requirements of this section.

(2) There shall be no private right of action against a health care entity if a health care professional who is employed by, under contract to render professional services to, or has privileges granted by, that health care entity, or who provides such services pursuant to an agreement with a health care services firm or staffing registry, fails to comply with the notification requirements of this section.

d. A health care professional who provides notification to the division, board or review panel, in good faith and without malice, about a health care professional who is impaired or grossly incompetent or who has demonstrated unprofessional conduct, pursuant to this section, is not liable for civil damages to any person in any cause of action arising out of the notification.

e. Notwithstanding the provisions of this section to the contrary, a health care professional is not required to provide notification pursuant to this section about an impaired or incompetent health care professional if the health care professional's knowledge of the other health care professional's impairment or incompetence was obtained as a result of rendering treatment to that health care professional.

**C.45:1-38 Notification to board relative to impairment, misconduct of health care professional.**

13. a. Upon receipt of notice from a health care entity, or any employee thereof, pursuant to section 2 of P.L.2005, c.83 (C.26:2H-12.2b), notice from a health care professional pursuant to section 12 of P.L.2005, c.83 (C.45:1-

37) or information concerning the conduct of a health care professional pursuant to section 10 of P.L.2005, c.83 (C.45:1-35), the division shall promptly notify the board that issued the license or other authorization to practice to the person to whom the notice relates.

The division or board, as applicable, shall initiate an investigation concerning the information received and obtain any additional information that may be necessary in order to determine if disciplinary charges should be pursued or if an application to temporarily suspend or otherwise limit the health care professional's license or other authorization to practice should be initiated.

b. The division or the board may seek the assistance of a consultant or other knowledgeable person in evaluating the information and may request the board or the Attorney General to exercise investigative powers pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) in the conduct of its investigation.

c. If the Attorney General files charges based on information derived from the notice from a health care entity or if the board revokes or permanently or temporarily suspends or otherwise limits the license or other authorization to practice of a health care professional, the board shall notify each health care entity with which the health care professional is affiliated.

**C.45:1-39 Fraud, misrepresentation, deception; disciplinary proceedings.**

14. Any health care professional seeking to become employed by, enter into a contract to render professional services to, or obtain privileges at, a health care entity, or provide professional services pursuant to an agreement with a health care services firm or staffing registry, who engages in fraud, misrepresentation or deception in the application or credentialing process shall be subject to disciplinary proceedings, pursuant to section 8 of P.L.1978, c.73 (C.45:1-21).

**C.26:2H-12.2c Disclosure of information by health care entity.**

15. a. A health care entity, upon the inquiry of another health care entity, shall truthfully:

(1) disclose whether, within the seven years preceding the inquiry, it provided any notice to the division pursuant to section 2 of P.L.2005, c.83 (C.26:2H-12.2b), or to the review panel, as required by section 3 of P.L.1989, c.300 (C.26:2H-12.2a), with respect to the health care professional about whom the inquiry has been made, providing a copy of the form of notification and any supporting documentation that was provided to the division, a professional or occupational licensing board in the Division of Consumer Affairs in the Department of Law and Public Safety, or the review panel; and



(2) provide information about a current or former employee's job performance as it relates to patient care, as provided in this section, and, in the case of a former employee, the reason for the employee's separation.

b. For the purposes of this section, "job performance" shall relate to the suitability of the employee for re-employment at a health care entity, and the employee's skills and abilities as they relate to suitability for future employment at a health care entity. Information about a current or former employee's job performance pursuant to this paragraph shall be based on the employee's performance evaluation, and provided to another health care entity only if: (1) the evaluation has been signed by the evaluator and shared with the employee; (2) the employee has had the opportunity to respond; and (3) the employee's response, if any, has been taken into consideration when providing the information to another health care entity.

Job performance as it relates to patient care shall not include the current or former employee's participation in labor activities pursuant to the "National Labor Relations Act," 29 U.S.C. s.151 et seq.

c. A health care entity, or any employee designated by the entity, which, pursuant to this section, provides information in good faith and without malice to another health care entity concerning a health care professional, including information about a current or former employee's job performance as it relates to patient care, is not liable for civil damages in any cause of action arising out of the provision or reporting of the information.

d. A health care entity which fails to truthfully disclose information to another health care entity making an inquiry pursuant to this section or fails to cooperate with such request for information by the other health care entity shall be subject to such penalties as the Department of Health and Senior Services may determine pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14) and section 16 of P.L.1997, c.192 (C.26:2S-16), or the director shall determine pursuant to P.L.1989, c.331 (C.34:8-43 et seq.), as applicable.

**C.26:2H-12.2d Provision of information by health care professional, immunity from civil liability.**

16. a. A health care professional employed by or practicing at a health care entity shall promptly notify the person at the entity, who is designated by that entity, if the health care professional is in possession of information which reasonably indicates that another health care professional who is employed by or practicing at the entity has demonstrated an impairment, gross incompetence or unprofessional conduct which would present an imminent danger to an individual patient or to the public health, safety or welfare.

b. A health care professional who provides information pursuant to this section, in good faith and without malice, shall not be liable for civil damages in any cause of action arising out of the provision of such information.

c. The reporting requirement in this section shall be in addition to the reporting requirement for health care professionals established in section 12 of P.L.2005, c.83 (C.45:1-37).

**C.45:1-40 Health Care Professional Information Clearinghouse Coordinator.**

17. a. The Division of Consumer Affairs in the Department of Law and Public Safety shall employ a full-time Health Care Professional Information Clearinghouse Coordinator to assist the Director of the Division of Consumer Affairs in compiling and disseminating to the appropriate licensing board or other applicable entity the information reported to the division by health care entities and professionals pursuant to this act and such other information as specified by the director.

b. The director shall provide that the professional and occupational licensing boards which license or otherwise authorize a health care professional to practice a health care profession with professional and administrative staff as may be needed to carry out the purposes of this act.

18. Section 3 of P.L.2003, c.96 (C.45:9-22.23) is amended to read as follows:

**C.45:9-22.23 Information included in profile of physician, podiatrist, optometrist.**

3. a. The following information shall be included for each profile of a physician, podiatrist or optometrist, as applicable:

(1) Name of all medical or optometry schools attended and dates of graduation;

(2) Graduate medical or optometry education, including all internships, residencies and fellowships;

(3) Year first licensed;

(4) Year first licensed in New Jersey;

(5) Location of the physician's, podiatrist's or optometrist's office practice site or sites, as applicable;

(6) A description of any criminal convictions for crimes of the first, second, third or fourth degree within the most recent 10 years. For the purposes of this paragraph, a person shall be deemed to be convicted of a crime if the individual pleaded guilty or was found or adjudged guilty by a court of competent jurisdiction. The description of criminal convictions shall not include any convictions that have been expunged. The following statement shall be included with the information about criminal convictions: "Information provided in this section may not be comprehensive. Courts in New Jersey are required by law to provide information about criminal

convictions to the State Board of Medical Examiners (or the New Jersey State Board of Optometrists).";

(7) A description of any final board disciplinary actions within the most recent 10 years, except that any such disciplinary action that is being appealed shall be identified;

(8) A description of any final disciplinary actions by appropriate licensing boards in other states within the most recent 10 years, except that any such disciplinary action that is being appealed shall be identified. The following statement shall be included with the information about disciplinary actions in other states: "Information provided in this section may not be comprehensive. The State Board of Medical Examiners (or the New Jersey State Board of Optometrists) receives information about disciplinary actions in other states from physicians (or optometrists) themselves and outside sources.";

(9) In the case of physicians and podiatrists, a description of: the revocation or involuntary restriction of privileges at a health care facility for reasons related to the practitioner's competence or misconduct or impairment taken by a health care facility's governing body or any other official of the health care facility after procedural due process has been afforded; the resignation from or nonrenewal of medical staff membership at the health care facility for reasons related to the practitioner's competence or misconduct or impairment; or the restriction of privileges at a health care facility taken in lieu of or in settlement of a pending disciplinary case related to the practitioner's competence or misconduct or impairment. Only those cases that have occurred within the most recent 10 years and that were reported by the health care facility pursuant to section 2 of P.L.2005, c.83 (C.26:2H-12.2b) shall be included in the profile; and

(10) All medical malpractice court judgments and all medical malpractice arbitration awards reported to the applicable board, in which a payment has been awarded to the complaining party during the most recent five years, and all settlements of medical malpractice claims reported to the board, in which a payment is made to the complaining party within the most recent five years, as follows:

(a) Pending medical malpractice claims shall not be included in the profile and information on pending medical malpractice claims shall not be disclosed to the public;

(b) A medical malpractice judgment that is being appealed shall be so identified;

(c) The context in which the payment of a medical malpractice claim occurs shall be identified by categorizing the number of judgments, arbitration awards and settlements against the physician, podiatrist or optometrist into three graduated categories: average, above average and below average

number of judgments, arbitration awards and settlements. These groupings shall be arrived at by comparing the number of an individual physician's, podiatrist's or optometrist's medical malpractice judgments, arbitration awards and settlements to the experience of other physicians, podiatrists or optometrists within the same speciality. In addition to any information provided by a physician, podiatrist or optometrist, an insurer or insurance association authorized to issue medical malpractice liability insurance in the State shall, at the request of the division, provide data and information necessary to effectuate this subparagraph; and

(d) The following statement shall be included with the information concerning medical malpractice judgments, arbitration awards and settlements: "Settlement of a claim and, in particular, the dollar amount of the settlement may occur for a variety of reasons, which do not necessarily reflect negatively on the professional competence or conduct of the physician (or podiatrist or optometrist). A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

b. If requested by a physician, podiatrist or optometrist, the following information shall be included in a physician's, podiatrist's or optometrist's profile:

(1) Names of the hospitals where the physician, podiatrist or optometrist has privileges;

(2) Appointments of the physician or podiatrist to medical school faculties, or the optometrist to optometry school faculties, within the most recent 10 years;

(3) Information regarding any board certification granted by a specialty board or other certifying entity recognized by the American Board of Medical Specialties, the American Osteopathic Association or the American Board of Podiatric Medicine or by any other national professional organization that has been demonstrated to have comparable standards;

(4) Information regarding any translating services that may be available at the physician's, podiatrist's or optometrist's office practice site or sites, as applicable, or languages other than English that are spoken by the physician, podiatrist or optometrist;

(5) Information regarding whether the physician, podiatrist or optometrist participates in the Medicaid program or accepts assignment under the Medicare program;

(6) Information regarding the medical insurance plans in which the physician, podiatrist or optometrist is a participating provider;

(7) Information concerning the hours during which the physician, podiatrist or optometrist conducts his practice; and

(8) Information concerning accessibility of the practice site or sites, as applicable, to persons with disabilities.

The following disclaimer shall be included with the information supplied by the physician, podiatrist or optometrist pursuant to this subsection: "This information has been provided by the physician (or podiatrist or optometrist) but has not been independently verified by the State Board of Medical Examiners (or the New Jersey State Board of Optometrists) or the Division of Consumer Affairs."

If the physician, podiatrist or optometrist includes information regarding medical insurance plans in which the practitioner is a participating provider, the following disclaimer shall be included with that information: "This information may be subject to change. Contact your health benefits plan to verify if the physician (or podiatrist or optometrist) currently participates in the plan."

c. Before a profile is made available to the public, each physician, podiatrist or optometrist shall be provided with a copy of his profile. The physician, podiatrist or optometrist shall be given 30 calendar days to correct a factual inaccuracy that may appear in the profile and so advise the Division of Consumer Affairs or its designated agent; however, upon receipt of a written request that the division or its designated agent deems reasonable, the physician, podiatrist or optometrist may be granted an extension of up to 15 calendar days to correct a factual inaccuracy and so advise the division or its designated agent.

d. If new information or a change in existing information is received by the division concerning a physician, podiatrist or optometrist, the physician, podiatrist or optometrist shall be provided with a copy of the proposed revision and shall be given 30 calendar days to correct a factual inaccuracy and to return the corrected information to the division or its designated agent.

e. The profile and any revisions thereto shall not be made available to the public until after the review period provided for in this section has lapsed.

**C.45:1-41 Rules, regulations.**

19. a. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act.

b. The Commissioner of Health and Senior Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act.

**Repealer.**

20. The following are repealed:  
Section 1 of P.L.1983, c.247 (C.26:2H-12.2);

Section 1 of P.L.1983, c.248 (C.45:9-19.1);  
Section 3 of P.L.1983, c.248 (C.45:9-19.3); and  
Section 5 of P.L.1989, c.300 (C.45:9-19.5).

21. This act shall take effect on the 180th day after enactment, but the Commissioner of Health and Senior Services and the Director of the Division of Consumer Affairs in the Department of Law and Public Safety may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved May 3, 2005.

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CHAPTER 84

AN ACT concerning pupil transportation contracts and supplementing chapter 39 of Title 18A of the New Jersey Statutes.

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

**C.18A:39-11.2 Bidding requirements for certain pupil transportation contracts.**

1. a. Except as provided in subsection g. of this section, the provision of transportation services to a local school district by a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity, other than a local school district using school buses it owns or leases, shall be subject to the bidding requirements and requirements concerning the renewal of transportation contracts set forth in chapter 39 of Title 18A of the New Jersey Statutes, including the requirements concerning the advertisement for bids, the submission of quotations and the renewal of contracts.

b. The cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district shall adhere to every substantial bid specification for a pupil transportation contract, including bonding requirements.

c. The cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district that is intending to bid for transportation services shall be precluded from preparing specifications. Specifications shall be prepared by the local school district seeking transpor-

tation services or by any other cooperative transportation services agency, as designated by the Commissioner of Education, that is not bidding.

d. The cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district shall not charge any fee above the bid price.

e. A local school district may negotiate and award a contract for transportation services with a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district if the provisions of subsection c. of N.J.S.18A:18A-5 have been met.

f. The following forms, prescribed by the Commissioner of Education, shall be included in any bid submitted by a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district to provide transportation services:

(1) if applicable, a membership form for the cooperative transportation services agency, educational services commission, county special services school district or jointure commission indicating each member school district and the name of each member school district's superintendent;

(2) a form indicating the transportation experience of the bidder;

(3) a non-collusion form indicating that the bidder has not drafted specifications or route descriptions for the local board of education that is seeking transportation services;

(4) an affirmative action statement; and

(5) a bidder's guarantee in an amount required pursuant to statute and regulation.

g. The provisions of this section shall not apply to:

(1) an educational services commission or a jointure commission for the provision of transportation services to pupils who reside in school districts which, as of January 1, 2004, are members of the educational services commission or jointure commission, if, as of that date, the commission owns or leases school buses and is providing pupil transportation;

(2) an educational services commission or jointure commission for the provision of transportation services to pupils who reside in school districts which are located in a county of the first class and which are not members of the educational services commission or jointure commission and which, as of January 1, 1999, have been receiving pupil transportation from that commission with buses the commission owns or leases;

(3) a county special services school district for the provision of transportation services to pupils who are enrolled in the county special services school district or pupils enrolled in nonpublic schools who reside within the

county, if, as of January 1, 2004, the district owns or leases school buses and is providing pupil transportation; and

(4) a county special services school district for the provision of special education transportation for pupils residing within that county or within a contiguous county, if, as of January 1, 2004, the county special services school district is located in a county of the fifth class, and has been providing special education transportation with buses it owns or leases.

**C.18A:39-11.3 Disqualification of bidder; "prior negative experience" defined.**

2. a. A board of education may, by resolution approved by a majority of the board of education and subject to the provisions of subsection b. of this section, disqualify a bidder who would otherwise be determined to be the lowest responsible bidder for a pupil transportation contract, if the board of education finds that it has had prior negative experience with the bidder. The disqualification shall be for a reasonable, defined period of time which shall not exceed three years.

b. As used in this section, "prior negative experience" means any of the following:

(1) the bidder has been determined to be "nonperforming" under a pupil transportation contract after a hearing which shall include the bidder, the superintendent of schools, and the county superintendent of schools. The county superintendent of schools shall make the determination as to nonperformance and this determination may be appealed to Commissioner of Education and the State Board of Education, as provided by law;

(2) the bidder defaulted on a transportation contract thereby requiring the board of education to utilize the services of another contractor to complete the contract;

(3) the bidder defaulted on a transportation contract thereby requiring the board of education to look to the bidder's surety for completion of the contract or tender of the costs of completion; or

(4) the bidder has at least a 10% ownership in any contractor that had prior negative experience with the board of education as described in paragraphs (1) through (3) of this subsection.

**C.18A:39-11.4 Continuation of prior agreement in violation of act.**

3. A joint transportation agreement entered into by a local school district and a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity prior to the effective date of P.L.2005, c.84 (C.18A:39-11.2 et seq.) which violates the provisions of this act may continue in effect for the remainder of the school year in which the agreement was made.



4. This act shall take effect immediately and shall first apply to the 2004-2005 school year.

Approved May 4, 2005.

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CHAPTER 85

AN ACT facilitating the collection of taxes on retail sales of cigarettes shipped from outside this State, supplementing P.L.1948, c.65 (C.54:40A-1).

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

**C.54:40A-46 Short title.**

1. This act shall be known and may be cited as the "Cigarette Sales Act."

**C.54:40A-47 Findings, declarations relative to out-of-State cigarette sales.**

2. The Legislature hereby finds and declares that:
- a. Currently, the federal Jenkins Act, 15 U.S.C. s.375 et seq., requires any person that sells or transfers in interstate commerce cigarettes into a state that taxes the sale or use of cigarettes to file certain information with the tobacco tax administrator of that state; and
  - b. According to the U.S. General Accounting Office, the Jenkins Act is rarely enforced by the federal government and is currently unenforceable by the states; and
  - c. As the sales of cigarettes to residents of this State by out-of-State sellers increase and the difficulties associated with the collection of sales and use taxes continue, there will be a steady erosion of the sales and use tax revenues that this State is able to collect;
  - d. It is, therefore, the purpose of this act to facilitate the collection of all applicable sales and use taxes on cigarettes sold to residents of this State and to enforce the Jenkins Act.

**C.54:40A-48 "Face-to-face sale" defined.**

3. As used in this act, "face-to-face sale" means a sale in which the purchaser is in the physical presence of the seller or the seller's employee or agent at the time of the sale. A "face-to-face sale" does not include any transaction conducted by mail order, the Internet, telephone, or any other anonymous transaction method in which the buyer is not in the seller's

physical presence or the physical presence of the seller's employee or agent at the time of the sale.

**C.54:40A-49 Conditions for non-face-to-face sale of cigarettes.**

4. A person shall not engage in a retail sale of cigarettes in this State unless the sale is a face-to-face sale, except that a person may engage in a non-face-to-face sale of cigarettes to a person in this State if the following conditions are met:

a. The seller has fully complied with all of the requirements of the Jenkins Act, 15 U.S.C. s.375 et seq., for shipments to this State;

b. The seller has verified payment of, paid, or collected all applicable State taxes, including the cigarette taxes imposed by the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.) and the sales or use taxes imposed by the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), due on the cigarettes; and

c. The seller has, before mailing or shipping the cigarettes:

(1) obtained from the purchaser reliable confirmation that the purchaser is at least 18 years old and a statement by the purchaser under penalty of perjury certifying the purchaser's date of birth and address;

(2) made good faith effort to verify the information contained in the certification provided by the purchaser against a commercially available database or has obtained a photocopy or other image of a government-issued identification bearing the purchaser's image and stating the date of birth or age of the purchaser;

(3) received payment for the sale from the prospective purchaser by a credit or debit card that has been issued in the purchaser's name or by check; and

(4) verified that a credit or debit card used for payment has been issued in the purchaser's name, and the address to which the cigarettes are being shipped matches the credit or debit card company's address for the cardholder.

Sellers taking an order for a non-face-to-face sale may request that prospective purchasers provide their e-mail addresses.

**C.54:40A-50 Additional penalties, schedule.**

5. In addition to any other remedies provided by law, the Director of the Division of Taxation in the Department of the Treasury shall assess penalties for violations of this act in accordance with the following schedule:

a. a penalty of not less than \$1,000 and not more than \$2,000 for the first violation;

b. a penalty of not less than \$2,500 and not more than \$3,500 for the second violation within a five-year period;

- c. a penalty of not less than \$4,000 and not more than \$5,000 for the third violation within a five-year period;
- d. a penalty of not less than \$5,500 and not more than \$6,500 for a fourth violation within a five-year period; and
- e. a penalty of \$10,000 for a fifth or subsequent violation within a five-year period.

**C.54:40A-51 Annual report.**

6. The Director of the Division of Taxation in the Department of the Treasury shall provide the Speaker of the General Assembly, the Senate President, and the chairpersons of the Assembly Appropriations Committee and the Senate Budget Committee, or the successor committees, an annual report regarding all actions taken to comply with and enforce this act.

**C.54:40A-52 Vending machine sales unaffected.**

7. This act shall not prohibit any lawful sale of a tobacco product that occurs by means of a vending machine.

**C.54:40A-53 Other laws applicable.**

8. Nothing in this act shall relieve the seller of cigarettes from any other applicable requirement of law relating to the sale of cigarettes.

9. This act shall take effect on the first day of the sixth month following enactment and apply to shipments made on and after that date.

Approved May 4, 2005.

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CHAPTER 86

AN ACT concerning penalties for motorists who fail to yield to pedestrians, amending R.S.39:4-36 and supplementing chapter 4 of Title 39 of the Revised Statutes.

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

**C.39:4-36.2 "Pedestrian Safety Enforcement and Education Fund."**

1. There is created in the Division of Highway and Traffic Safety in the Department of Law and Public Safety a nonlapsing revolving fund to be known as the "Pedestrian Safety Enforcement and Education Fund." This fund shall be a repository for moneys provided pursuant to subsection c. of R.S.39:4-36 and shall be administered by the Division of Highway and Traffic Safety. Moneys deposited in the fund, and any interest earned

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thereon, shall be used for the purpose of making grants to municipalities and counties with pedestrian safety problems. Priority in awarding grants shall be given to municipalities and counties requesting funds in order to take remedial steps for intersections that have been identified as demonstrating pedestrian safety problems in accordance with P.L.2005, c.158 (C.39:4-36.3 et al.).

2. R.S.39:4-36 is amended to read as follows:

**Driver to yield to pedestrian, exceptions; violations, penalties.**

39:4-36. a. The driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within a marked crosswalk or within any unmarked crosswalk at an intersection, except at crosswalks when the movement of traffic is being regulated by police officers or traffic control signals, or where otherwise prohibited by municipal, county, or State regulation, and except where a pedestrian tunnel or overhead pedestrian crossing has been provided, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. Nothing contained herein shall relieve a pedestrian from using due care for his safety.

Whenever any vehicle is stopped to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

Every pedestrian upon a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

Nothing contained herein shall relieve a driver from the duty to exercise due care for the safety of any pedestrian upon a roadway.

b. A person violating this section shall, upon conviction thereof, pay a fine to be imposed by the court in the amount of \$100. The court may also impose a term of imprisonment not to exceed 15 days.

c. Of each fine imposed and collected pursuant to subsection b. of this section, \$50 shall be forwarded to the State Treasurer who shall annually deposit the moneys into the "Pedestrian Safety Enforcement and Education Fund" created by section 1 of P.L.2005, c.86 (C.39:4-36.2)

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

Approved May 4, 2005.

## CHAPTER 87

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, 2005 and regulating the disbursement thereof," approved June 30, 2004 (P.L.2004, c.71).

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

1. The following language is added in section 1 of P.L.2004, c.71 to read as follows:

**94 INTER-DEPARTMENTAL ACCOUNTS**  
**70 Government Direction, Management and Control**  
**74 General Government Services**  
**CAPITAL CONSTRUCTION**  
**08-9400 Capital Projects - Statewide**

In addition to the amounts appropriated hereinabove, there are appropriated from a dedicated account, hereby established under the custody of the State Treasurer, any amounts received in the State Treasury as donations from public and private sources, including those collected from the Port Authority of New York and New Jersey, for the purposes of planning, designing, maintaining and constructing a memorial to the victims of the terrorist attacks of September 11, 2001, on the World Trade Center in New York City, the Pentagon in Washington, D.C., and United Airlines Flight 93 in Somerset County, Pennsylvania, subject to the approval of the Director of the Division of Budget and Accounting.

2. This act shall take effect immediately.

Approved May 4, 2005.

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CHAPTER 88

AN ACT appropriating \$12,720,933 from the "Garden State Historic Preservation Trust Fund" and appropriating \$5,279,067 from various bond acts for the purpose of providing grants, as awarded by the New Jersey Historic Trust, for certain historic preservation projects, and approving certain historic preservation projects in northern New Jersey.

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

1. a. There is appropriated from the "Garden State Historic Preservation Trust Fund," established pursuant to section 21 of the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-21), to the New Jersey Historic Trust the sum of \$12,720,933 for the purpose of providing capital preservation grants and historic site management grants, as awarded by the New Jersey Historic Trust, for historic preservation projects approved as eligible for such funding pursuant to section 2 of this act, section 1 of P.L.2005, c.89, and section 1 of P.L.2005, c.90.

b. There is appropriated from the "1995 Historic Preservation Fund" established pursuant to section 26 of the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, the sum of \$1,940,822, from the "1992 New Historic Preservation Fund" established pursuant to section 25 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the sum of \$2,349,338, and from the "Cultural Centers and Historic Preservation Fund" established pursuant to section 20 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, the sum of \$988,907, for the purpose of providing capital preservation grants and historic site management grants, as awarded by the New Jersey Historic Trust, for historic preservation projects approved as eligible for such funding pursuant to section 2 of this act, section 1 of P.L.2005, c.89, and section 1 of P.L.2005, c.90.

c. Of the moneys previously appropriated from the "1995 Historic Preservation Fund" established pursuant to section 26 of the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, the "1992 Historic Preservation Fund" established pursuant to section 25 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and the "Cultural Centers and Historic Preservation Fund" established pursuant to section 20 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, a sum of \$5,279,067 is canceled due to project withdrawals, project cancellations, and cost savings.

2. The following historic preservation projects are eligible for funding in the form of capital preservation grants, as awarded by the New Jersey Historic Trust, using moneys appropriated pursuant to section 1 of this act:

<b>County</b>	<b>Municipality</b>	<b>Name of Organization</b>	<b>Project Name</b>	<b>Grant Award</b>
Hudson	Bayonne City Church of Bayonne	First Federated Church of Bayonne	First Federated	\$ 99,912

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Hudson	Jersey City	Save Ellis Island!, Inc.	Ellis Island Laundry Hospital Outbuilding	731,368
Hudson	Jersey City Orthodox Church	Sts. Peter & Paul Orthodox Church,	Sts. Peter & Paul	296,740
Hunterdon	Lambertville City	Centenary United Methodist Church	Jersey City Centenary United Methodist Church,	199,614
Hunterdon	Lambertville City	Lambertville City	Lambertville City Hall	486,180
Hunterdon	Readington Twp	Readington Twp	Eversole-Hall House	42,660
Hunterdon	Stockton Boro	Delaware River Mill Society at Stockton	Prallsville Mills-Saw Mill	343,650
Morris	Madison Boro	Drew University	Drew University, Mead Hall	525,769
Morris	Montville Twp	Montville Twp	Henry Doremus House	230,591
Morris	Morristown Town	Morris County Historical Society	Acorn Hall	42,720
Union	Kenilworth Boro	Kenilworth Hist. Society	Oswald Nitschke House	199,767
Union	Plainfield City	Plainfield City	Plainfield City Hall	265,025
Union	Plainfield City	Plainfield Hist. Society	Nathaniel Drake House	199,893
Warren	Hardwick Twp	Hardwick Twp Hist. Society, Inc.	Vass Farmstead	266,437
Warren	Hope Twp	Help Our Preservation Effort	Long House	<u>476,725</u>
<b>TOTAL</b>				<b><u>\$4,407,051</u></b>

b. The following historic preservation projects are eligible for funding in the form of historic site management grants, as awarded by the New Jersey Historic Trust, using moneys appropriated pursuant to section 1 of this act:

County	Municipality	Name of Organization	Project Name	Grant Award
Bergen	Mahwah Twp	New York - New Jersey Trail Conference	Darlington Schoolhouse	\$29,505
Bergen	Teaneck Twp	Bergen County Historical Society	New Bridge Landing Park	20,625
Essex	Millburn Twp	Greenwood Gardens	Greenwood Gardens	29,025
Essex	Newark City	Community Agencies Corp. of New Jersey	Feigenspan Mansion	38,250

Essex	Newark City	Newark Gospel Tabernacle	Stanley Theater	26,063
Hudson	Jersey City	Jersey City	Apple Tree/ Van Wagenen House	33,799
Hudson	Jersey City	St. Anthony of Padua's Roman Catholic Church	St. Anthony of Padua's Roman Catholic Church, Jersey City	50,000
Hunterdon	Tewksbury Twp	Zion Lutheran Evangelical Church	Zion Lutheran Church	17,175
Morris	Mendham Boro Mendham Twp	Community of St. John the Baptist (Episcpl.)	Community of St. John the Baptist	50,000
Passaic	Wayne Twp	Passaic County	Dey Mansion	37,500
Passaic	West Milford Twp	Friends of Long Pond Ironworks	Long Pond Ironworks	24,000
Passaic	West Paterson Boro	West Paterson Boro	Morris Canal Park	37,500
Sussex	Wantage Twp	Daughters of the American Revolution - Chinkchewunsk Chapter	VanBunschooten House	31,313
Union	Elizabeth City	First Presbyterian Church	First Presbyterian Church of Elizabeth	49,770
Warren	Harmony Twp	Harmony Twp Hist. Preservation Commission	Hoff-Vannatta Farm	17,025
Warren	Knowlton Twp	Knowlton Twp Hist. Commission	Ramsayburgh Homestead	46,313
Warren	Phillipsburg Town	Phillipsburg Urban Enterprise Zone Corp.	Phillipsburg Union Train Station	<u>34,178</u>
<b>TOTAL</b>				<b><u>\$572,041</u></b>

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

d. To the extent that moneys remain available after the projects listed in subsection a. or b. of this section are offered funding pursuant thereto, any project of a local government unit or qualifying tax exempt nonprofit organization that previously received funding for historic preservation purposes appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Historic Preservation Trust Fund, or that receives funding pursuant to this act or pursuant to P.L.2005, c.89, or P.L.2005, c.90., shall be eligible to receive additional funding, as determined by the New Jersey Historic Trust, subject to the approval of the Joint Budget Oversight Committee or its successor.



For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1987, c.265.

3. This act shall take effect immediately.

Approved May 4, 2005.

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CHAPTER 89

AN ACT approving certain historic preservation projects in southern New Jersey as eligible for grants awarded by the New Jersey Historic Trust.

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

1. a. The following historic preservation projects are eligible for funding in the form of capital preservation grants, as awarded by the New Jersey Historic Trust, using moneys made available from the "Garden State Historic Preservation Trust Fund," established pursuant to section 21 of the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-21), the "1995 Historic Preservation Fund" established pursuant to section 26 of the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, the "1992 Historic Preservation Fund" established pursuant to section 25 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and the "Cultural Centers and Historic Preservation Fund" established pursuant to section 20 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, and which moneys are appropriated pursuant to section 1 of P.L.2005, c.88:

County	Municipality	Name of Organization	Project Name	Grant Award
Atlantic	Egg Harbor City	Egg Harbor City	Egg Harbor Commercial Bank	\$250,000
Burlington	Bordentown City	Bordentown City	Gilder House	200,000
Burlington	Pemberton Twp	Whitesbog Presrv.	Whitesbog Farm Trust, Inc.	379,784
Camden	Camden City	Camden City	Carnegie Library	460,513
Camden	Cherry Hill Twp	Cherry Hill Twp	Croft Farm	238,750
Camden	Voorhees Twp	Glendale United Methodist Church	Glendale United Methodist Church, Voorhees	148,164
Cape May	Cape May City	Ctr. for Community Arts, Inc.	Franklin Street School	199,797

Cape May	Lower Twp	Mid-Atlantic Ctr. for the Arts	Fire Control Tower #23	600,000
Cumberland	Bridgeton City	Bridgeton City	David Sheppard House	483,896
Cumberland	Bridgeton City	Cumberland County	Cumberland Co. Courthouse	593,739
Cumberland	Fairfield Twp	Presbytery of West Jersey	Fairfield Presbyterian "Old Stone" Church	112,734
Cumberland	Greenwich Twp	Greenwich Twp	Old Stone School	9,000
Gloucester	Swedesboro Boro	Historical & Educ. Lodge-Hall Preservatory	Richardson Ave. School	75,000
Gloucester	Swedesboro Boro	Trinity Episopal Old Swedes Church	Trinity Episopal Old Swedes Church	49,980
Monmouth	Fair Haven Boro	Fair Haven Boro	Bicentennial Hall, Fair Haven	227,595
Monmouth	Long Branch City	Long Branch Hist. Museum Assoc.	Church of the Presidents	342,410
Monmouth	Middletown Twp	Christ Episcopal Church	Christ Church, Middletown	200,000
Monmouth	Middletown Twp	NJ Marine Sciences Consortium	Sandy Hook Barracks Bldg #22	500,000
Monmouth	Millstone Twp	Millstone Twp	Clarksburg School	300,000
Monmouth	Tinton Falls Boro	Tinton Falls Boro	Crawford House	97,860
Monmouth	West Long Branch Boro	Monmouth Univ.	Monmouth Univ. Woodrow Wilson Hall	750,000
Salem	Elsinboro Twp	Salem Old House Foundation	Abel Nicholson House	<u>49,730</u>

**TOTAL****\$6,268,952**

b. The following historic preservation projects are eligible for funding in the form of historic site management grants, as awarded by the New Jersey Historic Trust, using moneys made available from the "Garden State Historic Preservation Trust Fund," established pursuant to section 21 of the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-21), the "1995 Historic Preservation Fund" established pursuant to section 26 of the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, the "1992 Historic Preservation Fund" established pursuant to section 25 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and the "Cultural Centers and Historic Preservation Fund" established pursuant to section 20 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, and which moneys are appropriated pursuant to section 1 of P.L.2005, c.88:

County	Municipality	Name of Organization	Project Name	Grant Award
Burlington	Beverly City	St. Stephen's Episcopal Church	St. Stephen's Episcopal Church, Beverly	\$39,075
Burlington	Medford Lakes Boro	Protestant Community Church	St. Mary of the Lakes/Memorial Hall, Medford Lakes	14,561
Burlington	Moorestown Twp	Lutheran Home at Moorestown	Breidenhart	47,331
Cape May	North Wildwood City	North Wildwood City Lighthouse Comm.	Hereford Inlet Light Station	26,250
Cumberland	Bridgeton City	South Jersey Economic Dvlpmt. District	Ferracute Machine Co.	15,000
Cumberland	Upper Deerfield Twp	Deerfield Presbyterian Church	Deerfield Presbyterian Church	13,699
Monmouth	Middletown Twp	NJ Marine Sciences Consortium	Sandy Hook Bldg. #22	26,855
Monmouth	Rumson Boro	First Presbyterian Church	First Presbyterian Church of Rumson	15,274
Monmouth	Rumson Boro	St. George's Episcopal Church	St. George's by the River Episcopal Church, Rumson	25,597
Ocean	Lakewood Twp	Georgian Court College	Georgian Court College	50,000
Ocean	Stafford Twp	Stafford Twp Historical Society	Old Manahawkin Baptist Church	10,207
Ocean	Stafford Twp	Stafford Twp	Cavalry Cottage	14,715
Salem	Salem City	Broadway United Methodist Church	Broadway United Methodist Church, Salem	8,895
Salem	Salem City	Memorial Baptist Church of Salem	Memorial Baptist Church of Salem	<u>8,895</u>
<b>TOTAL</b>				<b><u>\$316,354</u></b>

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

d. To the extent that moneys remain available after the projects listed in subsection a. or b. of this section are offered funding pursuant thereto, any project of a local government unit or qualifying tax exempt nonprofit organization that previously received funding for historic preservation purposes appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Historic Preservation Trust Fund, or

that receives funding pursuant to this act or pursuant to P.L.2005, c.88 or P.L.2005, c.90, shall be eligible to receive additional funding, as determined by the New Jersey Historic Trust, subject to the approval of the Joint Budget Oversight Committee or its successor.

For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1987, c.265.

2. This act shall take effect immediately.

Approved May 4, 2005.

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## CHAPTER 90

AN ACT approving certain historic preservation projects in central New Jersey as eligible for grants awarded by the New Jersey Historic Trust.

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

1. a. The following historic preservation projects are eligible for funding in the form of capital preservation grants, as awarded by the New Jersey Historic Trust, using moneys made available from the "Garden State Historic Preservation Trust Fund," established pursuant to section 21 of the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-21), the "1995 Historic Preservation Fund" established pursuant to section 26 of the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, the "1992 Historic Preservation Fund" established pursuant to section 25 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and the "Cultural Centers and Historic Preservation Fund" established pursuant to section 20 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, and which moneys are appropriated pursuant to section 1 of P.L.2005, c.88:

County	Municipality	Name of Organization	Project Name	Grant Award
Mercer	Hightstown Boro	First United Methodist Church of Hightstown	First United Methodist Church of Hightstown	\$542,179
Mercer	Hopewell Twp	Mercer County	Hunt House	733,585
Mercer	Trenton City	Grand Lodge of Free & Accepted	Trenton Masonic Temple	750,000

Mercer	Trenton City	Masons of NJ Invention Factory Science Center	Invention Factory Science Center/ Roebbling Machine Shop	749,516
Mercer	Trenton City	NJ State League of Municipalities	Roebbling Mansion at 222 State Street	750,000
Mercer	Trenton City	Trenton City	Cadwaladar Park, Comfort Station	205,000
Middlesex	New Brunswick City	St. Peter the Apostle R. C. Church	St. Peter the Apostle R. C. Church	500,000
Somerset	Bernards Twp	Bernards Twp	Kennedy-Martin Stelle Farmstead	440,393
Somerset	Franklin Twp	Meadows Foundation	Hageman Farm & Wyckoff House	749,579
Somerset	Raritan Boro	Raritan Boro	Relief Hose Co. #2 Engine House	577,138
Somerset	Rocky Hill Boro	Rocky Hill Community Group	Rocky Hill Comm. Group House	<u>198,261</u>
<b>TOTAL</b>				<b><u>\$6,195,651</u></b>

b. The following historic preservation projects are eligible for funding in the form of historic site management grants, as awarded by the New Jersey Historic Trust, using moneys made available from the "Garden State Historic Preservation Trust Fund," established pursuant to section 21 of the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-21), the "1995 Historic Preservation Fund" established pursuant to section 26 of the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, the "1992 Historic Preservation Fund" established pursuant to section 25 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and the "Cultural Centers and Historic Preservation Fund" established pursuant to section 20 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, and which moneys are appropriated pursuant to section 1 of P.L.2005, c.88:

County	Municipality	Name of Organization	Project Name	Grant Award
Mercer	Hopewell Twp	Howell Living History Farm	Henry Phillips House	\$50,000
Mercer	Princeton Twp	Historical Society of Princeton	Updike Farm	38,804
Mercer	Princeton Twp	Princeton Twp	Mountain Lakes Dams	50,000
Middlesex	Edison Twp	Edison Twp	Edison Tower Complex	50,000

Somerset	Bernardsville Boro	St. Bernard's Episcopal Church	St. Bernard's Episcopal Church	43,384
Somerset	South Bound Brook Boro	Historical Comm. of Boro of South Bound Brook	Abraham Staats House	<u>7,763</u>

**TOTAL** **\$239,951**

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

d. To the extent that moneys remain available after the projects listed in subsection a. or b. of this section are offered funding pursuant thereto, any project of a local government unit or qualifying tax exempt nonprofit organization that previously received funding for historic preservation purposes appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Historic Preservation Trust Fund, or that receives funding pursuant to this act or pursuant to P.L.2005, c.88 or P.L.2005, c.89, shall be eligible to receive additional funding, as determined by the New Jersey Historic Trust, subject to the approval of the Joint Budget Oversight Committee or its successor.

For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1987, c.265.

2. This act shall take effect immediately.

Approved May 4, 2005.

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## CHAPTER 91

**AN ACT** concerning the operations of the New Jersey Transit Corporation and amending P.L.1979, c.150.

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

1. Section 3 of P.L.1979, c.150 (C.27:25-3) is amended to read as follows:

**C.27:25-3 Definitions.**

3. As used in this act:

a. "Corporation" means the New Jersey Transit Corporation.

b. "Motorbus regular route service" means and includes the operation of any motorbus or motorbuses on streets, public highways or other facilities, over a fixed route and between fixed termini on a regular schedule for the purpose of carrying passengers for hire or otherwise, in this State or between points in this State and points in other states.

c. "Capital equipment and facilities" means and includes, in connection with public transportation service, passenger stations, shelters and terminals, automobile parking facilities, ramps, track connections, signal systems, power systems, information and communication systems, roadbeds, transit lanes or rights of way, equipment storage and servicing facilities, bridges, grade crossings, rail cars, locomotives, ferries and ferry facilities, including capital projects for ferry terminals, approach roadways, pedestrian accommodations, parking, docks, ramps and other necessary land-side improvements, motorbus and other motor vehicles, maintenance and garage facilities, revenue handling equipment and any other equipment, facility or property useful for or related to the provision of public transportation service.

d. "Paratransit services" 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 services shall not include limousine or taxicab service reserved for the private and exclusive use of individual passengers.

e. "Public transportation or public transportation service" means rail passenger service, motorbus regular route service, paratransit service, motorbus charter service, and ferry passenger service.

f. "Motorbus charter service" means and includes subscription, tour, other special motorbus services or school bus services or charter services as set forth in section 7 of P.L.1979, c.150 (C.27:25-7).

g. "Rail passenger service" means and includes the operations of a railroad, subway, street, traction or electric railway for the purpose of carrying passengers in this State or between points in this State and points in other states.

h. "Ferry passenger service" means any service which involves the carriage of persons for compensation or hire by waterborne craft in this State or between points in this State and points in other states.

2. This act shall take effect immediately.

Approved May 4, 2005.

## CHAPTER 92

AN ACT concerning the performance of certain State contracts and supplementing 34 of Title 52 of the Revised Statutes.

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

**C.52:34-13.2 State contracts, services performed within U.S.; exceptions.**

1. a. Every State contract primarily for the performance of services shall include provisions which specify that all services performed under the contract or performed under any subcontract awarded under the contract shall be performed within the United States.

b. The provision of subsection a. of this section shall not apply whenever:

(1) the Director of the Division of Purchase and Property or the Director of the Division of Property Management and Construction, as appropriate, certifies in writing a finding that a service is required by the Executive Branch of the State and that the service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer;

(2) the contracting officer for the Legislature or for any office, board, bureau or commission within or created by the Legislative Branch certifies in writing a finding that a service is required by the Legislature or the office, board, bureau or commission within or created thereby and that the service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the appropriate legislative authority;

(3) the contracting officer of any independent State authority, commission, instrumentality or agency certifies in writing a finding that the service required by the independent State authority, commission, instrumentality or agency cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the executive director or other equivalent authority of that authority, commission, instrumentality or agency; or

(4) any of the directors or contracting officers in paragraphs (1) through (3) of this subsection b., as may be applicable, certifies in writing a finding that inclusion in the State contract of a provision as described in subsection a. of this section with respect to the performance of a service required by their contracting entity under the State contract would violate the terms, conditions, or limitations of any grant, funding or financial assistance from the federal government or any agency thereof, and the certification is approved by the appropriate approval officer.



As used in this section, "State contract" means every contract entered into by (1) the Governor, the head of any of the principal departments in the Executive Branch of the State Government, and the head of any division, board, bureau, office, commission or other instrumentality within or created by such department, (2) the contracting officer of the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch, and (3) the head or contracting officer of any independent State authority, commission, instrumentality or agency within or created by such an authority, who is authorized to enter into contracts that include the performance of services. A county, municipality or school district shall not be deemed an agency or instrumentality of the State for the purpose of this section.

2. The State Treasurer shall review all State contracts, as defined in section 1 of P.L.2005, c.92 (C.52:34-13.2), primarily for the performance of services, which contracts have not been completed or terminated, and determine if any of the services performed by the contractor and any subcontractor are being performed outside of the United States. Within 180 days after the effective date of P.L.2005, c.92, the findings of the review shall be reported in writing to the Governor, the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly, and the Minority Leader of the General Assembly, and shall be made available to the general public.

3. This act shall take effect on the 90th day following enactment

Approved May 5, 2005.

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## CHAPTER 93

AN ACT concerning the term of office of town mayors and council members and amending N.J.S.40A:62-2.

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

1. N.J.S.40A:62-2 is amended to read as follows:

**Elected officers, terms.**

40A:62-2. a. The mayor shall be elected by the voters of the municipality at large and shall be known as the councilman-at-large. The mayor shall serve for a term of four years.

b. (Deleted by amendment, P.L.2005, c.93).

c. The council shall consist of eight members, two elected from each of four wards. The members of council shall serve for a term of four years.

d. Notwithstanding the provisions of subsection c. of this section, any town, whose council immediately prior to the effective date of P.L.1988, c.7 had a council whose method of election, composition or tenure of its membership differed in any way from the provisions set out in subsection c. 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, as the case may be, until such time it wishes to adopt the provisions as set out in subsection c. of this section. Any adoption shall be by referendum of voters, after the town council shall have passed an ordinance not less than 60 days preceding any general election calling for the referendum to be placed upon the ballot. The referendum shall not be submitted to the voters more than once in any three-year period.

e. The annual election for town officers shall be held at the same time and places as the general election. No person shall be permitted to vote at any such election unless he is an actual resident of the election district in which he offers his vote.

2. This act shall take effect immediately but the amendatory provisions shall remain inoperative in a municipality until the first election for the office of mayor and members of council next following enactment and shall apply to the terms of those mayors and members of council elected at that election.

Approved June 6, 2005.

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#### CHAPTER 94

AN ACT appropriating \$110,000,000 from the "Dam, Lake, Stream, Flood Control, Water Resources and Wastewater Treatment Project Bond Act of 2003," P.L.2003, c.162, for the purposes of providing loans for dam restoration and repair projects and for financing the costs of State dam restoration and repair projects.

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

1. a. There is appropriated to the Department of Environmental Protection from the "2003 Dam, Lake and Stream Project Revolving Loan Fund" established pursuant to section 17 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003," P.L.2003, c.162, the sum of \$95,000,000 for the purpose of providing loans

to owners of private dams, as co-applicants with local government units, or to local government units that own dams, to finance the costs of dam restoration and repair projects undertaken by, or on behalf of, the owners of dams.

This sum shall include an amount of not more than \$3,300,000 for administrative costs incurred by the department in implementing the provisions of this section.

This sum shall also include a contingency project category to finance the costs of additional dam restoration and repair projects utilizing, in part, moneys appropriated by law for other approved projects but unexpended due to project cancellation, withdrawal, or cost savings, and shall be allocated as follows:

<u>Project</u>	<u>Applicant</u>	<u>Loan Amount</u>
Lake Lefferts Dam	Matawan Borough	\$16,000,000
Swannanoa South Dam	Swannanoa Sentinel Society	\$772,000
Lake Tranquility Dam	Green Township	\$450,000
Alloway Lake Dam	Alloway Township	\$3,000,000
Irish/Post Brook Dams	Lake Iosco Company	\$645,000
Skyline Lake Dam No. 2	Skyline Lake Property Owners	\$878,096
Erskine Upper Dam	Erskine Lakes Property Owners	\$1,100,000
Sunset Raceway Dam	Bridgeton City	\$1,200,000
Deer Head Lake Dam	Lacey Township	\$1,024,111
Matawan Lake Dam	Matawan Borough	\$16,000,000
Clementon Lake Dam	Rekab, Inc.	\$1,333,677
Skyline Lake Dam No. 1	Skyline Lake Property Owners	\$421,904
Lower Mt. Glen Dam	Mt. Glen Lakes Association	\$1,062,881
Shongum Lake Dam	Shongum Lake Property Owners	\$1,250,000
Lake Gilman Dam	Lake Gilman Owners	\$300,000
Timber Lake Dam	Birchwood Lake Colony Club	\$2,000,000
Mill Pond Dam	Borough of Park Ridge	\$1,156,000
Clinton Mills Dam and Dike	Hunterdon Museum of Art	\$450,000
Upper Highland Lake Dam	Highland Lakes Association	\$400,000
Peddie Lake Dam	Hightstown Borough	\$156,250
Ballinger Lake Dam	Medford Lakes Colony	\$122,133
Verona Lake Dam	Essex County	\$600,000
Gordon Lakes Dam	Gordon Lakes Property Owners	\$800,000
Upper Mt. Glen Dam	Mt. Glen Lakes Association	\$616,672
Glen Lake Dam	Glen Lake Beach Club	\$500,000
Lake Winona Dam	Lake Winona Civic Association	\$708,773
Fayson East Lake Dam	Fayson Lakes Association	\$767,000
Apshawa Dam	Passaic County	\$750,000
Fayson South Lake Dam	Fayson Lakes Association	\$629,000
Fayson West Lake Dam	Fayson Lakes Association	\$427,000
Elkington Pond Dam	Salem City	\$575,000
Grenloch Lake Dam	Washington Township	\$400,000
Upper Aetna Lake Dam	Medford Lakes Borough	\$4,580,000
Cedar Lake Dam	Lawrence Township	\$299,000
Rainbow Lake Dam	Brick Township	\$229,100

East Highland Lake Dam	Highland Lakes Association	\$350,000
Lake Rickabear Dam	Girl Scouts Lenni-Lenape Council	\$250,000
Breakneck Dam	Old Taunton Colony Club	\$433,440
Quinton Pond Dam	Salem City	\$585,000
Mount Kemble Dam	The Lakeshore Company	\$725,000
Lake Centerton Dam	Lake Centerton Homeowners	\$1,081,000
Camp Karney Dam	Salem County	\$1,300,000
Veteran Memorial Lake Dam	Woodstown Borough	\$308,689
Fox Lake Dam	Rockaway Borough	\$615,000
Lebanon Forest Dam No. 1	Pemberton Township	\$4,600,000
Lake Stockwell Dam	YMCA Camp Ockanickon	\$603,000
Lower Aetna Lake Dam	Medford Lakes Colony	\$5,350,000
Upper Sylvan Lake Dam	Burlington Township	\$424,500
Washington Forge Pond Dam	Wharton Borough	\$75,000
Butler Intake Dam	Passaic County	\$300,000
Cub Lake Dam	Donald Cocchi, Jacqueline McGowan	\$163,063
Atco Lake Dam	Sharon Ettore	\$400,000
Camp Inawendiwin Lower	Girl Scouts of Camden County	\$670,000
Sunset Lake Dam	Friends of Victory Lakes Association	\$400,000
Birchwood Lake Dam	Birchwood Lake Colony Club	\$1,010,000
Lake Riviera Dam	Brick Township	\$511,910
Summit Lake Dam	Summit Lake Association	\$743,600
Camp Mason Dam	YMCA Camp Ralph Mason	\$676,650
Old Mill Pond Dam	T&G Realty	\$850,000
Squaw Lake Dam	YMCA Camp Ockanickon	\$603,000
Papoose Dam	YMCA Camp Ockanickon	\$603,000
JCC Dam	Jewish Federation of Southern NJ	\$227,500
Rock Lodge Pond Dam	Rock Properties, Inc	\$250,000
Milton Lake Dam	Union County	\$800,000
Purcel Dam	Harry S. Purcel, Inc.	\$215,363
Upper Victory Lake Dam	Friends of Victory Lakes Association	\$400,000
Harry Burke Dam	Mary Caruso Albert	\$35,000
Lost Lake Dam	George Van Istendal/Lost Lake CC	\$400,000
Kandle Lake Dam	Kandle Lake Associates	\$250,000
Diamond Mill Dam	Essex County	\$450,000
Mill Dam	Mount Holly Township	\$154,600
Keller Dam	Fountain House of NJ	\$844,300
Spruce Lake Dam	Timber Lakes Community Association	\$422,500
Valley Glen Estates Dam	Valley Glen Homeowners	\$ 50,000
Clearview Lake Dam	Clearview Lake Property Owners	\$500,000
Lake Fred Dam	Stockton College	\$405,000
Barry Lakes Dam No. 2	Lake Community Property Owners	\$376,000
<b>Total</b>		<b><u>\$91,015,712</u></b>

b. Any unexpended funds from the dam restoration and repair projects listed in subsection a. of this section shall be added to the contingency project category to provide loans to owners of private dams, as co-applicants with

local government units, or to local government units that own dams, to finance the costs of the following dam restoration and repair projects:

<u>Project</u>	<u>Applicant</u>	<u>Loan Amount</u>
Lake Wanda Dam	Lake Wanda Property Owners Association	\$393,177
Lake Horicon Dam	Lakehurst Borough	\$279,966
Lower Mountain Lakes Dam	Princeton Township	\$1,950,000
Upper Mountain Lakes Dam	Princeton Township	\$1,000,000
Barry Lakes Dam No. 1	Lake Community Property Owners	\$299,000
Best Lake Dam	Watchung Borough	\$750,000
Pfeifer Dam	Wendell Pfeifer	\$144,910
Timber Lake Dam	Timber Lakes Community Association	\$233,000
Quogue Dam	Medford Lakes Borough	\$1,240,000
Camp Nyoda Dam	Nyoda Girls Camp	\$300,000
Blue Lake Dam	Blue Lake Association	\$400,000
Crane Lake Dam	Marlton Lakes Civic Association	\$125,000
Vaskis Dam	Ridgewood Village, Parks Department	\$737,000
Buttonwood Lake Dam	Mount Holly Township	\$550,900
<b>Total</b>		<b><u>\$8,402,953</u></b>

Any unexpended balances of the amounts listed in this subsection remaining after completion of the dam restoration and repair projects listed in this subsection shall be returned to the "2003 Dam, Lake and Stream Project Revolving Loan Fund" for reappropriation to finance the costs of additional projects authorized pursuant to section 18 of P.L.2003, c.162.

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

2. a. There is appropriated to the Department of Environmental Protection from the "2003 Dam, Lake, Stream and Flood Control Project Fund" established pursuant to section 15 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003," P.L.2003, c.162, the sum of \$15,000,000 for the purpose of financing the costs of State dam restoration and repair projects. This sum shall include a contingency project category to finance the costs of additional State dam restoration and repair projects utilizing, in part, moneys appropriated by law for other approved projects but unexpended due to project cancellation, withdrawal, or cost savings, and shall be allocated as follows:

<b>Project</b>	<b>Sponsor</b>	<b>Amount</b>
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Hopatcong Lake Dam	Parks and Forestry	\$600,000
Willow Crest Dam	Parks and Forestry	\$750,000
Union Lake Dam	Fish and Wildlife	\$250,000
Assunpink #6 Dam	Fish and Wildlife	\$200,000
Sallys Pond Dam	Parks and Forestry	\$1,800,000
Brisbane Lake Dam	Parks and Forestry	\$1,250,000
Shaws Mill Pond Dam	Fish and Wildlife	\$1,000,000
Harrisonville Dam	Fish and Wildlife	\$1,000,000
Allamuchy Dam	Parks and Forestry	\$250,000
Maskells Mill Dam	Fish and Wildlife	\$650,000
Kazmar Pond Dam	Parks and Forestry	\$750,000
Greenwood Lake Dam	Parks and Forestry	\$100,000
Stony Brook #5 Dam	Fish and Wildlife	\$100,000
Swartswood Lake Dam	Parks and Forestry	\$150,000
Prosperstown Dam	Fish and Wildlife	\$100,000
Stony Lake Dam	Parks and Forestry	\$200,000
Harrisville Dam	Parks and Forestry	\$ 50,000
Thundergut Dam	Fish and Wildlife	\$700,000
Centerton Lake Dam	Parks and Forestry	\$1,045,000
NJ No Name Dam No. 31	NJ Water Supply Authority	\$800,000
East Lake Dam	Fish and Wildlife	\$850,000
Elmer Lake Dam	Fish and Wildlife	\$1,000,000
Lake Fred Dam	Stockton College	\$405,000
Monksville Dam	North Jersey District Water Supply Commission	<u>\$1,000,000</u>
<b>Total</b>		<b><u>\$15,000,000</u></b>

b. Any unexpended funds from the State dam restoration and repair projects listed in subsection a. of this section shall be added to the contingency project category to finance the cost of the Warren Mills Dam project.

Any unexpended balances of the amounts listed in this section remaining after completion of the State dam restoration and repair projects listed in this section shall be returned to the "2003 Dam, Lake, Stream and Flood Control Project Fund" for reappropriation to finance the costs of additional projects authorized pursuant to section 16 of P.L.2003, c.162.

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

3. The expenditures of sums appropriated by this act are subject to the provisions of P.L.2003, c.162, and the rules and regulations adopted pursuant thereto.

4. This act shall take effect immediately.

Approved June 15, 2005.

## CHAPTER 95

AN ACT concerning kinship legal guardianship and supplementing Title 30 of the Revised Statutes.

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

**C.30:4C-89 Short title.**

1. This act shall be known and may be cited as the "Kinship Legal Guardianship Notification Act."

**C.30:4C-90 Findings, declarations relative to kinship legal guardianship.**

2. The Legislature finds and declares that:

a. An increasing number of relatives in the State, including grandparents, find themselves providing care on a long-term basis to children who cannot reside with their parents due to the parent's incapacity or inability to perform the regular and expected functions of care and support of the child;

b. The State law allows for the appointment of an individual as a kinship legal guardian; a kinship legal guardian has the same rights, responsibilities and authority relating to a child as a birth parent, with the exception of consenting to the adoption of the child or a name change for the child, while the birth parent retains the obligation to pay child support and the right to court-approved visitation or parenting time with the child;

c. The Department of Human Services offers a variety of support services and financial aid to kinship legal guardians, which include monthly payments through the federal TANF program, Medicaid eligibility for the child, funding for short-term or one-time expenses, support groups, child support collection, housing assistance, legal services, child care, respite services and education;

d. The department has established the Kinship Navigator program, which is a referral service designed to help kinship caregivers coordinate the various government and community resources that may be available to them; and

e. It is appropriate for the State to ensure that individuals who may be eligible to become kinship legal guardians are aware of the eligibility requirements for, and the responsibilities of, kinship legal guardianship, and that both individuals who may be eligible to become kinship legal guardians and current kinship legal guardians are aware of the services available to kinship legal guardians in the State.

**C.30:4C-91 Dissemination of information by DHS.**

3. The Department of Human Services shall, in easily understandable language:

a. inform individuals, of whom the department is aware, who may be eligible to become kinship legal guardians of:

(1) the eligibility requirements for, and the responsibilities of, kinship legal guardianship; and

(2) the full-range of services for which kinship legal guardians may be eligible and the eligibility requirements for those services; and

b. inform current kinship legal guardians of the full-range of services for which kinship legal guardians may be eligible and the eligibility requirements for those services.

**C.30:4C-92 Rules, regulations.**

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

5. This act shall take effect on the 180th day following enactment, but the Commissioner of Human Services may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved June 15, 2005.

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CHAPTER 96

AN ACT concerning the possession and use of certain devices which interfere with traffic control signals, amending N.J.S.2C:33-14 and supplementing Title 2A of the New Jersey Statutes.

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

1. N.J.S.2C:33-14 is amended to read as follows:

**Interference with transportation.**

2C:33-14. a. Interference with Transportation. A person is guilty of interference with transportation if the person purposely or knowingly:

(1) casts, shoots or throws anything at, against or into any vehicle, railroad car, trolley car, subway car, ferry, airplane, or other facility of transportation; or

(2) casts, shoots, throws or otherwise places any stick, stone, object or other substance upon any street railway track, trolley track or railroad track; or



(3) endangers or obstructs the safe operation of motor vehicles by casting, shooting, throwing or otherwise placing any stick, stone, object or other substance upon any highway or roadway; or

(4) unlawfully climbs into or upon any railroad car, either in motion or standing on the track of any railroad company in this State; or

(5) unlawfully disrupts, delays or prevents the operation of any train, bus, jitney, trolley, subway, airplane or any other facility of transportation. The term "unlawfully disrupts, delays or prevents the operation of" does not include non-violent conduct growing out of a labor dispute as defined in N.J.S.2A:15-58; or

(6) endangers or obstructs the safe operation of motor vehicles by using a traffic control preemption device to interfere with or impair the operation of a traffic control signal as defined in R.S.39:1-1.

As used in this subsection, "traffic control preemption device" means an infrared transmitter or other device which transmits an infrared beam, radio wave or other signal designed to change, alter, or disrupt in any manner the normal operation of a traffic control signal.

b. Interference with transportation is a disorderly persons offense.

c. Interference with transportation is a crime of the fourth degree if the person purposely, knowingly or recklessly causes bodily injury to another person or causes pecuniary loss in excess of \$500 but less than \$2000.

d. Interference with transportation is a crime of the third degree if the person purposely, knowingly or recklessly causes significant bodily injury to another person or causes pecuniary loss of \$2000 or more, or if the person purposely or knowingly creates a risk of significant bodily injury to another person.

e. Interference with transportation is a crime of the second degree if the person purposely, knowingly or recklessly causes serious bodily injury to another person.

**C.2C:40-24 "Traffic control preemption device" defined; possession, certain, unlawful, violations, penalties.**

2. a. As used in this section:

"Traffic control preemption device" means an infrared transmitter or other device which transmits an infrared beam, radio wave or other signal designed to change, alter, or disrupt in any manner the normal operation of a traffic control signal.

b. It shall be unlawful for any person to knowingly possess a traffic control preemption device.

c. The provisions of this section shall not apply to (1) emergency services personnel which shall include, but not be limited to, any paid or

volunteer fireman, any person engaged in emergency first-aid or medical services and any law enforcement officer, while in the actual performance of that person's official duties, or (2) an employee or agent of a traffic control preemption device manufacturer or retailer in the course of his employment in providing, selling, manufacturing, or transporting a traffic control preemption device to emergency services personnel listed in this subsection.

d. Any person violating the provisions of this section shall be subject to a civil penalty of up to \$5,000. Any such civil penalty imposed may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this section.

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

Approved June 15, 2005.

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## CHAPTER 97

AN ACT creating a will registry and supplementing Title 3B of the New Jersey Statutes.

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

**C.3B:3-2.1 Creation, maintenance of will registry; fees.**

1. a. The Secretary of State shall create and maintain a will registry in which a testator or his attorney may register information regarding the testator's will. The information contained in such registry shall include the name of the person making the will, the date the will was made, and sufficient identification of the location of the will at the time of registration. The registry shall not contain a copy of the will.

b. The fee for registration of a will shall be \$10.00, which shall be deposited by the Secretary of State in the General Fund.

c. The existence or nonexistence of a registration for a particular will shall not be considered as evidence in any proceeding relating to such will, and the failure to file information about a will in the will registry shall not be a factor in determining the validity of the will.

d. The fee for application to the Secretary of State to conduct a search of the registry shall be \$10.00, which shall be deposited by the Secretary of State in the General Fund. Only interested persons and their representatives may conduct a search of the registry. As used in this act, "interested persons" means children, spouses, potential heirs, devisees, fiduciaries, creditors, beneficiaries and any others having a property right in or claim against a trust estate or the estate of a decedent which may be affected by the proceeding.

e. The Secretary of State shall not be liable for the accuracy of the representation of the person conducting a search of the registry or for the accuracy of the information contained in the registry.

**C.3B:3-2.2 Regulations.**

2. The Secretary of State shall promulgate regulations pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the provisions of this act.

3. This act shall take effect on the 90th day following enactment except for section 2, which shall take effect immediately.

Approved June 15, 2005.

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CHAPTER 98

AN ACT concerning post-polio sequelae and supplementing Title 26 of the Revised Statutes.

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

**C.26:2-180 Findings, declarations relative to post-polio sequelae.**

1. The Legislature finds and declares that:

a. There are estimated to be 1.63 million American polio survivors, 50,000 in New Jersey alone;

b. At least 70% of paralytic and 40% of non-paralytic polio survivors are developing post-polio sequelae, which consist of unexpected and often disabling symptoms, including overwhelming fatigue, muscle weakness, muscle and joint pain, sleep disorders, heightened sensitivity to anesthesia, cold and pain, and difficulty swallowing and breathing, and which occur 35 years after the initial poliovirus attack;

c. Post-polio sequelae can be treated and even prevented if polio survivors are taught to conserve energy and stop abusing poliovirus-damaged neurons, muscles and joints and are prescribed needed assistive devices;

d. Polio survivors have unique health problems, including sleep disorders, heightened sensitivity to anesthesia, cold and pain, and difficulty swallowing and breathing, which require special attention from medical professionals; and

e. It is in the public interest to make information about post-polio sequelae available to the general public through health care providers, so that polio survivors and their family members can learn about the various aspects of this condition.

**C.26:2-181 Public awareness campaign relative to post-polio sequelae.**

2. The Commissioner of Health and Senior Services shall establish a public awareness campaign to inform the general public about post-polio sequelae, for which purpose the commissioner shall provide for the development of educational materials, in consultation with health care facilities and providers that have a demonstrated record of expertise and interest in this subject, which shall be made available to local boards of health, physicians, hospitals and clinics for distribution to consumers.

3. This act shall take effect immediately.

Approved June 15, 2005.

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CHAPTER 99

AN ACT concerning certain documents intended for filing with county recording authorities and supplementing Title 47 of the Revised Statutes.

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

**C.47:1-16 Social security numbers, prohibition of display, printing on certain documents publicly recorded.**

1. a. No person, including any public or private entity, shall print or display in any manner an individual's Social Security number on any document intended for public recording with any county recording authority.

b. Whenever a document is presented for public recording with any county recording authority and that document displays a person's Social Security number, the recording authority shall delete, strike, obliterate or otherwise expunge that number prior to recording the document.

The fact that such a document is recorded without deleting, striking, obliterating or otherwise expunging that Social Security number shall not render the document invalid, void, voidable or in any way defective.

c. The provisions of this section shall not be applicable to a document originating with any court or taxing authority, any document that when filed by law constitutes a non-consensual lien against an individual, any publicly recorded document that is required by law to contain a Social Security number, or any document filed with or recorded by a County Surrogate.

d. The county recording authority shall not be liable for any claims arising from a violation of this act.

2. This act shall take effect on the first day of the fourth month following enactment.

Approved June 15, 2005.

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## CHAPTER 100

AN ACT concerning criminal trespass and amending N.J.S.2C:18-3.

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

1. N.J.S. 2C:18-3 is amended to read as follows:

**Unlicensed entry of structures; defiant trespasser; peering into dwelling places; defenses.**

2C:18-3. a. Unlicensed entry of structures. A person commits an offense if, knowing that he is not licensed or privileged to do so, he enters or surreptitiously remains in any research facility, structure, or separately secured or occupied portion thereof. An offense under this subsection is a crime of the fourth degree if it is committed in a school or on school property. The offense is a crime of the fourth degree if it is committed in a dwelling. An offense under this section is a crime of the fourth degree if it is committed in a research facility, power generation facility, waste treatment facility, public sewage facility, water treatment facility, public water facility, nuclear electric generating plant or any facility which stores, generates or handles any hazardous chemical or chemical compounds. Otherwise it is a disorderly persons offense.

b. Defiant trespasser. A person commits a petty disorderly persons offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by:

- (1) Actual communication to the actor; or
- (2) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or
- (3) Fencing or other enclosure manifestly designed to exclude intruders.

c. Peering into windows or other openings of dwelling places. A person commits a crime of the fourth degree if, knowing that he is not licensed or privileged to do so, he peers into a window or other opening of a dwelling or other structure adapted for overnight accommodation for the purpose of invading the privacy of another person and under circumstances in which a reasonable person in the dwelling or other structure would not expect to be observed.

d. Defenses. It is an affirmative defense to prosecution under this section that:

(1) A structure involved in an offense under subsection a. was abandoned;

(2) The structure was at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the structure; or

(3) The actor reasonably believed that the owner of the structure, or other person empowered to license access thereto, would have licensed him to enter or remain, or, in the case of subsection c. of this section, to peer.

2. This act shall take effect immediately.

Approved June 15, 2005.

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## CHAPTER 101

AN ACT concerning persons who provide rental aircraft and supplementing P.L. 1938, c.48 (C.6:1-20 et seq.).

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

**C.6:1-50.1 Verification of identity of pilots renting aircraft.**

1. Any person who provides aircraft for rent in New Jersey shall verify the identity of the pilot seeking to rent the aircraft by requesting and examining a government-issued form of photo identification and comparing it with the information on the individual's pilot certificate. The aircraft provider shall record or copy the information on the government-issued photo identification and retain it for five years. No aircraft rental shall be permitted absent verification in accordance with this act.

**C.6:1-50.2 Regulations.**

2. The commissioner is authorized to adopt 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.

3. This act shall take effect on the 30th day after enactment.

Approved June 15, 2005.

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CHAPTER 102

AN ACT concerning the New Jersey Meadowlands Commission and supplementing P.L.1968, c.404 (C.13:17-1 et seq.).

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

**C.13:17-95 Short title.**

1. This act shall be known and may be cited as the "Hackensack Meadowlands Transportation Planning District Act."

**C.13:17-96 Findings, declarations relative to Hackensack Meadowlands Transportation Planning District.**

2. The Legislature finds and declares that:

a. Every day, residents of New Jersey confront congestion in some part of their day as they commute to work, recreate, or travel for family business. As our State continues to grow and prosper, we can only expect more cars, trucks and buses on our roads. Meanwhile, the number of riders on our trains and buses is also increasing along with the number of pedestrians and bicyclists.

b. Our ability to deal with these demands at all levels of government is limited without a sound framework for developing responses to congestion and aging infrastructure problems and providing adequate funding to implement strategic solutions.

c. This act develops the concept of a transportation planning district, which permits the assessment of fees on future development to ensure that adequate transportation infrastructure is put into place to accommodate the vehicular and pedestrian traffic caused by future development.

d. Existing financial resources and existing mechanisms for securing financial commitments for transportation improvements are inadequate to meet transportation improvement needs which are the result of new development in growth areas and, therefore, it is appropriate for the State to make special provisions for the financing of needed transportation improvements in the Meadowlands District, including the assessment of fees on new developments which are responsible for the travel demand burdens on the transportation system. Creation of a transportation planning district provides a mechanism through which the State, counties and municipalities and the New Jersey Meadowlands Commission, as well as the private sector, will

have the means to work together to respond to transportation needs on a regional basis as determined by travel conditions or transportation needs in developed areas rather than upon preexisting boundaries. The New Jersey Meadowlands Commission and the Meadowlands Transportation Planning Board shall oversee the development of a district-wide transportation plan through a consultative planning process which relies upon the participation of public and private sector interests.

e. In assessing development fees under P.L.2005, c.102 (C.13:17-95 et seq.), the commission recognizes that: (1) those fees supplement, but do not replace, the public investment needed in the transportation system; (2) the costs of remedying pre-existing problems shall not be charged to a new development; (3) the fee charged to any particular development shall be reasonably related to the impact of that development on the transportation system of the district and shall not exceed the development's fair share of the cost of the improvements and related allowable administrative costs; and (4) no development shall be subject to any assessment or fees for transportation improvements by the State, a county or municipality, except as provided pursuant to P.L.2005, c.102 (C.13:17-95 et seq.). In determining the basis for assessing development fees, the commission shall develop reasonable formulas that rely on established planning models.

f. The creation of a transportation planning district shall be accompanied by the development of strategies to improve regional comprehensive planning, to encourage transportation-efficient land uses, to reduce automobile dependency, to improve pedestrian and bicyclist safety, and to encourage alternatives to peak-hour automobile trips.

**C.13:17-97 Definitions relative to Hackensack Meadowlands Transportation Planning District.**

3. As used in P.L.2005, c.102 (C.13:17-95 et seq.):

"Allowable administrative costs" means expenses incurred by the commission or the board in developing a district transportation plan, including a financial element, and in managing a transportation planning district.

"Board" means the Meadowlands Transportation Planning Board as established by section 4 of P.L.2005, c.102 (C.13:17-98).

"Chief fiscal officer" means the chief fiscal officer of the New Jersey Meadowlands Commission.

"Commission" or "Meadowlands Commission" means the New Jersey Meadowlands Commission established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.).

"Commissioner" means the Commissioner of Transportation.

"Department" means the New Jersey Department of Transportation.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the



holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development" means any project for which a zoning certificate is required pursuant to P.L.1968, c.404 (C.13:17-1 et seq.) or rules or regulations promulgated pursuant thereto.

"Development fee" means a fee assessed on a development pursuant to a resolution of the commission adopted under section 6 of P.L.2005, c.102 (C.13:17-100).

"Hackensack Meadowlands District" or "Meadowlands District" means the area within the jurisdiction of the commission set forth in section 4 of P.L.1968, c.404 (C.13:17-4).

"District transportation plan" or "plan" means the plan adopted pursuant to section 5 of P.L.2005, c.102 (C.13:17-99).

"Project costs" means expenses incurred in the planning, design, engineering and construction of any transportation project, and shall include debt service.

"Public highways" means public roads, streets, expressways, freeways, parkways, motorways and boulevards including bridges, tunnels, overpasses, underpasses, interchanges, rest areas, express bus roadways, bus pullouts and turnarounds, park-ride facilities, traffic circles, grade separations, traffic control devices, the elimination or improvement of crossings of railroads and highways, whether at grade or not at grade, bicycle and pedestrian pathways, and pedestrian and bicycle bridges traversing public highways and any facilities, equipment, property, rights-of-way, easements and interests therein needed for the construction, improvement and maintenance of highways.

"Public transportation project" means, in connection with public transportation service or regional ridesharing programs, passenger stations, shelters and terminals, automobile parking facilities, ferries and ferry facilities including capital projects for ferry terminals, approach roadways, pedestrian accommodations, parking, docks, and other necessary land-side improvements, ramps, track connections, signal systems, power systems, information and communication systems, roadbeds, transit lands or rights-of-way equipment storage and servicing facilities, bridges, grade crossings, rail cars, locomotives, motorbus and other motor vehicles, maintenance and garage facilities, revenue handling equipment and any other equipment, facility or property useful for or related to the provision of public transportation service or regional ridesharing programs.

"Transportation planning district" or "district" means the meadowlands district.

"Transportation project" or "transportation improvement" means, in addition to public highways and public transportation projects, any equipment, facility or property useful or related to the provision of any ground,

waterborne or air transportation for the movement of people and goods within or through the district, including rail freight infrastructure.

**C.13:17-98 Meadowlands transportation planning district, Meadowlands Transportation Planning Board, established.**

4. a. There is hereby established a transportation planning district which shall consist of those lands which comprise the Meadowlands District. The Meadowlands Transportation Planning Board, created pursuant to subsection b. of this section, shall be the managing authority to administer and manage the transportation planning district and to carry out such additional functions as provided in P.L.2005, c.102 (C.13:17-95 et seq.).

b. There is established in, but not of, the Department of Community Affairs, the Meadowlands Transportation Planning Board. The board shall consist of: the Commissioner of Community Affairs or the commissioner's designee, the Commissioner of Transportation or the commissioner's designee, a representative from Meadowlink (a ridesharing organization) or its successor organization, a representative of the Hackensack Meadowlands Municipal Committee, a representative of the Meadowlands Regional Chamber of Commerce, and four public members appointed by the Governor, with the advice and consent of the Senate. The executive director of the commission shall serve as the secretary of the board. The board shall be staffed by the employees of the commission.

c. In furtherance of the development of a coherent and sustainable transportation system for the district, the board shall initiate a joint planning process with participation by: State departments and agencies, corporations, commissions, boards, and authorities; those bi-state authorities, metropolitan planning organizations, and counties and municipalities with jurisdiction in the district; and private representatives. The board shall oversee the development and updating of a comprehensive, future-oriented district transportation plan in accordance with the provisions of section 5 of P.L.2005, c.102 (C.13:17-99).

**C.13:17-99 Goals, policies, needs, improvement priorities established by district transportation plan.**

5. a. The district transportation plan shall establish goals, policies, needs, and improvement priorities for all modes of transportation, including walking and bicycling, within the district for the ensuing 20 years and shall be consistent with the master plan adopted by the commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6). The district transportation plan shall be based on a reasonable assessment of likely future growth reflected in that master plan.

b. The plan shall quantify transportation needs arising from anticipated future traffic passing within or through the district based upon future devel-

opment anticipated to occur within or through the district, and reflected in the master plan. The plan shall set forth proposed transportation projects designed to address that future development, prioritized over increments of five years, the allocation of public and private shares of project costs and allowable administrative costs, and the amount, schedule and collection of development fees. If new developments are proposed in the district which are not considered in the plan which is currently in effect, the plan shall be reevaluated, notwithstanding the five-year increment provision.

c. The plan shall be in accordance with the State transportation master plan adopted under section 5 of P.L.1966, c.301 (C.27:1A-5), the applicable county master plans adopted under R.S.40:27-2, and the applicable regional transportation plan or plans adopted by a metropolitan planning organization pursuant to 23 C.F.R. s.450.322. To the extent appropriate given the district-wide objectives of the plan, the plan shall be coordinated with local zoning ordinances and master plans.

d. The plan shall include a financial element setting forth a statement of projected revenue and expenses, including all project costs. The financial element of the plan shall identify public and private financial resources which may be available to fund, in whole or in part, those transportation projects set forth in the plan. The financial element shall make recommendations for the types and rates of development fees to be assessed under section 6 of P.L.2005, c.102 (C.13:17-100), formulas to govern the assessment of those fees, and the projected annual revenue to be derived therefrom.

e. The board shall make copies of the plan available to the public for inspection no less than 14 days prior to taking any formal action to recommend the plan to the commission for adoption thereof. In addition, the board shall take steps to notify members of the business community and other interested parties of the plan and shall hold a public hearing thereon after having given public notice of the hearing.

f. The commission may, by resolution, adopt the plan as recommended by the board or with modifications.

**C.13:17-100 Assessment, collection of development fees.**

6. a. After the adoption of the plan by the commission pursuant to subsection f. of section 5 of P.L.2005, c.102 (C.13:17-99), the commission may, by resolution, provide for the assessment and collection of development fees on developments within the district as provided hereunder.

b. Development fees assessed by the commission shall be based upon the growth and development forecasts contained in the plan and shall be levied in order to raise only those amounts needed to accomplish the transportation projects set forth in the plan and allowable administrative costs. Those fees shall be assessed based upon the formula or formulas contained

in the resolution and shall be uniformly applied, with such exceptions as are authorized or required by P.L.2005, c.102 (C.13:17-95 et seq.).

c. A formula or formulas adopted by the commission by resolution shall reflect a methodology which relates the use of land to the impact of the proposed development on the transportation system, including, but not limited to: vehicle trips generated by the development; the square footage of an occupied structure; the number of employees regularly employed at the development; or the number of parking spaces located at the development; or any combination thereof.

d. The resolution may provide for credits against assessed development fees for payments made or expenses incurred which have been determined by the commission to be in furtherance of the district transportation plan, including, but not limited to, contributions to transportation improvements other than those required for safe and efficient highway access to a development and costs attributable to the promotion of public transit, walking, bicycling, or ridesharing.

e. The resolution may either exempt or reduce the development fee for specified land uses which have been determined by the commission to have a beneficial, neutral or comparatively minor adverse impact on the transportation needs of the district.

f. The resolution may provide for a reduced rate of development fees for developers submitting a peak-hour automobile trip reduction plan approved by the commission under standards adopted by the commission. Standards for the approval of peak-hour automobile trip reduction plans may include, but need not be limited to, physical design for improved transit, ridesharing and pedestrian access; design of developments which include a mix of residential and nonresidential uses; and proximity to potential labor pools.

g. The assessment of a development fee shall be reasonably related to the impact of the proposed development on the transportation system of the district and shall not exceed the development's fair share of the cost of the transportation improvement necessary to accommodate the additional burden on the district's transportation system that is attributable to the proposed development and related allowable administrative costs.

h. A resolution shall be sufficiently certain and definitive to enable every person who may be required to pay a fee to know or calculate the limit and extent of the fee which is to be assessed against a specific development.

i. Upon the adoption by the commission of a resolution pursuant to subsection a. of this section, no separate assessment for off-site transportation improvements within the district shall be made by the State, a county or municipality except as permitted pursuant to P.L.2005, c.102 (C.13:17-95 et seq.).

j. No development fees shall be assessed for any low and moderate income housing units which are constructed pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or under court order or settlement.

**C.13:17-101 Fee assessed at time of issuance of zoning certificate.**

7. a. A development fee shall be assessed on a development at the time a zoning certificate is issued. Any development for which a zoning certificate has been issued prior to the adoption of the resolution pursuant to section 6 of P.L.2005, c.102 (C.13:17-100) or that has an approved development agreement with the governing State agency or municipality within the district having primary jurisdiction over the development or for which construction of a material portion of the development has commenced after the date on which a development agreement was executed shall be exempt from the assessment of a development fee. The assessment shall be adjusted upon the issuance of a revised zoning certificate and any development which requires a revised zoning certificate after the adoption of the resolution shall be subject to the development fee.

b. The resolution shall specify whether the fee is to be paid at the time a zoning certificate is issued or in a series of payments as set forth in a schedule of payments contained in the resolution. The resolution may provide for payment of the fee in kind or in a series of periodic payments over a period of no more than 20 years.

**C.13:17-102 Payments due enforceable as lien.**

8. a. The payments due to the commission, whether as a lump sum or as balances due when a series of payments is to be made, shall be enforceable by the commission as a lien on the land and any improvements thereon. The lien shall be recorded by the county officer in the record book of the county office.

b. When the fee is paid in full on the development or portion thereof, the lien on the development or portion thereof, as appropriate, shall be removed. When a series of payments is to be made, failure to make any one payment within 30 days after receipt of a notice of late payment shall constitute a default and shall obligate the person owing the unpaid balance to pay that balance in its entirety.

c. All amounts assessed as a lien pursuant to this section shall be a lien upon the land against which they are assessed in the same manner that taxes are made a lien against land pursuant to Title 54 of the Revised Statutes, and the payment thereof shall be enforced within the same time and in the same manner and by the same proceedings as the payment of taxes is otherwise enforced under Title 54 of the Revised Statutes.

**C.13:17-103 Establishment of transportation planning district fund.**

9. a. A resolution adopted by the commission pursuant to section 6 of P.L.2005, c.102 (C.13:17-100) shall provide for the establishment of a transportation planning district fund under the control of the chief fiscal officer. All monies collected from development fees shall be deposited into the fund, which shall be invested in an interest-bearing account. Monies deposited in the fund shall be used to defray project costs and allowable administrative costs.

b. Every transportation project funded, in whole or in part, by funds from a transportation planning district fund shall be subject to a project agreement to which the relevant entities are parties. The expenditure of funds for this purpose shall not be made from a transportation planning district fund, except by appropriation of the commission and upon certification of the chief fiscal officer that the expenditure is in accordance with a project agreement entered into pursuant to P.L.2005, c.102 (C.13:17-95 et seq.) or is otherwise a project cost and has the approval of the commission.

**C.13:17-104 Refunding of uncommitted fees.**

10. a. Any fees collected, plus earned interest, not committed to a transportation project under a project agreement entered into under section 9 of P.L.2005, c.102 (C.13:17-103) within 10 years of the date of collection, or not used for other allowable administrative costs within 10 years of the date of collection, shall be refunded to the fee-payer under a procedure prescribed by the commission; provided, however, that if the fee-payer transfers the development or any portion thereof, the fee-payer shall enter into an agreement with the grantee in such form as shall be provided by the commission which shall indicate who shall be entitled to receive any refund, and that agreement shall be filed with the chief fiscal officer.

b. Any person who has been assessed a development fee may request in writing a reconsideration of the assessment and a hearing by an employee so delegated by the commission within 90 days of the receipt of notification of the amount of the assessment on the grounds that the commission or its officers or employees in issuing the assessment did not abide by the provisions of P.L.2005, c.102 (C.13:17-95 et seq.) or the provisions of the resolution adopted by the commission pursuant to P.L.2005, c.102 (C.13:17-95 et seq.).

**C.13:17-105 Appeal to commission for reconsideration of assessment.**

11. A person may appeal to the commission any decision made in connection with the reconsideration of an assessment as authorized pursuant to subsection b. of section 10 of P.L.2005, c.102 (C.13:17-104). The commission shall review the record of the hearing and render its decision, which shall constitute an administrative action subject to review by the Appellate

Division of the Superior Court. Nothing contained herein shall be construed as limiting the ability of any person so assessed from filing an appeal based upon an agreement to pay or actual payment of the fee.

**C.13:17-106 Transportation planning district may accept loans.**

12. A transportation planning district may accept loans from any public or private source, including, but not limited to, the State Transportation Infrastructure Bank established under section 2 of P.L. 1997, c. 142 (C.27:1B-21.11), pursuant to a project agreement for the purpose of undertaking and completing a transportation project as permitted by the commission. In this event, the project agreement shall include the obligation of the commission to make payments to the public or private source for repayment of the loan from a transportation planning fund or other available sources according to an agreed upon schedule of payments.

13. This act shall take effect immediately.

Approved June 24, 2005.

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CHAPTER 103

AN ACT concerning unemployment compensation benefits and amending R.S.43:21-5.

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

1. R.S.43:21-5 is amended to read as follows:

**Disqualification for benefits.**

43:21-5. An individual shall be disqualified for benefits:

(a) For the week in which the individual has left work voluntarily without good cause attributable to such work, and for each week thereafter until the individual becomes reemployed and works four weeks in employment, which may include employment for the federal government, and has earned in employment at least six times the individual's weekly benefit rate, as determined in each case. This subsection shall apply to any individual seeking unemployment benefits on the basis of employment in the production and harvesting of agricultural crops, including any individual who was employed in the production and harvesting of agricultural crops on a contract basis and who has refused an offer of continuing work with that employer

following the completion of the minimum period of work required to fulfill the contract.

(b) For the week in which the individual has been suspended or discharged for misconduct connected with the work, and for the five weeks which immediately follow that week (in addition to the waiting period), as determined in each case. In the event the discharge should be rescinded by the employer voluntarily or as a result of mediation or arbitration, this subsection (b) shall not apply, provided, however, an individual who is restored to employment with back pay shall return any benefits received under this chapter for any week of unemployment for which the individual is subsequently compensated by the employer.

If the discharge was for gross misconduct connected with the work because of the commission of an act punishable as a crime of the first, second, third or fourth degree under the "New Jersey Code of Criminal Justice," N.J.S.2C:1-1 et seq., the individual shall be disqualified in accordance with the disqualification prescribed in subsection (a) of this section and no benefit rights shall accrue to any individual based upon wages from that employer for services rendered prior to the day upon which the individual was discharged.

The director shall insure that any appeal of a determination holding the individual disqualified for gross misconduct in connection with the work shall be expeditiously processed by the appeal tribunal.

(c) If it is found that the individual has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the director or to accept suitable work when it is offered, or to return to the individual's customary self-employment (if any) when so directed by the director. The disqualification shall continue for the week in which the failure occurred and for the three weeks which immediately follow that week (in addition to the waiting period), as determined:

(1) In determining whether or not any work is suitable for an individual, consideration shall be given to the degree of risk involved to health, safety, and morals, the individual's physical fitness and prior training, experience and prior earnings, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, and the distance of the available work from the individual's residence. In the case of work in the production and harvesting of agricultural crops, the work shall be deemed to be suitable without regard to the distance of the available work from the individual's residence if all costs of transportation are provided to the individual and the terms and conditions of hire are as favorable or more favorable to the individual as the terms and conditions of the individual's base year employment.



(2) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (a) if the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) if the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) If it is found that this unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which the individual is or was last employed.

(1) No disqualification under this subsection (d) shall apply if it is shown that:

(a) The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(b) The individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; provided that if in any case in which (a) or (b) above applies, separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises.

(2) For any claim for a period of unemployment commencing on or after December 1, 2004, no disqualification under this subsection (d) shall apply if it is shown that the individual has been prevented from working by the employer, even though:

(a) The individual's recognized or certified majority representative has directed the employees in the individual's collective bargaining unit to work under the preexisting terms and conditions of employment; and

(b) The employees had not engaged in a strike immediately before being prevented from working.

(e) For any week with respect to which the individual is receiving or has received remuneration in lieu of notice.

(f) For any week with respect to which or a part of which the individual has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States; provided that if the appropriate agency of the other state or of the United States finally

determines that the individual is not entitled to unemployment benefits, this disqualification shall not apply.

(g) (1) For a period of one year from the date of the discovery by the division of the illegal receipt or attempted receipt of benefits contrary to the provisions of this chapter, as the result of any false or fraudulent representation; provided that any disqualification may be appealed in the same manner as any other disqualification imposed hereunder; and provided further that a conviction in the courts of this State arising out of the illegal receipt or attempted receipt of these benefits in any proceeding instituted against the individual under the provisions of this chapter or any other law of this State shall be conclusive upon the appeals tribunal and the board of review.

(2) A disqualification under this subsection shall not preclude the prosecution of any civil, criminal or administrative action or proceeding to enforce other provisions of this chapter for the assessment and collection of penalties or the refund of any amounts collected as benefits under the provisions of R.S.43:21-16, or to enforce any other law, where an individual obtains or attempts to obtain by theft or robbery or false statements or representations any money from any fund created or established under this chapter or any negotiable or nonnegotiable instrument for the payment of money from these funds, or to recover money erroneously or illegally obtained by an individual from any fund created or established under this chapter.

(h) (1) Notwithstanding any other provisions of this chapter (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied benefits for any week because the individual is in training approved under section 236(a)(1) of the Trade Act of 1974, Pub.L.93-618, 19 U.S.C.s.2296, nor shall the individual be denied benefits by reason of leaving work to enter this training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this chapter (R.S.43:21-1 et seq.), or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work.

(2) For purposes of this subsection (h), the term "suitable" employment means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974, Pub.L.93-618, 19 U.S.C.s.2102 et seq.), and wages for this work at not less than 80% of the individual's average weekly wage, as determined for the purposes of the Trade Act of 1974.

(i) For benefit years commencing after June 30, 1984, for any week in which the individual is a student in full attendance at, or on vacation from, an educational institution, as defined in subsection (y) of R.S.43:21-19; except that this subsection shall not apply to any individual attending a

training program approved by the division to enhance the individual's employment opportunities, as defined under subsection (c) of R.S.43:21-4; nor shall this subsection apply to any individual who, during the individual's base year, earned sufficient wages, as defined under subsection (e) of R.S.43:21-4, while attending an educational institution during periods other than established and customary vacation periods or holiday recesses at the educational institution, to establish a claim for benefits. For purposes of this subsection, an individual shall be treated as a full-time student for any period:

(1) During which the individual is enrolled as a full-time student at an educational institution, or

(2) Which is between academic years or terms, if the individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term.

(j) Notwithstanding any other provisions of this chapter (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied benefits because the individual left work or was discharged due to circumstances resulting from the individual being a victim of domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19). No employer's account shall be charged for the payment of benefits to an individual who left work due to circumstances resulting from the individual being a victim of domestic violence.

For the purposes of this subsection (j), the individual shall be treated as being a victim of domestic violence if the individual provides one or more of the following:

(1) A restraining order or other documentation of equitable relief issued by a court of competent jurisdiction;

(2) A police record documenting the domestic violence;

(3) Documentation that the perpetrator of the domestic violence has been convicted of one or more of the offenses enumerated in section 3 of P.L.1991, c.261 (C.2C:25-19);

(4) Medical documentation of the domestic violence;

(5) Certification from a certified Domestic Violence Specialist or the director of a designated domestic violence agency that the individual is a victim of domestic violence; or

(6) Other documentation or certification of the domestic violence provided by a social worker, member of the clergy, shelter worker or other professional who has assisted the individual in dealing with the domestic violence.

For the purposes of this subsection (j):

"Certified Domestic Violence Specialist" means a person who has fulfilled the requirements of certification as a Domestic Violence Specialist established by the New Jersey Association of Domestic Violence Profession-

als; and "designated domestic violence agency" means a county-wide organization with a primary purpose to provide services to victims of domestic violence, and which provides services that conform to the core domestic violence services profile as defined by the Division of Youth and Family Services in the Department of Human Services and is under contract with the division for the express purpose of providing such services.

2. This act shall take effect on the 60th day after enactment.

Approved June 27, 2005.

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## CHAPTER 104

AN ACT concerning public accountancy and amending P.L.1997, c.259.

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

1. Section 8 of P.L.1997, c.259 (C.45:2B-49) is amended to read as follows:

**C.45:2B-49 Application for licensure; requirements.**

8. Every applicant for examination for licensure as a certified public accountant shall present to the board a written application on a form to be provided by the board, together with the required fee, and satisfactory proof of the following:

- a. That the applicant is at least 18 years of age;
- b. That the applicant is of good moral character; and
- c. That the applicant has at least 120 semester hours of education, including a baccalaureate or higher degree or its equivalent, from an institution of higher education accredited by a regional accrediting agency recognized by the Commission on Higher Education, except that no applicant shall be issued a license unless he has successfully completed at least 150 hours of education. The educational program shall include a concentration in accounting or its equivalent and related professional courses as determined by regulation of the board.

2. This act shall take effect immediately.

Approved June 27, 2005.

## CHAPTER 105

AN ACT concerning cruelty to animals in certain circumstances and amending R.S.4:22-17 and R.S.4:22-26.

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

1. R.S.4:22-17 is amended to read as follows:

**Cruelty; disorderly persons offense; certain acts, crimes; degrees.**

4:22-17. a. A person who shall:

(1) Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, abuse, or needlessly kill a living animal or creature;

(2) Cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done; or

(3) Inflict unnecessary cruelty upon a living animal or creature, by any direct or indirect means, including but not limited to through the use of another living animal or creature; or unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather; or leave it unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature--

Shall be guilty of a disorderly persons offense, and notwithstanding the provisions of N.J.S.2C:43-3 to the contrary, for every such offense shall be fined not less than \$250 nor more than \$1,000, or be imprisoned for a term of not more than six months, or both, in the discretion of the court. A violator of this subsection shall also be subject to the provisions of subsection c. and, if appropriate, subsection d. of this section.

b. A person who shall purposely, knowingly, or recklessly:

(1) Torment, torture, maim, hang, poison, unnecessarily or cruelly beat, or needlessly mutilate a living animal or creature; or

(2) Cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done --

Shall be guilty of a crime of the fourth degree.

If the animal or creature is cruelly killed or dies as a result of a violation of this subsection, or the person has a prior conviction for a violation of this subsection, the person shall be guilty of a crime of the third degree.

A violator of this subsection shall also be subject to the provisions of subsection c. and, if appropriate, subsection d. of this section.

c. For a violation of subsection a. or b. of this section, in addition to imposing any other appropriate penalties established for a crime of the third degree, crime of the fourth degree, or disorderly persons offense, as the case may be, pursuant to Title 2C of the New Jersey Statutes, the court shall impose a term of community service of up to 30 days, and may direct that the term of community service be served in providing assistance to the New Jersey Society for the Prevention of Cruelty to Animals, a district (county) society for the prevention of cruelty to animals, or any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or to a municipality's animal control or animal population control program. The court also may require the violator to pay restitution or otherwise reimburse any costs for food, drink, shelter, or veterinary care or treatment, or other costs, incurred by any agency, entity, or organization investigating the violation, including but not limited to the New Jersey Society for the Prevention of Cruelty to Animals, a district (county) society for the prevention of cruelty to animals, any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or a local or State governmental entity.

d. If a juvenile is adjudicated delinquent for an act which, if committed by an adult, would constitute a disorderly persons offense pursuant to subsection a. of this section or a crime of the third degree or crime of the fourth degree pursuant to subsection b. of this section, the court also shall order the juvenile to receive mental health counseling by a licensed psychologist or therapist named by the court for a period of time to be prescribed by the licensed psychologist or therapist.

2. R.S.4:22-26 is amended to read as follows:

**Penalties for various acts constituting cruelty.**

4:22-26. A person who shall:

a. (1) Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, abuse, or needlessly kill a living animal or creature, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done;

(2) Torment, torture, maim, hang, poison, unnecessarily or cruelly beat, or needlessly mutilate a living animal or creature, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done;

(3) Cruelly kill, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, the cruel killing of, a living animal or creature, or otherwise cause

or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, the death of a living animal or creature from commission of any act described in paragraph (2) of this subsection;

- b. (Deleted by amendment, P.L.2003, c.232).
- c. Inflict unnecessary cruelty upon a living animal or creature, by any direct or indirect means, including but not limited to through the use of another living animal or creature; or unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather; or leave it unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature;
- d. Receive or offer for sale a horse that is suffering from abuse or neglect, or which by reason of disability, disease, abuse or lameness, or any other cause, could not be worked, ridden or otherwise used for show, exhibition or recreational purposes, or kept as a domestic pet without violating the provisions of this article;
- e. Keep, use, be connected with or interested in the management of, or receive money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;
- f. Be present and witness, pay admission to, encourage, aid or assist in an activity enumerated in subsection e. of this section;
- g. Permit or suffer a place owned or controlled by him to be used as provided in subsection e. of this section;
- h. Carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhumane manner;
- i. Use a dog or dogs for the purpose of drawing or helping to draw a vehicle for business purposes;
- j. Impound or confine or cause to be impounded or confined in a pound or other place a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water;
- k. Abandon a maimed, sick, infirm or disabled animal or creature to die in a public place;
- l. Willfully sell, or offer to sell, use, expose, or cause or permit to be sold or offered for sale, used or exposed, a horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the health or life of human beings or animals, or who shall, when any such disease is beyond recovery, refuse, upon demand, to deprive the animal of life;

m. Own, operate, manage or conduct a roadside stand or market for the sale of merchandise along a public street or highway; or a shopping mall, or a part of the premises thereof; and keep a living animal or creature confined, or allowed to roam in an area whether or not the area is enclosed, on these premises as an exhibit; except that this subsection shall not be applicable to: a pet shop licensed pursuant to P.L.1941, c.151 (C.4:19-15.1 et seq.); a person who keeps an animal, in a humane manner, for the purpose of the protection of the premises; or a recognized breeders' association, a 4-H club, an educational agricultural program, an equestrian team, a humane society or other similar charitable or nonprofit organization conducting an exhibition, show or performance;

n. Keep or exhibit a wild animal at a roadside stand or market located along a public street or highway of this State; a gasoline station; or a shopping mall, or a part of the premises thereof;

o. Sell, offer for sale, barter or give away or display live baby chicks, ducklings or other fowl or rabbits, turtles or chameleons which have been dyed or artificially colored or otherwise treated so as to impart to them an artificial color;

p. Use any animal, reptile, or fowl for the purpose of soliciting any alms, collections, contributions, subscriptions, donations, or payment of money except in connection with exhibitions, shows or performances conducted in a bona fide manner by recognized breeders' associations, 4-H clubs or other similar bona fide organizations;

q. Sell or offer for sale, barter, or give away living rabbits, turtles, baby chicks, ducklings or other fowl under two months of age, for use as household or domestic pets;

r. Sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl, or rabbits, turtles or chameleons under two months of age for any purpose not prohibited by subsection q. of this section and who shall fail to provide proper facilities for the care of such animals;

s. Artificially mark sheep or cattle, or cause them to be marked, by cropping or cutting off both ears, cropping or cutting either ear more than one inch from the tip end thereof, or half cropping or cutting both ears or either ear more than one inch from the tip end thereof, or who shall have or keep in the person's possession sheep or cattle, which the person claims to own, marked contrary to this subsection unless they were bought in market or of a stranger;

t. Abandon a domesticated animal;

u. For amusement or gain, cause, allow, or permit the fighting or baiting of a living animal or creature;



v. Own, possess, keep, train, promote, purchase, or knowingly sell a living animal or creature for the purpose of fighting or baiting that animal or creature;

w. Gamble on the outcome of a fight involving a living animal or creature;

x. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, the fur or hair of a domestic dog or cat or any product made in whole or in part from the fur or hair of a domestic dog or cat, unless such fur or hair for sale or barter is from a commercial grooming establishment or a veterinary office or clinic or is for use for scientific research;

y. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, for human consumption, the flesh of a domestic dog or cat or any product made in whole or in part from the flesh of a domestic dog or cat;

z. Surgically debark or silence a dog in violation of section 1 or 2 of P.L.2002, c.102 (C.4:19-38 or C.4:19-39);

aa. Use a live pigeon, fowl or other bird for the purpose of a target, or to be shot at either for amusement or as a test of skill in marksmanship, except that this subsection and subsections bb. and cc. shall not apply to the shooting of game;

bb. Shoot at a bird used as described in subsection aa. of this section, or is a party to such shooting; or

cc. Lease a building, room, field or premises, or knowingly permit the use thereof for the purposes of subsection aa. or bb. of this section --

Shall forfeit and pay a sum according to the following schedule, to be sued for and recovered, with costs, in a civil action by any person in the name of the New Jersey Society for the Prevention of Cruelty to Animals:

For a violation of subsection e., f., g., u., v., w., or z. of this section or of paragraph (3) of subsection a. of this section, or for a second or subsequent violation of paragraph (2) of subsection a. of this section, a sum of up to \$5,000;

For a violation of subsection l. of this section or for a first violation of paragraph (2) of subsection a. of this section, a sum of up to \$3,000;

For a violation of subsection x. or y. of this section, a sum of up to \$1,000 for each domestic dog or cat fur or fur or hair product or domestic dog or cat carcass or meat product;

For a violation of subsection t. of this section, a sum of not less than \$500 nor more than \$1,000, but if the violation occurs on or near a highway, a mandatory sum of \$1,000;

For a violation of subsection c., d., h., j., k., aa., bb., or cc. of this section or of paragraph (1) of subsection a. of this section, a sum of up to \$1,000; and

For a violation of subsection i., m., n., o., p., q., r., or s. of this section, a sum of up to \$500.

3. This act shall take effect immediately.

Approved June 29, 2005.

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## CHAPTER 106

AN ACT requiring employer notice to workers of temporary disability benefit rights and amending P.L.1948, c.110.

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

1. Section 25 of P.L.1948, c.110 (C.43:21-49) is amended to read as follows:

**C.43:21-49 Postings, notice and claim for disability benefits.**

25. (a) (1) Every employer shall post, in prominent locations, notices to employees in the form provided by the division of whether the employer is permitted or required to participate in a temporary disability benefits program pursuant to the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), and whether the employer does or does not participate. For employers who participate in a temporary disability benefits program, the notice shall also describe the temporary disability benefits available to the employees and prominently disclose that pregnancy is regarded by law as a disability and that pregnant employees are regarded as disabled and entitled to temporary disability benefits to the same extent as other disabled employees. Upon the request of an employer, the division shall, without charge, provide the employer with a copy of each applicable notice, suitable for reproduction by the employer. Each employer participating in the State plan or a private plan shall give a printed copy of benefit instructions to any disabled employee as soon as the employer becomes aware of the disability.

(2) In addition, in the event of the disability of any individual covered under the State plan, the employer shall, on the ninth day of disability, issue to the individual and to the division printed notices on division forms containing the name, address and Social Security number of the individual, such wage information as the division may require to determine the individual's eligibility for benefits, and the name, address, and division identity number of the employer. Not later than 30 days after the commencement of the

period of disability for which such notice is furnished, the individual shall furnish to the division a notice and claim for disability benefits under the State plan or for disability during unemployment. Upon the submission of such notices by the employer and the individual, the division may issue benefit payments for periods not exceeding three weeks pending the receipt of medical proof. When requested by the division, such notice and proof shall include certification of total disability by the attending physician, or a record of hospital confinement. Failure to furnish notice and proof within the time or in the manner above provided shall not invalidate or reduce any claim if it shall be shown to the satisfaction of the division not to have been reasonably possible to furnish such notice and proof and that such notice and proof was furnished as soon as reasonably possible.

(b) A person claiming benefits under the State plan or for disability during unemployment shall, when requested by the division, submit at intervals, but not more often than once a week, to an examination by a legally licensed physician, dentist, podiatrist, chiropractor, advanced practice nurse or public health nurse designated by the division. In all cases of physical examination of a claimant, the examination shall be made by a designee of the division, who shall be the same sex as the claimant if so requested by the claimant. All such examinations by physicians, dentists, podiatrists, chiropractors or nurses designated by the division shall be without cost to the claimant and shall be held at a reasonable time and place. Refusal to submit to such a requested examination shall disqualify the claimant from all benefits for the period of disability in question, except as to benefits already paid.

(c) All medical records of the division, except to the extent necessary for the proper administration of this act, shall be confidential and shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing the identity of the claimant, or the nature or cause of disability nor admissible in evidence in any action or special proceeding other than one arising under this act.

2. This act shall take effect immediately.

Approved June 29, 2005.

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## CHAPTER 107

AN ACT establishing a Gang Land Security Task Force.

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

1. There is established a Gang Land Security Task Force. The task force shall consist of 26 members, to be appointed as follows:
  - a. Sixteen members by the Governor, as follows:
    - (1) A representative of the New Jersey State Commission of Investigation;
    - (2) A representative from one of the State's county prosecutor's offices;
    - (3) A representative from one of the State's county sheriff's offices;
    - (4) Two representatives from the New Jersey County Jail Wardens' Association, at least one of whom shall have experience in adult corrections and at least one with experience in juvenile corrections;
    - (5) A representative from the New Jersey State Association of Chiefs of Police;
    - (6) A member with training and experience in substance abuse counseling;
    - (7) A member with training and experience in family and youth counseling;
    - (8) A medical professional with expertise in the psychology of aggressive behavior;
    - (9) Two representatives from community and faith based organizations located within cities identified by law enforcement officials as having significant gang-related activity;
    - (10) Two representatives of the general public who are between the ages of 18 and 25 years, who reside in cities identified by law enforcement officials as having significant gang-related activity;
    - (11) A representative from the Drug Policy Alliance;
    - (12) A representative of the Police Institute of Rutgers University; and
    - (13) A representative of the New Jersey Chapter of the East Coast Gang Investigator's Association;
  - b. The Superintendent of State Police, ex-officio, or his designee;
  - c. The Commissioner of Corrections, ex-officio, or his designee;
  - d. The Commissioner of Human Services, ex-officio, or his designee;
  - e. The Commissioner of Education, ex-officio, or his designee;
  - f. Two members of the Senate, appointed by the President of the Senate, no more than one of whom shall be of the same political party;
  - g. Two members of the General Assembly, appointed by the Speaker of the General Assembly, no more than one of whom shall be of the same political party;
  - h. The Attorney General, ex-officio, or his designee; and

i. The Executive Director of the Juvenile Justice Commission, ex-officio, or his designee.

2. The members shall be appointed within three months of enactment and shall, to the greatest extent practicable, have, by education or experience, knowledge of gang activities in New Jersey or law enforcement efforts to limit such activity. Any vacancy in the membership of the task force shall be filled by appointment in the same manner as the original appointment was made.

The task force shall organize as soon as possible after the appointments of its members. The New Jersey State Attorney General, or his designee, shall serve as the chairman of the task force and shall appoint a secretary, who need not be a member of the task force. The members shall select a vice chairman from among them.

3. The task force shall focus on adult and youth gangs identified as having a presence in New Jersey and shall examine their activities and the effect on the communities in which they operate. In conducting its inquiry the task force shall, but is not limited to:

a. Invite the following individuals to attend the meetings of the task force and request their participation and assistance in its deliberations and the formation of its recommendations in accordance with the provisions of section 6 of this act:

- (1) United States Attorney General, or his designee;
- (2) The Director of the United States Citizenship and Immigration Services, or his designee;
- (3) The Director of the Federal Bureau of Investigation, or the New Jersey special agent in charge as his designee;
- (4) The Director of the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives, or the New Jersey special agent in charge as his designee; and

(5) The Administrator of the United States Drug Enforcement Administration, or the New Jersey special agent in charge as his designee;

b. Study intelligence gathering methods currently being used by law enforcement agencies throughout the State in dealing with gangs to determine the level of their effectiveness and research new intelligence methods which could be used to help such agencies develop a stronger understanding of gang activity in communities and within the State's correctional and youth detention facilities;

c. Research the conditions that tend to foster the formation and operation of gangs in communities and methods of preventing them from taking hold and operating in neighborhoods in New Jersey; and

d. Consider the advantages and drawbacks of establishing an office of gang land security within the Department of Law and Public Safety, which should take into account, but not be limited to, the following factors:

- (1) The impact of gangs and their activities on the State and its communities, and the benefits which would be realized if such activity were reduced in New Jersey. This analysis should include, but not be limited to, the impact on general public safety and the local and State economies; and
- (2) The anticipated cost of creating and operating such an office.

4. The task force shall be entitled to call to its assistance and shall avail itself of the services of the employees of any State, county, or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes. The task force shall further be entitled to employ counsel and stenographic and clerical assistance and incur traveling and other miscellaneous expenses as it may deem necessary to perform its duties, within the limits of funds appropriated or otherwise made available for its purposes.

5. The task force may conduct public hearings in furtherance of its general purposes at such place or places as it shall designate, at which it may request the appearance of officials or any federal, State, or interstate department, board, bureau, commission, agency, or authority and solicit the testimony or interested groups and the general public.

6. The task force shall report its progress to the Governor and the Legislature no later than 90 days after its organization and shall report its final proposal to the Governor and Legislature no later than 120 days after such organization. The final proposal shall outline a course of action to:

- a. Develop strong methods of intelligence gathering with respect to gangs and their activities, including but not limited to the:
  - (1) Role of gangs in:
    - (a) Car theft rings and other fencing operations;
    - (b) Money laundering; and
    - (c) The trade of illegal firearms, illicit drugs, and other controlled substances;
  - (2) Relationships between gang members and:
    - (a) Probationers, inmates, and parolees;
    - (b) Other criminal organizations; and
    - (c) Suppliers of illegal firearms, illicit drugs, and other controlled substances; and
  - (3) The points of entry and methods used to transport illegal firearms, illicit drugs, and other controlled substances into New Jersey;

b. Prevent gangs from establishing themselves in or continuing to operate in New Jersey; and

c. Facilitate the productive re-integration into society from incarceration or supervision of current, former and potential gang members.

7. The members of the task force shall serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties. Any reimbursement of members shall be within the limits of funds appropriated to otherwise made available to the task force for its purposes.

8. This act shall take effect immediately, and shall expire upon the filing of the task force's report to the Governor and Legislature in accordance with the provisions of section 6 of this act.

Approved June 29, 2005.

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## CHAPTER 108

AN ACT concerning county and municipal open space trust funds, concerning agreements with certain nonprofit organizations, amending P.L.1997, c.24, and supplementing Title 40 of the Revised Statutes .

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

1. Section 2 of P.L.1997, c.24 (C.40:12-15.2) is amended to read as follows:

**C.40:12-15.2 Submission by county of proposition authorizing annual levy.**

2. a. (1) The governing body of any county may submit to the voters of the county in a general or special election a proposition authorizing imposition of an annual levy for an amount or at a rate deemed appropriate for any or all of the following purposes, or any combination thereof, as determined by the governing body:

- (a) acquisition of lands for recreation and conservation purposes;
- (b) development of lands acquired for recreation and conservation purposes;
- (c) maintenance of lands acquired for recreation and conservation purposes;
- (d) acquisition of farmland for farmland preservation purposes;

(e) historic preservation of historic properties, structures, facilities, sites, areas, or objects, and the acquisition of such properties, structures, facilities, sites, areas, or objects for historic preservation purposes; or

(f) payment of debt service on indebtedness issued or incurred by a county for any of the purposes set forth in subparagraph (a), (b), (d) or (e) of this paragraph.

(2) The amount or rate of the annual levy may be subdivided in the proposition to reflect the relative portions thereof to be allocated to any of the respective purposes specified in paragraph (1) of this subsection or may be depicted as a total amount or rate, to be subdivided in a manner determined previously, or to be determined at a later date, by the governing body of the county after conducting at least one public hearing thereon.

b. Upon approval of the proposition by a majority of the votes cast by the voters of the county, the governing body of the county may annually raise by taxation a sum not to exceed the amount or rate set forth in the proposition approved by the voters for the purposes specified therein. If the amount or rate set forth in the proposition was not subdivided among the various purposes, the governing body of the county may determine the appropriate amount or rate to be allocated to each purpose after conducting at least one public hearing thereon.

c. Amounts raised by the levy imposed pursuant to this section shall be deposited into a "County Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" to be created by the county, and shall be used exclusively for the purposes authorized by the voters of the county. Any interest or other income earned on monies deposited into the county trust fund shall be credited to the fund to be used for the same purposes as the principal. Separate accounts may be created within the county trust fund for the deposit of revenue to be expended for each of the purposes specified in the proposition approved by the voters of the county. A county may deposit other funds into the County Open Space, Recreation, and Farmland and Historic Preservation Trust Fund, as it may, from time to time, deem appropriate.

d. (1) (a) Selection of lands for acquisition for recreation and conservation purposes shall be in accordance with an open space and recreation plan prepared and adopted by the county.

(b) Selection of projects to develop or maintain lands acquired for recreation and conservation purposes shall be in accordance with an open space and recreation development and maintenance plan prepared and adopted by the county.

(c) Selection of farmland for acquisition for farmland preservation purposes shall be in accordance with a farmland preservation plan prepared and adopted by the county or pursuant to the provisions of the "Agriculture



Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et al.) or any other law enacted for the purpose of preserving farmland, or any rules or regulations adopted pursuant thereto.

(d) Selection of historic preservation projects shall be in accordance with a historic preservation plan prepared and adopted by the county.

(2) Monies in the county trust fund may be used to pay the cost of preparing and adopting the plans required by this subsection.

e. The governing body of a county may submit to the voters of the county in a general or special election a proposition amending or supplementing a proposition previously submitted, approved, and implemented as provided pursuant to this section either (1) changing the amount or rate of the annual levy, or (2) adding or removing purposes authorized pursuant to this section for which the levy may be expended. Upon approval of the amendatory or supplementary proposition by a majority of the votes cast by the voters of the county, the governing body of the county shall implement it in the same manner as set forth in this act for implementation of the original proposition.

f. Upon petition to the governing body of a county signed by the voters of the county equal in number to at least 15% of the votes cast therein at the last preceding general election, filed with the governing body at least 90 days before a general or special election, the governing body of the county shall submit to the voters of the county in the general or special election the proposition otherwise authorized pursuant to subsection a. or subsection e. of this section, as the case may be.

2. Section 7 of P.L.1997, c.24 (C.40:12-15.7) is amended to read as follows:

**C.40:12-15.7 Submission by municipality of proposition authorizing annual levy.**

7. a. (1) The governing body of any municipality may submit to the voters of the municipality in a general or special election a proposition authorizing imposition of an annual levy for an amount or at a rate deemed appropriate for any or all of the following purposes, or any combination thereof, as determined by the governing body:

- (a) acquisition of lands for recreation and conservation purposes;
- (b) development of lands acquired for recreation and conservation purposes;
- (c) maintenance of lands acquired for recreation and conservation purposes;
- (d) acquisition of farmland for farmland preservation purposes;

(e) historic preservation of historic properties, structures, facilities, sites, areas, or objects, and the acquisition of such properties, structures, facilities, sites, areas, or objects for historic preservation purposes; or

(f) payment of debt service on indebtedness issued or incurred by a municipality for any of the purposes set forth in subparagraph (a), (b), (d) or (e) of this paragraph.

(2) The amount or rate of the annual levy may be subdivided in the proposition to reflect the relative portions thereof to be allocated to any of the respective purposes specified in paragraph (1) of this subsection or may be depicted as a total amount or rate, to be subdivided in a manner determined previously, or to be determined at a later date, by the governing body of the municipality after conducting at least one public hearing thereon.

b. Upon approval of the proposition by a majority of the votes cast by the voters of the municipality, the governing body of the municipality may annually raise by taxation a sum not to exceed the amount or rate set forth in the proposition approved by the voters for the purposes specified therein. If the amount or rate set forth in the proposition was not subdivided among the various purposes, the governing body of the municipality may determine the appropriate amount or rate to be allocated to each purpose after conducting at least one public hearing thereon.

c. Amounts raised by the levy imposed pursuant to this section shall be deposited into a "Municipal Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" to be created by the municipality, and shall be used exclusively for the purposes authorized by the voters of the municipality. Any interest or other income earned on monies deposited into the municipal trust fund shall be credited to the fund to be used for the same purposes as the principal. Separate accounts may be created within the municipal trust fund for the deposit of revenue to be expended for each of the purposes specified in the proposition approved by the voters of the municipality. A municipality may deposit other funds into the Municipal Open Space, Recreation, and Farmland and Historic Preservation Trust Fund, as it may, from time to time, deem appropriate.

d. The governing body of a municipality may submit to the voters of the municipality in a general or special election a proposition amending or supplementing a proposition previously submitted, approved, and implemented as provided pursuant to this section either (1) changing the amount or rate of the annual levy, or (2) adding or removing purposes authorized pursuant to this section for which the levy may be expended. Upon approval of the amendatory or supplementary proposition by a majority of the votes cast by the voters of the municipality, the governing body of the municipality shall implement it in the same manner as set forth in this act for implementation of the original proposition.

e. Upon petition to the governing body of a municipality signed by the voters of the municipality equal in number to at least 15% of the votes cast therein at the last preceding general election, filed with the governing body at least 90 days before a general or special election, the governing body of the municipality shall submit to the voters of the municipality in the general or special election the proposition otherwise authorized pursuant to subsection a. or subsection d. of this section, as the case may be.

**C.40:12-15.10 Agreement with charitable conservancy, non-profit organization.**

3. a. A local government unit may enter into an agreement with a charitable conservancy or other tax exempt nonprofit organization to acquire and hold, on behalf of the local government unit, real property, or any interest therein, for recreation and conservation purposes, farmland preservation purposes, or historic preservation purposes, for possible eventual conveyance to the local government unit or another entity approved by the local government unit.

b. A local government unit may enter into an agreement with a charitable conservancy or other tax exempt nonprofit organization to acquire and hold, on behalf of the local government unit, items of antiquity, historic artifacts or documents, or other items of an historic character or nature, for possible eventual conveyance to the local government unit or another entity approved by the local government unit.

c. Any agreement entered into in accordance with this section shall not be subject to the requirements and provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

d. For the purposes of this section, "local government unit" means a county or municipality, or any agency, authority, or other entity thereof

4. This act shall take effect immediately.

Approved June 29, 2005.

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CHAPTER 109

AN ACT concerning the enforcement of motor carrier registration and financial responsibility requirements and amending P.L.1985, c.415.

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

1. Section 3 of P.L.1985, c.415 (C.39:5B-32) is amended to read as follows:

**C.39:5B-32 Rules and regulations.**

3. a. The Superintendent of the State Police shall adopt, within six months of the effective date of this amendatory and supplementary act and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations concerning the qualifications of interstate motor carrier operators and vehicles, which shall substantially conform to the requirements established pursuant to sections 401 to 404 of the "Surface Transportation Assistance Act of 1982," Pub.L.97-424 (49 U.S.C. App. s. 2301-2304).

b. The superintendent, in consultation with the New Jersey Motor Vehicle Commission and with the Department of Transportation, shall revise and readopt, within six months of the effective date of P.L.1991, c.491, the rules and regulations adopted pursuant to subsection a. of this section to provide that the regulations:

(1) Substantially conform to the requirements concerning the qualifications of interstate motor carrier operators and vehicles established pursuant to sections 401 to 404 of the "Surface Transportation Assistance Act of 1982," Pub.L.97-424 (49 U.S.C. App. s.2301-2304) and the federal "Motor Carrier Safety Act of 1984," Pub.L.98-554 (49 U.S.C. App. s. 2501 et seq.); and

(2) Include provisions with regard to motor carrier operators and vehicles engaged in intrastate commerce or used wholly within a municipality or a municipality's commercial zone, except for farm vehicles weighing 26,000 pounds or less that are operated exclusively in intrastate commerce and are registered pursuant to R.S.39:3-24 and R.S.39:3-25, that are compatible with federal rules and regulations.

Notwithstanding subsection c. of this section, the hours of service variances as adopted in 49 CFR s.350.341(e), as amended and supplemented, are hereby adopted effective immediately for commercial motor vehicles weighing 26,001 pounds or more operating in intrastate commerce provided that these vehicles are not designed to transport 16 or more passengers, including the driver, or used in the transportation of hazardous materials and required to be placarded in accordance with 49 CFR s.172.500 et seq., or display a hazardous materials placard. The superintendent shall adopt rules and regulations that conform to the requirements established in 49 CFR s. 350.341(e) as amended and supplemented.

c. Notwithstanding any provision of law or regulation to the contrary, no person shall operate a commercial motor vehicle, as defined in rules adopted pursuant to this section, in this State unless the operation of the

commercial motor vehicle is in accordance with the rules adopted by the Superintendent of State Police pursuant to this section.

The rules adopted pursuant to this section shall include rules concerning protection against shifting or falling cargo contained in 49 C.F.R. s. 393.100 to 393.106.

d. The superintendent shall enforce registration requirements under 49 U.S.C. 13902, 49 CFR Parts 356 and 365 and 49 CFR s.392.9a by placing out of service a commercial motor vehicle in interstate commerce discovered to be operating without its Federal Motor Carrier Safety Administration registration as required by 49 U.S.C. 13902, 49 CFR Parts 356 and 365 and 49 CFR s.392.9a, or beyond the scope of its Federal Motor Carrier Safety Administration registration.

e. The superintendent shall enforce financial responsibility requirements under 49 U.S.C. 13906 and 31139, and 49 CFR Part 387.

f. The superintendent shall enforce the implementation of programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles, pursuant to 49 CFR Part 382, and the implementation of federal procedures for transportation workplace drug and alcohol testing programs, pursuant to 49 CFR Part 40.

2. This act shall take effect on the 15th day of the 10th month following enactment.

Approved June 29, 2005.

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CHAPTER 110

AN ACT concerning the State Board of Examiners and amending N.J.S.18A:6-38.

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

1. N.J.S.18A:6-38 is amended to read as follows:

**Powers, duties of board, issuance of certificates, credentials, fees.**

18A:6-38. The board shall issue appropriate certificates to teach or to administer, direct or supervise the teaching, instruction or educational guidance of, or to render or administer, direct or supervise the rendering of nursing service to, pupils in public schools operated by boards of education

and such other certificates as it shall be authorized to issue by law based upon certified scholastic records or upon examinations, or both, and such credentials as may be required to serve as a substitute teacher or a substitute school nurse, and may revoke the same under rules and regulations prescribed by the State board. A fee of not less than \$20.00 shall be charged for the issuance of every certificate and credential as prescribed by such rules and regulations.

2. This act shall take effect immediately.

Approved June 29, 2005.

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## CHAPTER 111

AN ACT concerning admission criteria for certain long-term care facilities and supplementing Title 30 of the Revised Statutes.

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

**C.30:4D-6j Criteria for Medicaid admission to certain long-term care facilities for HIV/AIDS patients.**

1. a. Subject to federal financial participation under Title XIX of the federal Social Security Act (42 U.S.C. s.1396 et seq.), the Commissioner of Health and Senior Services shall establish special long-term care facility admission criteria for Medicaid-eligible persons with HIV infection or AIDS, which would apply to facilities that only serve persons with HIV infection or AIDS.

b. The criteria shall enable admission of:

(1) persons with HIV infection who have medical or psycho-social comorbidities, including, but not limited to: diabetes, cancer, hypertension, hyperlipidemia, asthma, chronic obstructive pulmonary disease, hepatitis B or C, substance abuse, mental illness or dementia; and

(2) persons with AIDS-defining illness and infection, including those persons newly diagnosed with HIV infection, which illness or infection includes, but is not limited to: pneumocystis carinii pneumonia (PCP), toxoplasmosis, cytomegalovirus (CMV), oral-esophageal candidiasis, wasting, bacterial pneumonia, lymphoma, cryptococcal meningitis, mycobacterium avium complex (MAC) or Kaposi's sarcoma.

2. The Commissioner of Health and Senior Services shall adopt the criteria by regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

3. This act shall take effect immediately.

Approved June 29, 2005.

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CHAPTER 112

AN ACT authorizing the early termination of residential leases by certain senior citizen tenants and amending P.L.1985, c.317.

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

1. Section 5 of P.L.1985, c.317 (C.46:8-9.2) is amended to read as follows:

**C.46:8-9.2 Termination of certain residential leases due to disability.**

5. A lease for a term of one or more years of a property that has been leased and used by the lessee solely for the purpose of providing a dwelling place for the lessee, or the lessee and the lessee's family, may be terminated prior to the expiration date thereof if:

a. the lessee or the lessee's spouse, or both, suffer a disabling illness or accident provided that the lessee, the lessee's spouse, or other legal representative provides written notice of termination of the lease to the lessor and appends thereto (1) certification of a treating physician that the lessee or the lessee's spouse is unable to continue to engage in gainful employment; (2) proof of loss of income; and (3) proof that any pension, insurance or other subsidy to which the lessee or the lessee's spouse is entitled is insufficient to supplement the income of the lessee or the lessee's spouse so that the rent on the property in question can be paid and that the income is necessary for payment of the rent; or

b. the lessee or the lessee's spouse, or both, one of whom shall be age 62 years or older, is accepted into an assisted living facility, a nursing home, or a continuing care retirement community provided that the lessee, the lessee's spouse, or other legal representative provides written notice of termination of the lease to the lessor and appends thereto (1) a certification of a treating physician that the lessee or spouse is in need of services provided by the assisted living facility, nursing home, or continuing care retire-

ment community and (2) documentation that the lessee and spouse have been accepted into an assisted living facility, a nursing home, or a continuing care retirement community, or

c. the lessee or the lessee's spouse, or both, one of whom shall be age 62 years or older, is accepted into housing reserved for occupancy by low or moderate income households, as that term is defined pursuant to section 4 of P.L.1985, c.222 (C.52:27D-304), provided that the lessee is not currently residing in low or moderate income housing and that the lessee, the lessee's spouse, or other legal representative provides written notice of termination of the lease to the lessor and appends thereto documentation of a lease or intent to lease from the facility or housing sponsor, or

d. the dwelling place is not handicapped accessible by a lessee or a member of the lessee's household who suffers a disabling illness or accident, provided that written notice of termination of the lease is given to the lessor by the lessee, the lessee's spouse or other legal representative or other adult family member, which shall include: (1) certification from a licensed physician that the lessee or a member of his household is handicapped and that the handicap is likely not to be of a temporary nature, and (2) a statement that the lessor has been asked to make the dwelling unit accessible to the lessee or to a member of the lessee's household at the lessor's expense and was unable or unwilling to do so. For purposes of this section, "handicapped" shall mean any person who would be considered a handicapped person pursuant to the definition in section 1 of P.L.1949, c.280 (C.39:4-204).

Terminations pursuant to this section shall take effect on the fortieth day following the receipt by the lessor of the written notice, and the rent shall be paid up to the time of termination, at which time the lease shall cease and come to an end. The property shall be vacated and possession shall be turned over to the lessor at least five working days prior to the fortieth day following receipt by the lessor of written notice.

2. This act shall take effect immediately and shall be applicable to leases entered into or renewed on or after the effective date.

Approved June 29, 2005.

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### CHAPTER 113

AN ACT authorizing the State Treasurer to sell certain surplus real property owned by the State in Mercer County.



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

1. a. The Department of the Treasury, on behalf of the Department of Human Services, is authorized to sell and convey, as surplus real property, all of the State's interest in the 27± acre parcel of vacant land located at 780 Bear Tavern Road in the Township of Ewing, Mercer County, designated as Block 373, Lot 2 on the tax map of the Township of Ewing, that has been declared surplus to the needs of the State.

b. The sale and conveyance authorized by subsection a. of this section shall be executed in accordance with the terms and conditions approved by the State House Commission.

2. This act shall take effect immediately.

Approved June 29, 2005.

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## CHAPTER 114

AN ACT concerning the transmission of certain unsolicited advertisements over telephone lines 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.56:8-157 Definitions relative to certain unsolicited advertisements over telephone lines.**

1. As used in this act:

"Existing business relationship" means a relationship formed by a voluntary two-way communication between a person or entity and a residential or business subscriber with or without an exchange of consideration, on the basis of an inquiry, application, purchase, membership or transaction by the residential or business subscriber regarding products or services offered by such person or entity.

"Nonprofit organization" means a nonprofit organization that is exempt from federal taxation pursuant to Section 501(c)(3) of the federal Internal Revenue Code (26 U.S.C. s. 501(c)(3)) or section 501(c)(6) of the federal Internal Revenue Code (26 U.S.C. s.501(c)(6)).

"Telephone facsimile machine" means equipment which has the capacity to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line or to transcribe text or

images, or both, from an electronic signal received over a regular telephone line onto paper.

"Unsolicited advertisement" means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission.

**C.56:8-158 Sending unsolicited advertisement to telephone facsimile machine prohibited, exceptions.**

2. a. A person within this State shall not use any telephone facsimile machine, computer or other device to send an unsolicited advertisement to a telephone facsimile machine within this State. This subsection shall not be construed to cover the actions of an internet service provider or telecommunications service provider in the transmission, routing, relaying, handling, or storing of the facsimile through an automatic technical process.

b. Subsection a. of this section shall not apply where there is an existing business relationship between the sender of the unsolicited advertisement and the residential or business subscriber. Such unsolicited advertisement shall provide clear and conspicuous notice on the first page of the unsolicited advertisement. Such notice shall include:

(1) disclosure to the recipient that the recipient may request the sender of the unsolicited advertisement not to send any future unsolicited advertisements to the recipient's telephone facsimile machine; and

(2) the domestic address and facsimile machine number for the recipient to transmit such a request to the sender.

c. A request not to send future unsolicited advertisements to a telephone facsimile machine shall:

(1) identify the telephone number of the telephone facsimile machine to which the request relates;

(2) be made to the sender's domestic address or the facsimile machine number of the sender provided in the notice to the recipient; and

(3) be sent in written form to the sender's domestic address or sent by return facsimile transmission to the sender's facsimile machine number, in order to be effective.

Such request is effective unless subsequently the person making the request provides express invitation or permission to the sender, in written form or by facsimile transmission, to send future unsolicited advertisements to such person at such telephone facsimile machine.

d. Failure to honor a valid request, in written form or by facsimile transmission, not to send future unsolicited advertisements pursuant to subsections c. through g. of this section, as applicable, shall constitute a violation of this act.

e. Nonprofit organizations, including but not limited to, professional or trade associations, shall be exempt from subsection a. of this section and shall be allowed to send unsolicited advertisements to their new and existing members in furtherance of the organization's purpose, without penalty, provided that the organization provides to each of its prospective new members at the time of membership application or to each of its existing members at the time of membership renewal, as the case may be, clear and conspicuous notice of:

- (1) the member's right to request the organization not to send any future unsolicited advertisements to the member's telephone facsimile machine;
- (2) the organization's domestic address and facsimile machine number to which its members may transmit such a request to the organization; and
- (3) the requirement that any such request to the organization shall be sent in written form to the organization's domestic address or sent by return facsimile transmission to the organization's facsimile number, in order to be effective.

A request by a member to a nonprofit organization not to send future unsolicited advertisements to a member's telephone facsimile machine shall comply with the requirements of this subsection and with the requirements of subsection c. of this section, as applicable. Failure of a nonprofit organization to honor a valid request, in written form or by facsimile transmission, from a member not to send future unsolicited advertisements pursuant to the requirements of this subsection and the requirements of subsection c. of this section, as applicable, shall constitute a violation of this act.

f. Members of nonprofit organizations, including but not limited to, professional or trade associations, who send unsolicited advertisements to the telephone facsimile machines of other members of the same organization shall be exempt from subsection a. of this section and shall be allowed to send such unsolicited advertisements to other members of the same organization, without penalty, provided that the organization provides to each of its prospective new members at the time of membership application or to each of its existing members at the time of membership renewal, as the case may be, clear and conspicuous notice of:

- (1) the member's right to request that other members of the same organization not send any future unsolicited advertisements to the member's telephone facsimile machine;
- (2) the organization's domestic address and facsimile machine number to which its members may transmit such a request to the organization; and
- (3) the requirement that any such request to the organization shall be sent in written form to the organization's domestic address or sent by return facsimile transmission to the organization's facsimile number, in order to be effective.

A request by a member to a nonprofit organization that other members of the same organization not send future unsolicited advertisements to a member's telephone facsimile machine shall comply with the requirements of this subsection and with the requirements of subsection c. of this section, as applicable. Failure of a member of a nonprofit organization to honor a valid request, in written form or by facsimile transmission, from another member of the same organization not to send future unsolicited advertisements pursuant to the requirements of this subsection and the requirements of subsection c. of this section, as applicable, shall constitute a violation of this act.

g. Nonprofit organizations, including but not limited to, professional or trade associations, shall be exempt from subsection a. of this section and shall be allowed to send unsolicited advertisements to the telephone facsimile machine of any person, other than a new or existing member of the sending organization, within this State, without penalty, provided that such advertisements are intended to give the person notice of an event that is in furtherance of the organization's purpose, and further provided that, any such unsolicited advertisements to the person's telephone facsimile machine shall provide clear and conspicuous notice on the first page of the unsolicited advertisement. Such notice shall include:

(1) disclosure to the person that the person may request the organization not to send any such future unsolicited advertisements to the person's telephone facsimile machine; and

(2) the domestic address and facsimile machine number for the person to transmit such a request to the organization; and

(3) the requirement that any such request to the organization shall be sent in written form to the organization's domestic address or sent by return facsimile transmission to the organization's facsimile number, in order to be effective.

A request by a person to a nonprofit organization that the organization not send future unsolicited advertisements to the person's telephone facsimile machine shall comply with the requirements of this subsection and with the requirements of subsection c. of this section, as applicable. Failure of a nonprofit organization to honor a valid request, in written form or by facsimile transmission, from a person not to send future unsolicited advertisements pursuant to the requirements of this subsection and the requirements of subsection c. of this section, as applicable, shall constitute a violation of this act.

**C.56:8-159 Action by aggrieved person.**

3. a. Any person aggrieved by a violation of this act may bring an action in the Superior Court in the county where the transmission was sent or was

received, or in which the plaintiff resides, for damages or to enjoin further violations of this act.

b. The court shall proceed in a summary manner and shall, in the event the plaintiff establishes a violation of this act, enter a judgment for the actual damages sustained, or \$500 for each violation, whichever amount is greater, together with costs of suit and reasonable attorney's fees.

c. If the plaintiff establishes that the sender was notified by return facsimile or written means of communication to cease and desist transmission of such unsolicited advertisements, the court shall enter a judgment, on account of each subsequent transmission, for actual damages or \$1,000 for each transmission, whichever amount is greater, together with costs of suit and reasonable attorney's fees, not to exceed \$1,000.

**C.56:8-160 Violation constitutes unlawful practice.**

4. A violation of this act shall constitute an unlawful practice pursuant to P.L. 1960, c. 39 (C.56:8-1 et seq.) and shall be subject to all remedies and penalties available pursuant to P.L. 1960, c. 39 (C. 56:8-1 et seq.), in addition to the remedies provided to an aggrieved person by section 3 of this act.

5. This act shall take effect on the first day of the sixth month following enactment.

Approved June 29, 2005.

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CHAPTER 115

AN ACT concerning fireworks and amending R.S.21:2-7.

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

1. R.S.21:2-7 is amended to read as follows:

**Fireworks showers, pyrotechnics, prohibited in certain buildings, exceptions.**

21:2-7. a. The use of what are technically known as fireworks showers, or of any composition containing potassium and sulphur, inside any building other than as authorized in subsection b. of this section shall be unlawful. A violation of this section shall be subject to the provisions of R.S.21:3-8.

b. The use of what are technically known as fireworks showers, or of any composition containing potassium and sulphur, in theaters or public halls, shall be permitted but shall be subject to prior approval by the appro-

priate fire official according to the provisions of the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.).

No fire official shall approve any such use unless the premises have been designed and constructed to accommodate such activity in accordance with the applicable provisions of the Uniform Fire Safety Code adopted pursuant to the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.), 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.), or both.

2. This act shall take effect immediately.

Approved June 29, 2005.

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## CHAPTER 116

AN ACT designating State specialty acute care children's hospitals for Monmouth and Ocean counties, supplementing Title 26 of the Revised Statutes and amending P.L.1987, c.299 and P.L.1992, c.181.

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

**C.26:2H-18g Specialty acute care children's hospitals for Monmouth, Ocean counties designated.**

1. a. The Commissioner of Health and Senior Services, subject to the provisions of subsection b. of this section, shall designate Jersey Shore University Medical Center and Monmouth Medical Center, each, as the State's specialty acute care children's hospitals for Monmouth and Ocean counties, subject to the commissioner's determination that each hospital meets all of the licensure criteria that apply to a children's hospital and has met and complied with all of the requirements to obtain State authorization to offer the component services that constitute a children's hospital. The commissioner's determination and the designation pursuant thereto shall be made separately for each hospital; and the commissioner's decision on the designation of each hospital shall be made independently of, and shall not be contingent upon, the decision on the designation of the other hospital.

b. The designation of each hospital by the Commissioner of Health and Senior Services pursuant to subsection a. of this section shall be made subsequent to, and shall be contingent upon, the execution of written transfer agreements, respectively, between: Jersey Shore University Medical Center and a majority of the acute care hospitals providing inpatient pediatric services located in Monmouth and Ocean counties; and Monmouth Medical

Center and a majority of the acute care hospitals providing inpatient pediatric services located in Monmouth and Ocean counties.

The written agreement shall state that the other facility recognizes Jersey Shore University Medical Center and Monmouth Medical Center, as applicable, as the State's specialty acute care children's hospitals for Monmouth and Ocean counties and shall set forth the basis on which the other facility shall make referrals to Jersey Shore University Medical Center or Monmouth Medical Center, as applicable.

2. Section 3 of P.L.1987, c.299 (C.26:2H-18c) is amended to read as follows:

**C.26:2H-18c Designation of specialty acute care children's hospital for southern New Jersey.**

3. a. The Commissioner of Health and Senior Services, subject to the provisions of subsection b. of this section, shall designate Cooper University Hospital in the City of Camden as the State's specialty acute care children's hospital in southern New Jersey for the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Salem.

b. The designation by the Commissioner of Health and Senior Services 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 University Hospital 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 University Hospital 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 University Hospital.

3. Section 1 of P.L.1992, c.181 (C.26:2H-18d) is amended to read as follows:

**C.26:2H-18d Designation of specialty acute care children's hospital for central New Jersey.**

1. a. The Commissioner of Health and Senior Services, subject to the provisions of subsection b. of this section, shall designate Robert Wood Johnson University Hospital/St. Peter's University Hospital in the City of New Brunswick as the State's specialty acute care children's hospital in central New Jersey for the counties of Hunterdon, Mercer, Middlesex and Somerset.

b. The designation by the Commissioner of Health and Senior Services pursuant to subsection a. of this section shall be made subsequent to, and shall be contingent upon, the execution of a written agreement between

Robert Wood Johnson University Hospital/St. Peter's University Hospital and a majority of the acute care hospitals providing inpatient pediatric services which are located in the counties listed in subsection a. of this section.

The written agreement shall state that the other facility recognizes Robert Wood Johnson University Hospital/St. Peter's University Hospital as the State's specialty acute care children's hospital for the counties listed in subsection a. of this section and shall set forth the basis on which the other facility shall make referrals to Robert Wood Johnson University Hospital/St. Peter's University Hospital.

4. Section 1 of this act shall take effect immediately, and sections 2 and 3 shall take effect upon the designation by the Commissioner of Health and Senior Services of Jersey Shore University Medical Center or Monmouth Medical Center as the State's specialty acute care children's hospital for Monmouth and Ocean counties

Approved June 29, 2005.

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## CHAPTER 117

AN ACT establishing the "School Construction Review Commission."

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

1. The Legislature finds and declares that:
  - a. legislation providing increased State funding for the construction and renovation of public school facilities, the "Educational Facilities Construction and Financing Act" (EFCFA) P.L.2000, c.72, was enacted in July of 2000. EFCFA provided \$8.6 billion in State funds through the issuance of bonds of the New Jersey Economic Development Authority for the improvement of school facilities, including \$6 billion to fund construction and renovation in the Abbott districts as ordered by the New Jersey Supreme Court, \$100 million to fund the State share of county vocational school district school facilities projects, and \$2.5 billion for the State share of school facilities projects in all other districts;
  - b. on September 28, 2004, a little more than three years after the law's enactment, the public was informed that the funding provided under EFCFA would most likely be depleted by January of 2006, well before the school facilities needs in the Abbott and other districts have been met;



c. given the significant amount of State funds allocated to the school construction program and the concern that not all school construction needs have yet been met, it is essential that a thorough review be undertaken concerning all facets of the school construction program as established under EFCFA to study the need for the allocation of additional funds to the program and to determine if the funds provided to date have been spent in an efficient and cost effective manner; and

d. it is, therefore, of critical importance to this State, its school districts, and the 1.5 million public school students educated within those districts that the "School Construction Review Commission" be established to thoroughly review the school construction program as implemented to date and to provide recommendations on the future direction of that program.

2. There is established a commission to be known as the "School Construction Review Commission." The commission shall consist of 19 members as follows: two members of the Senate to be appointed by the President of the Senate, which members shall not be of the same political party; two members of the General Assembly to be appointed by the Speaker of the General Assembly, which members shall not be of the same political party; the Commissioner of Education, ex officio, or a designee; the chief executive officer of the New Jersey Schools Construction Corporation, ex officio, or a designee; the State Treasurer, ex officio, or a designee; the executive director of the Education Law Center, ex officio, or a designee; the chair and the vice-chair of the Joint Committee on the Public Schools; and nine members to be appointed by the Governor, no more than five of whom shall be of the same political party. Six of the members shall be public members who have knowledge and experience in the school construction business, including one from the building and construction trades, one who is a superintendent of schools, and one who is a member of a board of education. Three of the members shall be municipal officials in municipalities in which the New Jersey Schools Construction Corporation has undertaken the construction of a school facilities project.

3. Appointments to the commission shall be made within 30 days of the effective date of this act. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made. Members of the commission shall serve without compensation but shall be entitled to their actual and necessary expenses incurred in the performance of their duties pursuant to this act.

4. a. The commission shall organize within 30 days after the appointment of its members and shall select a chairperson and a vice-chairperson from

among its members and a secretary who need not be a member of the commission.

b. The commission shall retain and may remove at its pleasure an executive director and such other personnel as the commission may deem necessary for the performance of its duties and shall fix their compensation within the amounts made available. The commission may also contract with outside experts and organizations as the commission may deem necessary within the amounts made available.

5. It shall be the duty of the commission to gather information and report to the Governor and the Joint Committee on the Public Schools concerning the following:

a. the status of the implementation of each public school district's long-range facilities plan, including, but not limited to:

(1) the number and type of school facilities projects included in the plan;

(2) the number of projects included in the district's plan which have been submitted to the Commissioner of Education for approval, the number of submitted projects which have received the approval of the commissioner, the number of those projects which have been approved by the voters of the district or the board of school estimate, as applicable, the number of approved projects for which construction has been initiated, and the number of approved projects for which construction is pending;

(3) the total cost of each approved school facilities project, including preliminary eligible costs, final eligible costs, excess costs, if any, and the State share of the school facilities project;

(4) in the case of school facilities projects which have been undertaken by the New Jersey Schools Construction Corporation, information on the number of those projects which have been completed within the final eligible costs, the area cost allowance used in calculating the preliminary and final eligible costs of the project, and the actual area cost allowance required to complete the project;

(5) in the case of school facilities projects which have been undertaken by the New Jersey Schools Construction Corporation, the administrative and any other costs of the corporation associated with the management and completion of the project, and a comparison of those administrative and other costs to projects managed at the district level; and

(6) the total administrative and other costs, including bond issuance costs, incurred by the New Jersey Economic Development Authority, the New Jersey Schools Construction Corporation, and the Department of Education in the implementation of the school construction program to date, and the sources of funding for those costs;

b. (1) the adequacy of State funds authorized under the provisions of the "Educational Facilities Construction and Financing Act," P.L.2000, c.72

(C.18A:7G-1 et al.), to meet the school facilities needs of public school districts as established in the long-range facilities plans of the districts; and

(2) an assessment of alternative financing mechanisms that could provide innovative methods for structuring and financing school facilities projects, including, but not limited to, sale/leaseback and lease/leaseback, nonprofit participation and real estate investment trusts (REIT);

c. a description and evaluation of the work of the Office of Diversity and Emerging Business Markets to determine the extent to which its goal of increasing the availability and accessibility of construction opportunities for small businesses and businesses owned by women and minorities and to residents of the State has been accomplished; and

d. a description and evaluation of the Workforce Pre-Apprenticeship Training Program to determine the extent to which its goal of establishing pre-apprenticeship training programs targeting Abbott District municipalities has been accomplished and resulted in training and employment for municipal residents.

6. The Department of Education shall provide such stenographic, clerical and other administrative assistants, and such professional staff as the commission requires to carry out its work. The commission shall also be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, task force or agency as it may require and as may be available for its purposes.

7. The commission shall meet at least monthly and at the call of the chair. A meeting of the commission shall be called upon the request of a majority of the commission's members and the presence of a majority of the authorized membership shall be required for the conduct of official business. The commission shall issue an initial report to the Governor and the Joint Committee on the Public Schools no later than six months following its organizational meeting. The Joint Committee on the Public Schools shall review the initial report and present the results of its review to the Legislature.

The commission shall issue a final report to the Governor and the Joint Committee on the Public Schools six months after its initial report. The Joint Committee on the Public Schools shall review the final report and present the results of its review to the Legislature.

8. This act shall take effect immediately and the commission shall expire upon the issuance of its final report

Approved June 29, 2005.

## CHAPTER 118

AN ACT concerning abandoned property and amending P.L.1996, c.62, P.L.2003, c.210, and various sections of chapter 5 of Title 54 of the Revised Statutes.

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

1. Section 36 of P.L.1996, c.62 (C.55:19-55) is amended to read as follows:

**C.55:19-55 Identification of abandoned property, listing.**

36. a. A qualified municipality that has designated or appointed a public officer pursuant to section 3 of P.L.1942, c.112 (C.40:48-2.5), may adopt an ordinance directing the public officer to identify abandoned property for the purpose of establishing an abandoned property list throughout the municipality, or within those parts of the municipality as the governing body may designate. Each item of abandoned property so identified shall include the tax block and lot number, the name of the owner of record, if known, and the street address of the lot.

b. In those municipalities in which abandoned properties have been identified in accordance with subsection a. of this section, the public officer shall establish and maintain a list of abandoned property, to be known as the "abandoned property list." The municipality may add properties to the abandoned property list at any time, and may delete properties at any time when the public officer finds that the property no longer meets the definition of an abandoned property. An interested party may request that a property be included on the abandoned property list following that procedure set forth in section 31 of P.L.2003, c.210 (C.55:19-105).

An abandoned property shall not be included on the abandoned property list if rehabilitation is being performed in a timely manner, as evidenced by building permits issued and diligent pursuit of rehabilitation work authorized by those permits. A property on which an entity other than the municipality has purchased or taken assignment from the municipality of a tax sale certificate which has been placed on the abandoned property list may be removed in accordance with the provisions of section 29 of P.L.2003, c.210 (C.55:19-103).

c. The Department of Community Affairs in conjunction with the Department of Environmental Protection shall prepare an information bulletin for distribution to every municipality describing the authority of a

municipality under existing statutes and regulations to repair, demolish or otherwise deal with abandoned property.

d. (1) The public officer shall establish the abandoned property list or any additions thereto by publication in the official newspaper of the municipality, which publication shall constitute public notice, and, within 10 days after publication, shall send a notice, by certified mail, return receipt requested, and by regular mail, to the owner of record of every property included on the list. The published and mailed notices shall identify property determined to be abandoned setting forth the owner of record, if known, the tax lot and block number and street address. The public officer, in consultation with the tax collector, shall also send out a notice by regular mail to any mortgagee, servicing organization, or property tax processing organization that receives a duplicate copy of the tax bill pursuant to subsection d. of R.S.54:4-64. When the owner of record is not known for a particular property and cannot be ascertained by the exercise of reasonable diligence by the tax collector, notice shall not be mailed but instead shall be posted on the property in the manner as provided in section 5 of P.L.1942, c.112 (C.40:48-2.7). The mailed notice shall indicate the factual basis for the public officer's finding that the property is abandoned property as that term is defined in section 35 of P.L.1996, c.62 (C.55:19-54) and the rules and regulations promulgated thereunder, specifying the information relied upon in making such finding. In all cases a copy of the mailed or posted notice shall also be filed by the public officer in the office of the county clerk or register of deeds and mortgages, as the case may be, of the county wherein the property is situate. This filing shall have the same force and effect as a notice of lis pendens under N.J.S.2A:15-6. The notice shall be indexed by the name of the property owner as defendant and the name of the municipality as plaintiff, as though an action had been commenced by the municipality against the owner.

(2) The authority or its subsidiaries, as appropriate, may reimburse the municipality for the postage costs and search fees associated with providing notice in accordance with paragraph (1) of this subsection in accordance with procedures and rules promulgated by the Department of Community Affairs.

e. An owner or lienholder may challenge the inclusion of his property on the abandoned property list determined pursuant to subsection b. of this section by appealing that determination to the public officer within 30 days of the owner's receipt of the certified notice or 40 days from the date upon which the notice was sent. An owner whose identity was not known to the public officer shall have 40 days from the date upon which notice was published or posted, whichever is later, to challenge the inclusion of a property on the abandoned property list. For good cause shown, the public officer shall accept a late filing of an appeal. Within 30 days of receipt of a request for an appeal of the findings contained in the notice pursuant to

subsection d. of this section, the public officer shall schedule a hearing for redetermination of the matter. Any property included on the list shall be presumed to be abandoned property unless the owner, through the submission of an affidavit or certification by the property owner averring that the property is not abandoned and stating the reasons for such averment, can demonstrate that the property was erroneously included on the list. The affidavit or certification shall be accompanied by supporting documentation, such as but not limited to photographs, repair invoices, bills and construction contracts. The sole ground for appeal shall be that the property in question is not abandoned property as that term is defined in section 35 of P.L.1996, c.62 (C.55:19-54). The public officer shall decide any timely filed appeal within 10 days of the hearing on the appeal and shall promptly, by certified mail, return receipt requested, and by regular mail, notify the property owner of the decision and the reasons therefor.

f. The property owner may challenge an adverse determination of an appeal with the public officer pursuant to subsection e. of this section, by instituting, in accordance with the New Jersey Court Rules, a summary proceeding in the Superior Court, Law Division, sitting in the county in which the property is located, which action shall be tried de novo. Such action shall be instituted within 20 days of the date of the notice of decision mailed by the public officer pursuant to subsection e. of this section. The sole ground for appeal shall be that the property in question is not abandoned property as that term is defined in section 35 of P.L.1996, c.62 (C.55:19-54). The failure to institute an action of appeal on a timely basis shall constitute a jurisdictional bar to challenging the adverse determination, except that, for good cause shown, the court may extend the deadline for instituting the action.

g. The public officer shall promptly remove any property from the abandoned property list that has been determined not to be abandoned on appeal.

h. The abandoned property list shall become effective, and the municipality shall have the right to pursue any legal remedy with respect to properties on the abandoned property list at such time as any one property has been placed on the list in accordance with the provisions of this section, upon the expiration of the period for appeal with respect to that property or upon the denial of an appeal brought by the property owner.

2. Section 37 of P.L.1996, c.62 (C.55:19-56) is amended to read as follows:

**C.55:19-56 Sale of tax lien on abandoned property; remediation costs.**

37. a. Notwithstanding R.S.:54:5-19 or the provisions of any other law to the contrary, if a property is included on the abandoned property list and the

property taxes or other municipal liens due on the property are delinquent six or more quarters as of the date of expiration of the right to appeal inclusion on the list, or, if an appeal has been filed, as of the date that all opportunities for appeal of inclusion on the list have been exhausted, then the tax lien on the property may be sold in accordance with the procedures in the "tax sale law," R.S.54:5-1 et seq., on or after the 90th day following the expiration of that time of appeal or final determination on an appeal, as appropriate. The municipality may, at its option, require that the sale of the tax sale certificate or any subsequent assignment or transfer of a tax sale certificate held by the municipality be subject to the express condition that the purchaser or assignee shall be obliged to perform and conclude any rehabilitation or repairs necessary to remove the property from the abandoned property list pursuant to section 36 of P.L.1996, c.62 (C.55:19-55) and to post a bond in favor of the municipality to guarantee the rehabilitation or repair of the property. The public officer may waive a requirement to post a bond imposed by a municipality for any purchaser, assignee or transferee of a tax sale certificate that provides documentation acceptable to the public officer that the purchaser, assignee or transferee is a qualified rehabilitation entity as defined in section 3 of P.L.2003, c.210 (C.55:19-80). The cost of rehabilitation and repairs and the cost of the bond shall be added to the amount required to be paid by the owner for redemption of the property. The purchaser, assignee or transferee of the tax sale certificate who is required to rehabilitate and repair the property shall be required to file the appropriate affidavits with the tax collector, pursuant to R.S.54:5-62, representing the amounts of moneys expended periodically toward the rehabilitation or repair of the property. A purchaser, assignee or transferee shall be entitled to interest on the amounts expended, as set forth in the affidavits, at the delinquent rate of interest for delinquencies in excess of \$1,500 pursuant to R.S.54:4-67 of the municipality in effect for the time period when the amounts were expended. The tax sale certificate purchaser, assignee or transferee, under the auspices and with the authority of the municipality, shall be permitted to enter in and upon the property for the purposes of appraising the costs of rehabilitation and repair and to perform all other acts required to guarantee the completion of the rehabilitation or repair of the property. No rehabilitation or repair work shall be commenced, however, until proof of adequate liability insurance and an indemnification agreement holding the municipality harmless is filed with the public officer. If the tax sale certificate is not purchased at the initial auction of the tax sale certificate and the municipality purchases the certificate pursuant to R.S.54:5-34, then the municipality is authorized and empowered to convey and transfer to the authority or any of its subsidiaries, without receiving compensation therefor, all of its right, title and interest in that certificate; however, any portion of

the amount paid to the tax collector to redeem the tax sale certificate that represents tax or other municipal lien delinquencies and subsequent municipal liens, including interest, shall be returned by the tax collector to the municipality.

b. (1) If the municipality or the authority or its subsidiaries acquires the tax sale certificate for a property on the abandoned property list, then, upon 10 days' written notice to the property owner and any mortgagee as of the date of the filing of the lis pendens notice under subsection d. of section 36 of P.L.1996, c.62 (C.55:19-55), that entity shall be permitted to enter upon the property and remediate any conditions that caused the property to be included on the abandoned property list. No remediation shall be commenced, however, if within that 10-day period the owner or mortgagee shall have notified the municipality or authority or its subsidiary, as appropriate, in writing that the owner or mortgagee has elected to perform the remediation itself. When the owner or mortgagee elects to perform the remediation itself, it shall be required to post bond in favor of the municipality or authority or its subsidiaries, as appropriate, in order to ensure performance. The amount and conditions of the bond shall be determined by the public officer.

(2) The cost of remediation incurred by the municipality or the authority or its subsidiaries pursuant to this subsection, as so certified by the entity incurring the cost upon completion of the remediation, shall constitute a lien upon the property first in time and right to any other lien, whether the other lien was filed prior to, or after the filing of any lien by the municipality or the authority, except for municipal taxes, liens and assessments and any lien imposed pursuant to the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.), together with any interest thereon. The certification of cost shall be filed and recorded as a lien by the entity incurring the cost with the county clerk or register of deeds and mortgages, as appropriate, in the county in which the property is located.

c. (1) Failure of an owner or lienholder to remove a property from the abandoned property list within the period of time for appeal of inclusion of the property on the list pursuant to subsection e. of section 36 of P.L.1996, c.62 (C.55:19-55), shall be prima facie evidence of the intent of the owner to continue to maintain the property as abandoned property.

(2) The clearance, development, redevelopment, or repair of property being maintained as an abandoned property pursuant to paragraph (1) of this subsection shall be a public purpose and public use for which the power of eminent domain may be exercised.

3. Section 4 of P.L.2003, c.210 (C.55:19-81) is amended to read as follows:



**C.55:19-81 Determination that property is abandoned.**

4. Except as provided in section 6 of P.L.2003, c.210 (C.55:19-83), any property that has not been legally occupied for a period of six months and which meets any one of the following additional criteria may be deemed to be abandoned property upon a determination by the public officer that:

a. The property is in need of rehabilitation in the reasonable judgment of the public officer, and no rehabilitation has taken place during that six-month period;

b. Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months as of the date of a determination by the public officer pursuant to this section;

c. At least one installment of property tax remains unpaid and delinquent on that property in accordance with chapter 4 of Title 54 of the Revised Statutes as of the date of a determination by the public officer pursuant to this section; or

d. The property has been determined to be a nuisance by the public officer in accordance with section 5 of P.L.2003, c.210 (C.55:19-82).

A property which contains both residential and non-residential space may be considered abandoned pursuant to P.L.2003, c.210 (C.55:19-78 et al.) so long as two-thirds or more of the total net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six months at the time of the determination of abandonment by the public officer and the property meets the criteria of either subsection a. or subsection d. of this section.

4. Section 6 of P.L.2003, c.210 (C.55:19-83) is amended to read as follows:

**C.55:19-83 Property not to be placed on abandoned property list; conditions.**

6. a. If an entity other than the municipality has purchased or taken assignment from the municipality of a tax sale certificate on a property that has not been legally occupied for a period of six months, that property shall not be placed on the abandoned property list pursuant to section 36 of P.L.1996, c.62 (C.55:19-55) if (1) the owner of the certificate has continued to pay all municipal taxes and liens on the property in the tax year when due; and (2) the owner of the certificate takes action to initiate foreclosure proceedings within six months after the property is eligible for foreclosure pursuant to either subsection a. or subsection b. of R.S.54:5-86, as appropriate, and diligently pursues foreclosure proceedings in a timely fashion thereafter.

b. A property which is used on a seasonal basis shall be deemed to be abandoned only if the property meets any two of the additional criteria set forth in section 4 of P.L.2003, c.210 (C.55:19-81).

c. A determination that a property is abandoned property under the provisions of P.L.2003, c.210 (C.55:19-78 et al.) shall not constitute a finding that the use of the property has been abandoned for purposes of municipal zoning or land use regulation.

d. Upon the request of a purchaser or assignee of a tax sale certificate seeking to bar the right of redemption on an abandoned property pursuant to subsection b. of R.S.54:5-86, the public officer or the tax collector shall, in a timely fashion, provide the requester with a certification that the property fulfills the definition of abandoned according to the criteria set forth in sections 4 and 5 of P.L.2003, c.210 (C.55:19-81 and C.55:19-82).

5. Section 9 of P.L.2003, c.210 (C.55:19-86) is amended to read as follows:

**C.55:19-86 Complaint, lis pendens, notice; entry on property.**

9. a. Within 10 days of filing a complaint pursuant to P.L.2003, c.210 (C.55:19-78 et al.), the plaintiff shall file a notice of lis pendens with the county recording officer of the county within which the building is located.

b. At least 30 days before filing the complaint, the municipality shall serve a notice of intention to take possession of an abandoned building. The notice shall inform the owner and interested parties that the property has not been legally occupied for six months and of those criteria that led to a determination of abandonment pursuant to section 4 of P.L.2003, c.210 (C.55:19-81).

The notice shall provide that unless the owner or a party in interest prepares and submits a rehabilitation plan to the appropriate municipal officials, the municipality will seek to gain possession of the building to rehabilitate the property and the associated cost shall be a lien against the property, which may be satisfied by the sale of the property, unless the owner applies to the court for reinstatement of control of the property as provided in section 15 of P.L.2003, c.210 (C.55:19-92).

After the complaint is filed, the complaint shall be served on the parties in interest in accordance with the New Jersey Rules of Court.

c. After serving the notice of intent pursuant to subsection b. of this section, the municipality or its designee may enter upon that property after written notice to the owner by certified mail, return receipt requested, in order to secure, stabilize or repair the property, or in order to inspect the property for purposes of preparing the plan to be submitted to the court pursuant to section 12 of P.L.2003, c.210 (C.55:19-89).

6. Section 10 of P.L.2003, c.210 (C.55:19-87) is amended to read as follows:

**C.55:19-87 Defense by owner against complaint.**

10. a. Any owner may defend against a complaint filed pursuant to section 7 of P.L.2003, c.210 (C.55:19-84) by submitting a plan for the rehabilitation and reuse of the property which is the subject of the complaint and by posting a bond equal to 125 percent of the amount determined by the public officer or the court to be the projected cost of rehabilitation.

Any plan submitted by an owner to defend against a complaint shall be submitted within 60 days after the complaint has been filed, unless the court provides the owner with an extension of time for good cause shown.

b. A plan submitted by an owner pursuant to this section shall include, but not be limited to:

(1) A detailed financial feasibility analysis, including documentation of the economic feasibility of the proposed reuse, including operating budgets or resale prices, or both, as appropriate;

(2) A budget for the rehabilitation of the property, including sources and uses of funds, based on the terms and conditions of realistically available financing, including grants and loans;

(3) A timetable for the completion of rehabilitation and reuse of the property, including milestones for performance of major steps leading to and encompassing the rehabilitation and reuse of the property; and

(4) Documentation of the qualifications of the individuals and firms that will be engaged to carry out the planning, design, financial packaging, construction, and marketing or rental of the property.

c. (1) The court shall approve any plan that, in the judgment of the court, is realistic and likely to result in the expeditious rehabilitation and reuse of the property which is the subject of the complaint.

(2) If the court approves the owner's plan, then it may appoint the public officer to act as monitor of the owner's compliance. If the owner fails to carry out any step in the approved plan, then the municipality may apply to the court to have the owner's bond forfeited, possession of the building transferred to the municipality to complete the rehabilitation plan and authorization to use the bond proceeds for rehabilitation of the property.

(3) The owner shall provide quarterly reports to the municipality on its activities and progress toward rehabilitation and reuse of the property. The owner shall provide those reports to the court on its activities that the court determines are necessary.

d. The court may reject a plan and bond if it finds that the plan does not represent a realistic and expeditious means of ensuring the rehabilitation of the property or that the owner or his representatives or agents, or both, lack

the qualifications, background or other criteria necessary to ensure that the plan will be carried out successfully.

7. Section 11 of P.L.2003, c.210 (C.55:19-88) is amended to read as follows:

**C.55:19-88 Designation of possessor if owner unsuccessful in defending against complaint.**

11. a. If an owner is unsuccessful in defending against a complaint filed pursuant to section 7 of P.L.2003, c.210 (C.55:19-84), the mortgage holder or lien holder may seek to be designated in possession of the property by submitting a plan and posting a bond meeting the same conditions as set forth in section 10 of P.L.2003, c.210 (C.55:19-87). The plan shall be submitted within 60 days after the court has rejected the owner's plan, unless the court provides the mortgage holder or lienholder with an extension of time for good cause shown. If the court approves any such mortgage holder or lien holder's plan, it shall designate that party to be in possession of the property for purposes of ensuring its rehabilitation and reuse and may appoint the public officer to act as monitor of the party's compliance.

The mortgage holder or lien holder, as the case may be, shall provide quarterly reports to the court and the municipality on its activities and progress toward rehabilitation and reuse of the property.

If the mortgage holder or lien holder fails to carry out any material step in the approved plan, then the public officer shall notify the court, which may order the bond forfeit, grant the municipality possession of the property, and authorize the municipality to use the proceeds of the bond for rehabilitation of the property.

b. Any sums incurred or advanced for the purpose of rehabilitating the property by a mortgage holder or lien holder granted possession of a property pursuant to subsection a. of this section, including court costs and reasonable attorney's fees, may be added to the unpaid balance due that mortgage holder or lien holder, with interest calculated at the same rate set forth in the note or security agreement; or, in the case of a tax lien holder, at the statutory interest rate for subsequent liens.

8. Section 23 of P.L.2003, c.210 (C.55:19-100) is amended to read as follows:

**C.55:19-100 Municipal recourse with respect to lien.**

23. With respect to any lien placed against any real property pursuant to the provisions of section 1 or section 3 of P.L.1942, c.112 (C.40:48-2.3 or C.40:48-2.5) or section 1 of P.L.1989, c.91 (C.40:48-2.3a) or any receiver's lien pursuant to P.L.2003, c.295 (C.2A:42-114 et al.), the municipality shall have recourse with respect to the lien against any asset of the owner

of the property if an individual, against any asset of any partner if a partnership, and against any asset of any owner of a 10% interest or greater if the owner is any other business organization or entity recognized pursuant to law.

9. Section 24 of P.L.2003, c.210 (C.55:19-101) is amended to read as follows:

**C.55:19-101 Special tax sales; notice.**

24. Municipalities may hold special tax sales with respect to those properties eligible for tax sale pursuant to R.S.54:5-19 which are also on an abandoned property list established by the municipality pursuant to section 36 of P.L.1996, c.62 (C.55:19-55). Municipalities electing to hold a special tax sale shall conduct that sale subject to the following provisions:

a. The municipality shall establish criteria for eligibility to bid on properties at the sale, which may include, but shall not be limited to: documentation of the bidder's ability to rehabilitate or otherwise reuse the property consistent with municipal plans and regulations; commitments by the bidder to rehabilitate or otherwise reuse the property, consistent with municipal plans and regulations; commitments by the bidder to take action to foreclose on the tax lien by a date certain; and such other criteria as the municipality may determine are necessary to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest;

b. The municipality may establish minimum bid requirements for a special tax sale that may be less than the full amount of the taxes, interest and penalties due, the amount of such minimum bid to be at the sole discretion of the municipality, in order to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest;

c. The municipality may combine properties into bid packages, and require that bidders place a single bid on each package, and reject any and all bids on individual properties that have been included in bid packages;

d. The municipality may sell properties subject to provisions that, if the purchaser fails to carry out any commitment that has been set forth as a condition of sale pursuant to subsection a. of this section or misrepresents any material qualification that has been established as a condition of eligibility to bid pursuant thereto, then the properties and any interest thereto acquired by the purchaser shall revert to the municipality, and any amount paid by the purchaser to the municipality at the special tax sale shall be forfeit to the municipality;

e. In the event there are two or more qualified bidders for any property or bid package in a special tax sale, the municipality may designate the unsuccessful but qualified bidder whose bid was closest to the successful bid as an eligible purchaser;

f. In the event that the purchaser of that property or bid package fails to meet any of the conditions of sale established by the municipality pursuant to this section, and their interest in the property or properties reverts to the municipality, the municipality may subsequently designate the entity previously designated as an eligible purchaser as the winning bidder for the property or properties, and assign the tax sale certificates to that entity on the basis of that entity's bid at the special tax sale, subject to the terms and conditions of the special tax sale.

g. The municipality shall provide notice of a special tax sale pursuant to R.S.54:5-26. The notice shall include any special terms of sale established by the municipality pursuant to subsection b., c. or d. of this section. Nothing shall prohibit the municipality from holding a special tax sale on the same day as a standard or accelerated tax sale.

10. R.S.54:5-26 is amended to read as follows:

**Notices posted and advertised in newspaper, mail notice.**

54:5-26. Copies of the notice of a tax sale shall be set up in five of the most public places in the municipality, and a copy of the notice shall be published in a newspaper circulating in the municipality, once in each of the four calendar weeks preceding the calendar week containing the day appointed for the sale. In lieu of any two publications, notice to the property owner and to any person or entity entitled to notice of foreclosure pursuant to section 20 of P.L.1948, c.96 (C.54:5-104.48) may be given by regular or certified mail, the costs of which shall be added to the cost of the sale in addition to those provided in R.S.54:5-38, not to exceed \$25 for each set of notices for a particular property.

For the purposes of notice in connection with a special tax sale for eligible properties which are on an abandoned property list established by the municipality pursuant to section 36 of P.L.1996, c.62 (C.55:19-55), a single advertisement published in a newspaper circulating in the municipality no less than four and no more than six weeks prior to the sale, along with notice to the property owner and any person or entity entitled to notice of foreclosure pursuant to section 20 of P.L.1948, c.96 (C.54:5-104.48), shall constitute sufficient notice of sale on the part of the municipality.

Failure of the property owner to receive a notice of a tax sale properly mailed by the tax collector shall not constitute grounds to void the subsequent tax sale. If ordinances of the municipality are required to be published

in any special newspaper or newspapers, the notice shall be published therein.

11. R.S.54:5-86 is amended to read as follows:

**Action by municipality to foreclose right of redemption.**

54:5-86. a. When the municipality is the purchaser of a tax sale certificate, the municipality, or its assignee or transferee, may, at any time after the expiration of the term of six months from the date of sale, institute an action to foreclose the right of redemption. Except as provided in subsection a. of section 39 of P.L.1996, c.62 (C.55:19-58) or as provided in subsection b. of this section, for all other persons that do not acquire a tax sale certificate from a municipality, an action to foreclose the right of redemption may be instituted at any time after the expiration of the term of two years from the date of sale of the tax sale certificate. On instituting the action the right to redeem shall exist and continue until barred by the judgment of the Superior Court.

b. Any person holding a tax sale certificate on a property that meets the definition of abandoned property as set forth in P.L.2003, c.210 (C.55:19-78 et al.), either at the time of the tax sale or thereafter, may at any time file an action with the Superior Court in the county wherein said municipality is situate, demanding that the right of redemption on such property be barred, pursuant to the "tax sale law," R.S.54:5-1 et seq. The filing shall include a certification by the public officer or the tax collector that the property is abandoned, provided pursuant to subsection d. of section 6 of P.L.2003, c.210 (C.55:19-83). In the event that the certificate holder has unsuccessfully sought such certification from the public officer or tax collector, as the case may be, the certificate holder may submit to the court evidence that the property is abandoned, accompanied by a report and sworn statement by an individual holding appropriate licensure or professional qualifications, and shall provide a copy of those documents submitted to the court to the public officer and the tax collector. On the basis of this submission and any submission provided by the public officer or tax collector, as the case may be, the court shall determine whether the property meets the definition of abandoned property.

c. Any person holding a tax sale certificate on a property that meets the definition of abandoned property as set forth in P.L.2003, c.210 (C.55:19-78 et al.), either at the time of the tax sale or thereafter, may enter upon that property at any time after written notice to the owner by certified mail return receipt requested in order to make repairs, or abate, remove or correct any condition harmful to the public health, safety and welfare, or any condition that is materially reducing the value of the property.

d. Any sums incurred or advanced pursuant to subsection c. of this section may be added to the unpaid balance due the holder of the tax sale certificate at the statutory interest rate for subsequent liens.

12. Section 3 of P.L.2003, c.210 (C.55:19-80) is amended to read as follows:

**C.55:19-80 Definitions relative to abandoned property.**

3. As used in sections 1 through 25 of P.L.2003, c.210 (C.55:19-78 through C.55:17-102):

"Department" means the New Jersey Department of Community Affairs.

"Lienholder" or "mortgage holder" means any person or entity holding a note, mortgage or other interest secured by the building or any part thereof.

"Municipality" means any city, borough, town, township or village situated within the boundaries of this State and shall include a qualified rehabilitation entity that may be designated by the municipality pursuant to section 13 of P.L.2003, c.210 (C.55:19-90) to act as its agent to exercise any of the municipality's rights pursuant thereto.

"Owner" means the holder or holders of title to an abandoned property.

"Property" means any building or structure and the land appurtenant thereto.

"Public officer" means the person designated by the municipality pursuant to section 3 of P.L.1942, c.112 (C.40:48-2.5) or any officer of the municipality qualified to carry out the responsibilities set forth in P.L.2003, c.210 (C.55:19-78 et al.) and designated by resolution of the governing body of the municipality, except that in municipalities organized under the "mayor-council plan" of the Optional Municipal Charter Law, P.L.1950, c.210 (C.40:69A-1 et seq.), the public officer shall be designated by the mayor.

"Qualified rehabilitation entity" means an entity organized or authorized to do business under the New Jersey statutes which shall have as one of its purposes the construction or rehabilitation of residential or non-residential buildings, the provision of affordable housing, the restoration of abandoned property, the revitalization and improvement of urban neighborhoods, or similar purpose, and which shall be well qualified by virtue of its staff, professional consultants, financial resources, and prior activities set forth in P.L.2003, c.210 (C.55:19-78 et al.) to carry out the rehabilitation of vacant buildings in urban areas.

13. This act shall take effect immediately.

Approved June 29, 2005.



## CHAPTER 119

AN ACT establishing an office of the Inspector General, supplementing Title 52 of the Revised Statutes.

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

**C.52:15B-1 Findings, declarations relative to an office of the Inspector General.**

1. The Legislature finds and declares that:

- the State of New Jersey expends more than \$28 billion in taxpayer funds each year, and agencies at other levels of government expend billions more;
- it is fundamental that all government officials be publicly accountable for such expenditures;
- promoting integrity in the administration and operations of government and improving public accountability are the cornerstones of government;
- one of the remedial actions that can be taken to improve such accountability is to identify areas where State spending is wasteful or inefficient;
- the Governor has the responsibility to ensure a balanced budget, manage the operations of State government effectively and efficiently, and maintain necessary government programs and assistance to the public;
- it is the duty of the Governor to guard against extravagance, waste, or fiscal mismanagement in the administration of any State appropriation;
- it is critically important that public officers and employees, at all levels of government, discharge their duties and responsibilities in a lawful and ethical manner, while conserving the fiscal resources that have been entrusted to the government's care by the taxpayers;
- there is a compelling need to centralize the responsibility for reviewing, auditing, evaluating, and overseeing the expenditure of State funds by, and the procurement process of, all State departments and agencies, independent authorities, county and municipal governments, and boards of education; and
- there is a need, therefore, to create the Office of the Inspector General, which will report directly to the Governor, to ensure that these responsibilities are met.

**C.52:15B-2 Office of the Inspector General established.**

2. a. There is hereby created an Office of the Inspector General. The office shall be established in the Executive Branch of the State Government and for the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the office shall be allocated in, but not of, the Department of the Treasury. Notwithstanding this allocation, the office shall be independent of any supervision or control by the State

Treasurer, or the department or by any division, board, office, or other officer thereof.

b. The Inspector General shall report directly to the Governor.

c. The Inspector General shall submit requests for the budget of the office directly to the Division of Budget and Accounting in the Department of the Treasury.

**C.52:15B-3 Inspector General, appointment, term, compensation.**

3. a. The Office of the Inspector General shall be administered by the Inspector General. The Inspector General shall be appointed by the Governor with the advice and consent of the Senate. The Inspector General shall be a person qualified by education, training, and prior work experience to direct the work of the office and to perform the duties and functions and fulfill the responsibilities of the position.

b. The Inspector General shall serve for a term of five years and until a successor is appointed and has qualified.

c. The Inspector General shall devote full time to the duties and responsibilities of the office and shall receive a salary as shall be provided pursuant to law.

d. During the term of office, the Inspector General may be removed by the Governor only for cause upon notice and opportunity to be heard.

e. A vacancy in the position of Inspector General due to a cause other than the expiration of the term shall be filled for the unexpired term only in the same manner as the original appointment.

**C.52:15B-4 Inspector General prohibited from running for elective public office.**

4. A person who holds the position of Inspector General shall not be a candidate for, or hold elective public office, for a period of two years immediately following the termination of that person's service as Inspector General.

**C.52:15B-5 Establishment of internal organizational structure of the office.**

5. a. The Inspector General shall establish the internal organizational structure of the office in a manner appropriate to carrying out the duties and functions, and fulfilling the responsibilities, of the office. The Inspector General shall have the power to appoint, employ, promote, and remove such assistants, employees, and personnel as the Inspector General deems necessary for the efficient and effective administration of the office. All such assistants, employees and personnel shall be deemed confidential employees for purposes of the "New Jersey Employer-Employee Relations Act," P.L.1941, c. 100 (C.34:13A-1 et seq.).

b. Within the limits of funds appropriated for such purposes, the Inspector General may obtain the services of certified public accountants,

qualified management consultants, and other professionals necessary to independently perform the duties and functions of the office.

**C.52:15B-6 Cooperation with Inspector General by State agencies.**

6. The Inspector General is authorized to call upon any department, office, division or agency of State government to provide such information, resources, or other assistance deemed necessary to discharge the duties and functions and to fulfill the responsibilities of the Inspector General under this act. Each department, office, division and agency of this State shall cooperate with the Inspector General and furnish the office with the assistance necessary to accomplish the purposes of this act.

**C.52:15B-7 Authority of Inspector General.**

7. The Inspector General is authorized to:  
establish a full-time program of audit, investigation, and performance review designed to provide increased accountability, integrity, and oversight of all recipients of State funds, including, but not limited to, State departments and agencies, independent authorities, county and municipal governments, and boards of education.

audit and monitor the awarding and the execution of contracts awarded by the State, or any of its independent authorities, commissions, boards, agencies, or instrumentalities, which contracts involve a significant expenditure of public funds or are comprised of complex or unique components, or both, as determined by the Inspector General.

investigate the performance of governmental officers, employees, appointees, functions, and programs in order to promote efficiency, to identify cost savings, and to detect and prevent misconduct within the programs and operations of any governmental agency funded by, or disbursing, State funds.

receive and investigate complaints concerning alleged fraud, waste, abuse, or mismanagement of State funds.

**C.52:15B-8 Powers of Inspector General.**

8. a. The Inspector General shall have all the powers necessary to carry out the duties and functions and to fulfill the responsibilities described in this act, including the power to conduct investigations, audits, evaluations, inspections, and other reviews.

b. The Inspector General and the office shall conduct audits, investigations, and performance reviews in accordance with prevailing national and professional standards, rules, and practices relating to such audits, investigations, and reviews in government environments, and the Inspector General shall ensure that the office remains in compliance with such standards, rules, and practices.

c. In furtherance of an investigation, the Inspector General may compel at a specific time and place, by subpoena, the appearance and sworn testimony of any person whom the Inspector General reasonably believes may be able to give information relating to a matter under investigation. For this purpose, the Inspector General is empowered to administer oaths and examine witnesses under oath, and compel any person to produce at a specific time and place, by subpoena, any documents, books, records, papers, objects, or other evidence that the Inspector General reasonably believes may relate to a matter under investigation.

If any person to whom such subpoena is issued fails to appear or, having appeared, refuses to give testimony, or fails to produce the books, papers or other documents required, the Inspector General may apply to the Superior Court and the court may order the person to appear and give testimony or produce the books, papers or other documents, as applicable. Any person failing to obey the court's order may be punished by the court as for contempt.

d. A person compelled to appear by the Inspector General and provide sworn testimony shall have the right to be accompanied by counsel, who shall be permitted to advise the witness of his or her rights. A witness compelled to appear and testify shall be accorded all due process rights.

**C.52:15B-9 Cooperation, joint investigations.**

9. The Inspector General is authorized to cooperate and conduct joint investigations with other oversight or law enforcement authorities. The Inspector General is authorized and shall be permitted to participate in investigations conducted by other oversight or law enforcement authorities in this State.

**C.52:15B-10 Declining to investigate complaint.**

10. The Inspector General may decline to investigate a complaint received when it is determined that: the complaint is trivial, frivolous, vexatious or not made in good faith; the complaint has been too long delayed to justify a present investigation; the resources available, considering established priorities, are insufficient for an adequate investigation; or the matter complained of is not within the Inspector General's investigatory authority.

**C.52:15B-11 Authority to refer complaints.**

11. The Inspector General is authorized to refer complaints received that allege criminal conduct to the Attorney General or other appropriate prosecutorial authority. In the course of conducting audits, investigations, and performance reviews, the Inspector General generally may refer matters for further civil, criminal, and administrative action to the appropriate authorities.

**C.52:15B-12 Notification of refusal to investigate referred complaints of criminal, other conduct.**

12. a. When the Inspector General refers complaints alleging criminal conduct to the Attorney General or other appropriate prosecutorial authority and the Attorney General or prosecutorial authority decides not to investigate or prosecute the matter, the Attorney General or the prosecutorial authority shall promptly notify the Inspector General. The Attorney General or the prosecutorial authority shall inform the Inspector General as to whether an investigation is ongoing with regard to any matter so referred. The Inspector General shall preserve the confidentiality of the existence of any ongoing criminal investigation.

If the Attorney General or the prosecutorial authority decides not to investigate or act upon the matter referred, the Inspector General is authorized to continue an investigation after the receipt of such a notice.

Upon completion of an investigation or, in a case where the investigation leads to prosecution, upon completion of the prosecution, the Attorney General or the prosecutorial authority shall report promptly the findings and results to the Inspector General. In the course of informing the Inspector General, the Attorney General or prosecutorial authority shall give full consideration to the authority, duties, functions, and responsibilities of the Inspector General, the public interest in disclosure, and the need for protecting the confidentiality of complainants and informants.

b. With respect to referrals other than those described in subsection a. of this section, the appropriate authority to which a matter has been referred by the Inspector General shall report to the Inspector General promptly when a final determination is made to not investigate or act upon the matter referred, or promptly upon completion of the investigation or action taken. The appropriate authority shall inform the Inspector General as to whether an investigation is ongoing with regard to any matter so referred.

In the course of informing the Inspector General, the appropriate authority shall give full consideration to the authority, duties, functions, and responsibilities of the Inspector General, the public interest in disclosure, and the need for protecting the confidentiality of complainants and informants.

If the governmental entity decides not to investigate or act upon the matter referred, the Inspector General is authorized to continue an investigation after the receipt of such a notice.

c. The Inspector General shall maintain a record of all matters referred and the responses received and shall be authorized to disclose information received as appropriate and as may be necessary to resolve the matter referred, to the extent consistent with the public interest in disclosure and the need for protecting the confidentiality of complainants and informants and preserving the confidentiality of ongoing criminal investigations.

**C.52:15B-13 Compliance with request for access to government record, procedure.**

13. Whenever a person requests access to a government record that the Inspector General, during the course of an investigation, obtained from another public agency, which record was open for public inspection, examination or copying before the investigation commenced, the public agency from which the Inspector General obtained the record shall comply with the request if made pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), provided that the request does not in any way identify the record sought by means of a reference to the Inspector General's investigation or to an investigation by any other public agency, including, but not limited to, a reference to a subpoena issued pursuant to such investigation.

**C.52:15B-14 Meetings with public officers, employees.**

14. The Inspector General shall meet at periodic intervals, but at least twice annually, with the Attorney General, the State Treasurer, the State Auditor, and any other public officers or employees deemed necessary who perform audits, investigations, and performance reviews similar or identical to those authorized to be performed by the Inspector General for the purpose of consulting, coordinating, and cooperating with those officers and employees in the conduct of audits, investigations and reviews. The Attorney General, the State Treasurer, the State Auditor, and such other public officers or employees shall attend such meetings for the purpose of consultation, coordination, and cooperation with the Inspector General.

The focus of all parties during such meetings shall be to: facilitate communication and exchange information on completed, current, and future audits, investigations, and reviews; avoid duplication and fragmentation of efforts; optimize the use of resources; avoid divisiveness and organizational uncertainty; promote effective working relationships; and avoid the unnecessary expenditure of public funds.

**C.52:15B-15 Report of findings.**

15. The Inspector General shall report the findings of audits, investigations, and reviews performed by the office, and issue recommendations for corrective or remedial action, to the Governor, the President of the Senate and the Speaker of the General Assembly and to the entity at issue. The Inspector General shall monitor the implementation of those recommendations.

**C.52:15B-16 Periodic annual reports.**

16. The Inspector General shall provide periodic reports to the Governor, and shall issue an annual report to the Governor and the Legislature, which shall be available to the public.

17. Such sums as may be required for the costs of the Office of the Inspector General shall be transferred from existing appropriations, subject to the approval of the Director of the Division of Budget and Accounting and such further approval as shall be required pursuant to the transfer provisions of the annual appropriations act, to the Office of the Inspector General to establish the Office of the Inspector General and implement the provisions of this act.

18. This act shall take effect immediately.

Approved July 1, 2005.

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CHAPTER 120

AN ACT to amend and supplement “An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 2005 and regulating the disbursement thereof,” approved June 30, 2004 (P.L.2004, c.71).

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.2004, c.71, there are appropriated out of the General Fund, unless otherwise specifically indicated, the following sums for the purposes specified:

**26 DEPARTMENT OF CORRECTIONS**  
*10 Public Safety and Criminal Justice*  
*16 Detention and Rehabilitation*  
*7025 System-Wide Program Support*

**DIRECT STATE SERVICES**

07-7025 Institutional Control and Supervision . . . . .	<u>\$692,000</u>
Total Direct State Services Appropriation, System-Wide	
Program Support . . . . .	<u>\$692,000</u>
<b><i>Direct State Services:</i></b>	
Personal Services:	
Salaries and Wages . . . . .	(\$692,000)

**7040 New Jersey State Prison****DIRECT STATE SERVICES**

07-7040 Institutional Control and Supervision. . . . . \$801,000  
 Total Direct State Services Appropriation,  
 New Jersey State Prison . . . . . \$801,000

***Direct State Services:***

## Personal Services:

Salaries and Wages . . . . . (\$801,000)

**7045 Vroom Central Reception and Assignment Facility****DIRECT STATE SERVICES**

07-7045 Institutional Control and Supervision . . . . . \$711,000  
 Total Direct State Services Appropriation, Vroom  
 Central Reception and Assignment Facility . . . . . \$711,000

***Direct State Services:***

## Personal Services:

Salaries and Wages . . . . . (\$711,000)

**7050 East Jersey State Prison****DIRECT STATE SERVICES**

07-7050 Institutional Control and Supervision. . . . . \$1,423,000  
 Total Direct State Services Appropriation, East  
 Jersey State Prison . . . . . \$1,423,000

***Direct State Services:***

## Personal Services:

Salaries and Wages . . . . . (\$1,423,000)

**7055 South Woods State Prison****DIRECT STATE SERVICES**

07-7055 Institutional Control and Supervision . . . . . \$1,863,000  
 Total Direct State Services Appropriation, South  
 Woods State Prison . . . . . \$1,863,000

***Direct State Services:***

## Personal Services:

Salaries and Wages . . . . . (\$1,863,000)



**7060 Bayside State Prison****DIRECT STATE SERVICES**

07-7060 Institutional Control and Supervision ..... \$1,269,000  
 Total Direct State Services Appropriation,  
 Bayside State Prison ..... \$1,269,000

***Direct State Services:***

Personal Services:  
 Salaries and Wages ..... (\$1,269,000)

**7065 Southern State Correctional Facility****DIRECT STATE SERVICES**

07-7065 Institutional Control and Supervision ..... \$1,240,000  
 Total Direct State Services Appropriation, Southern  
 State Correctional Facility ..... \$1,240,000

***Direct State Services:***

Personal Services:  
 Salaries and Wages ..... \$1,240,000)

**7070 Mid-State Correctional Facility****DIRECT STATE SERVICES**

07-7070 Institutional Control and Supervision ..... \$454,000  
 Total Direct State Services Appropriation, Mid-State  
 Correctional Facility ..... \$454,000

***Direct State Services:***

Personal Services:  
 Salaries and Wages. .... (\$454,000)

**7075 Riverfront State Prison****DIRECT STATE SERVICES**

07-7075 Institutional Control and Supervision ..... \$723,000  
 Total Direct State Services Appropriation, Riverfront  
 State Prison ..... \$723,000

***Direct State Services:***

Personal Services:  
 Salaries and Wages ..... (\$723,000)

**7080 Edna Mahan Correctional Facility for Women****DIRECT STATE SERVICES**

07-7080 Institutional Control and Supervision. . . . . \$763,000  
 Total Direct State Services Appropriation, Edna  
 Mahan Correctional Facility for Women . . . . . \$763,000

***Direct State Services:***

Personal Services:  
 Salaries and Wages . . . . . (\$763,000)

**7085 Northern State Prison****DIRECT STATE SERVICES**

07-7085 Institutional Control and Supervision . . . . . \$1,579,000  
 Total Direct State Services Appropriation,  
 Northern State Prison . . . . . \$1,579,000

***Direct State Services:***

Personal Services:  
 Salaries and Wages . . . . . (\$1,579,000)

**7090 Adult Diagnostic and Treatment Center, Avenel****DIRECT STATE SERVICES**

07-7090 Institutional Control and Supervision. . . . . \$785,000  
 Total Direct State Services Appropriation, Adult  
 Diagnostic and Treatment Center, Avenel . . . . . \$785,000

***Direct State Services:***

Personal Services:  
 Salaries and Wages . . . . . (\$785,000)

**7110 Garden State Youth Correctional Facility****DIRECT STATE SERVICES**

07-7110 Institutional Control and Supervision . . . . . \$883,000  
 Total Direct State Services Appropriation, Garden  
 State Youth Correctional Facility . . . . . \$883,000

***Direct State Services:***

Personal Services:  
 Salaries and Wages . . . . . (\$883,000)

**7120 Albert C. Wagner Youth Correctional Facility****DIRECT STATE SERVICES**

07-7120 Institutional Control and Supervision. . . . . \$1,028,000  
 Total Direct State Services Appropriation, Albert C.  
 Wagner Youth Correctional Facility . . . . . \$1,028,000

***Direct State Services:***

## Personal Services:

Salaries and Wages. . . . . (\$1,028,000)

**7130 Mountainview Youth Correctional Facility****DIRECT STATE SERVICES**

07-7130 Institutional Control and Supervision . . . . . \$858,000  
 Total Direct State Services Appropriation, Mountainview  
 Youth Correctional Facility . . . . . \$858,000

***Direct State Services:***

## Personal Services:

Salaries and Wages . . . . . (\$858,000)

**34 DEPARTMENT OF EDUCATION*****30 Educational, Cultural and Intellectual Development******34 Educational Support Services*****DIRECT STATE SERVICES**

33-5067 Service to Local Districts. . . . . \$709,000  
 Total Direct State Appropriation,  
 Educational Support Services . . . . . \$709,000

***Direct State Services:***

## Personal Services:

Salaries and Wages . . . . . (\$709,000)

**42 DEPARTMENT OF ENVIRONMENTAL PROTECTION*****40 Community Development and Environmental Management******42 Natural Resource Management*****DIRECT STATE SERVICES**

12-4875 Parks Management . . . . . \$363,000  
 14-4885 Shellfish and Marine Fisheries Management . . . . . 35,000  
 Total Direct State Services Appropriation, Natural  
 Resource Management . . . . . \$398,000

**Direct State Services:**

## Personal Services

Salaries and Wages . . . . . (\$398,000)

**46 DEPARTMENT OF HEALTH AND SENIOR SERVICES****20 Physical and Mental Health****22 Health Planning and Evaluation****GRANTS-IN-AID**07-4270 Health Care Systems Analysis. . . . . \$28,300,000

Total Grants-in-Aid Appropriation,

Health Planning and Evaluation . . . . . \$28,300,000**Grants-In-Aid:**

07 Health Care Subsidy Fund Payments . . . . . (\$28,300,000)

Revenues collected from the tax on cosmetic medical procedures enacted by P.L.2004, c.53 (C.54:32E-1), shall be deposited into the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58), and used solely for making charity care payments to hospitals, subject to the approval of the Director of the Division of Budget and Accounting.

**26 Senior Services****GRANTS-IN-AID**22-4275 Medical Services for the Aged . . . . . \$42,000,000Total Grants-in-Aid Appropriation, Senior Services. . . \$42,000,000**Grants-in-Aid:**

22 Payments for Medical Assistance

Recipients - Nursing Homes . . . . . (\$22,000,000)

22 Medical Day Care Services . . . . . (19,000,000)

22 Community Care Alternatives . . . . . (1,000,000)

**54 DEPARTMENT OF HUMAN SERVICES****20 Physical and Mental Health****23 Mental Health Services****7700 Division of Mental Health Services****GRANTS-IN-AID**08-7700 Community Services . . . . . \$1,537,000

Total Grants-in-Aid Appropriation, Division of

Mental Health Services . . . . . \$1,537,000

***Grants-In-Aid:***

08 Arthur Brisbane Child Treatment Center  
 Bridge Fund . . . . . (\$1,537,000)

***7710 Greystone Park Psychiatric Hospital***

**DIRECT STATE SERVICES**

99-7710 Administration and Support Services . . . . . \$829,000  
 Total Direct State Services Appropriation, Greystone  
 Park Psychiatric Hospital . . . . . \$829,000

***Direct State Services:***

Materials and Supplies . . . . . (\$829,000)

***7720 Trenton Psychiatric Hospital***

**DIRECT STATE SERVICES**

99-7720 Administration and Support Services. . . . . \$763,000  
 Total Direct State Services Appropriation, Trenton  
 Psychiatric Hospital . . . . . \$763,000

***Direct State Services:***

Materials and Supplies . . . . . (\$763,000)

***7740 Ancora Psychiatric Hospital***

**DIRECT STATE SERVICES**

99-7740 Administration and Support Services . . . . . \$684,000  
 Total Direct State Services Appropriation, Ancora  
 Psychiatric Hospital . . . . . \$684,000

***Direct State Services:***

Materials and Supplies . . . . . (\$684,000)

***7760 Senator Garrett W. Hagedorn Gero-Psychiatric Hospital***

**DIRECT STATE SERVICES**

99-7760 Administration and Support Services . . . . . \$262,000  
 Total Direct State Services Appropriation, Senator Garrett  
 W. Hagedorn Gero-Psychiatric Hospital . . . . . \$262,000

***Direct State Services:***

Materials and Supplies . . . . . (\$262,000)

***24 Special Health Services***

***7540 Division of Medical Assistance and Health Services***

**GRANTS-IN-AID**

22-7540 General Medical Services .....	<u>\$14,880,000</u>
Total Grants-in-Aid Appropriation, Division of Medical Assistance and Health Services .....	<u>\$14,880,000</u>

***Grants-in-Aid:***

22 Payments for Medical Assistance Recipients - Inpatient Hospital .....	(\$14,880,000)
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***30 Educational, Cultural, and Intellectual Development  
32 Operation and Support of Educational Institutions  
7601 Community Programs***

**DIRECT STATE SERVICES**

01-7601 Purchased Residential Care. ....	<u>\$3,000,000</u>
Total Direct State Services Appropriation, Community Programs .....	<u>\$3,000,000</u>

***Direct State Services:***

01 Developmental Center Enhancement ....	(\$3,000,000)
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**GRANTS-IN-AID**

01-7601 Purchased Residential Care .....	<u>\$22,373,000</u>
Total Grants-in-Aid Appropriation, Community Programs .....	<u>\$22,373,000</u>

***Grants-in-Aid:***

01 Group Homes .....	(\$17,373,000)
01 Developmental Center Enhancement ....	(5,000,000)

***7610 Green Brook Regional Center*****DIRECT STATE SERVICES**

99-7610 Administration and Support Services .....	<u>\$128,000</u>
Total Direct State Services Appropriation, Green Brook Regional Center .....	<u>\$128,000</u>

***Direct State Services:***

Materials and Supplies .....	(\$128,000)
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***7620 Vineland Developmental Center*****DIRECT STATE SERVICES**

99-7620 Administration and Support Services. ....	<u>\$1,267,000</u>
Total Direct State Services Appropriation, Vineland Developmental Center .....	<u>\$1,267,000</u>

**Direct State Services:**

Materials and Supplies . . . . . (\$1,267,000)

**7630 North Jersey Developmental Center****DIRECT STATE SERVICES**99-7630 Administration and Support Services . . . . . \$1,365,000

Total Direct State Services Appropriation, North Jersey

Developmental Center . . . . . \$1,365,000**Direct State Services:**

Materials and Supplies . . . . . (\$1,365,000)

**7640 Woodbine Developmental Center****DIRECT STATE SERVICES**99-7640 Administration and Support Services . . . . . \$1,105,000

Total Direct State Services Appropriation, Woodbine

Developmental Center . . . . . \$1,105,000**Direct State Services:**

Materials and Supplies . . . . . (\$1,105,000)

**7650 New Lisbon Developmental Center****DIRECT STATE SERVICES**99-7650 Administration and Support Services . . . . . \$1,062,000

Total Direct State Services Appropriation, New Lisbon

Developmental Center . . . . . \$1,062,000**Direct State Services:**

Materials and Supplies . . . . . (\$1,062,000)

**7660 Woodbridge Developmental Center****DIRECT STATE SERVICES**99-7660 Administration and Support Services. . . . . \$540,000

Total Direct State Services Appropriation, Woodbridge

Developmental Center . . . . . \$540,000**Direct State Services:**

Materials and Supplies . . . . . (\$540,000)

**7670 Hunterdon Developmental Center**

**DIRECT STATE SERVICES**

99-7670 Administration and Support Services .....	<u>\$5,691,000</u>
Total Direct State Services Appropriation, Hunterdon Developmental Center .....	<u>\$5,691,000</u>
<b><i>Direct State Services:</i></b>	
Materials and Supplies .....	(\$5,691,000)

***50 Economic Planning, Development and Security***  
***53 Economic Assistance and Security***  
***7550 Division of Family Development***

**STATE AID**

15-7550 Income Maintenance Management .....	<u>\$14,370,000</u>
Total State Aid Appropriation, Division of Family Development .....	<u>\$14,370,000</u>
<b><i>State Aid:</i></b>	
15 General Assistance Emergency Assistance Program .....	(\$4,396,000)
15 Payments for Cost of General Assistance ...	(8,522,000)
15 Payments for Supplemental Security Income .....	(1,452,000)

***55 Social Services Programs***  
***7570 Division of Youth and Family Services***

**GRANTS-IN-AID**

16-7570 Services to Children and Families .....	<u>\$14,600,000</u>
Total Grants-In-Aid Appropriation, Division of Youth and Family Services. ....	<u>\$14,600,000</u>
<b><i>Grants-in-Aid:</i></b>	
16 Family Support Services .....	(\$3,315,000)
16 Subsidized Adoption .....	(11,285,000)

***70 Government Direction, Management and Control***  
***76 Management and Administration***  
***7500 Division of Management and Budget***

**DIRECT STATE SERVICES**

99-7500 Administration and Support Services. ....	<u>\$1,200,000</u>
Total Direct State Services Appropriation, Division of Management and Budget .....	<u>\$1,200,000</u>



**Direct State Services:**

99 Transfer to State Police for Fingerprinting/  
Background Checks of Job Applicants . (\$1,200,000)

**GRANTS-IN-AID**

99-7500 Administration and Support Services . . . . . \$9,613,000  
Total Grants-in-Aid Appropriation, Division of  
Management and Budget . . . . . \$9,613,000

**Grants-in-Aid:**

99 Cost of Living Adjustment . . . . . (\$9,613,000)

**66 DEPARTMENT OF LAW AND PUBLIC SAFETY**

***10 Public Safety and Criminal Justice***

***12 Law Enforcement***

**DIRECT STATE SERVICES**

06-1200 State Police Operations . . . . . \$11,700,000  
99-1200 Administration and Support Services . . . . . 394,000  
Total Direct State Services Appropriation, Law  
Enforcement . . . . . \$12,094,000

**Direct State Services:**

Personal Services  
Salaries and Wages . . . . . (\$12,094,000)

***18 Juvenile Services***

***1500 Division of Juvenile Services***

**DIRECT STATE SERVICES**

34-1500 Juvenile Community Programs. . . . . \$290,000  
40-1500 Aftercare Programs . . . . . 1,635,000  
99-1500 Administration and Support Services. . . . . 922,000  
Total Direct State Services Appropriation, Division of  
Juvenile Services . . . . . \$2,847,000

**Direct State Services:**

Personal Services  
Salaries and Wages . . . . . (\$2,847,000)

***1505 New Jersey Training School for Boys***

**DIRECT STATE SERVICES**

35-1505 Institutional Control and Supervision . . . . . \$924,000  
36-1505 Institutional Care and Treatment . . . . . 278,000

Total Direct State Services Appropriation, New Jersey  
 Training School for Boys ..... \$1,202,000

**Direct State Services:**

Personal Services:  
 Salaries and Wages ..... (\$1,202,000)

**1510 Juvenile Medium Security Center****DIRECT STATE SERVICES**

35-1510 Institutional Control and Supervision ..... \$851,000  
 36-1510 Institutional Care and Treatment. .... 466,000  
 99-1510 Administration and Support Services. .... 850,000  
 Total Direct State Services Appropriation, Juvenile  
 Medium Security Center ..... \$2,167,000

**Direct State Services:**

Personal Services:  
 Salaries and Wages ..... (\$2,167,000)

**67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS****80 Special Government Services****83 Services to Veterans****DIRECT STATE SERVICES**

70-3610 Burial Services ..... \$90,000  
 Total Direct State Services Appropriation, Services  
 To Veterans ..... \$90,000

**Direct State Services:**

Maintenance and Fixed Charges. .... (\$90,000)

**78 DEPARTMENT OF TRANSPORTATION****60 Transportation Programs****61 State and Local Highway Facilities****DIRECT STATE SERVICES**

06-6100 Maintenance and Operations. .... \$12,300,000  
 Total Direct State Services Appropriation, State  
 and Local Highway Facilities. .... \$12,300,000

**Direct State Services:**

Personal Services:  
 Salaries and Wages ..... (\$12,300,000)

**82 DEPARTMENT OF THE TREASURY**  
*50 Economic Planning, Development and Security*  
*52 Economic Regulation*  
*2014 Energy Resource Management*

**DIRECT STATE SERVICES**

Notwithstanding the provisions of any other law to the contrary, the investment earnings derived from the funds deposited in the Clean Energy Fund shall accrue to the fund and are available to pay the costs of the various programs of the New Jersey Board of Public Utilities Clean Energy Program.

**94 INTER-DEPARTMENTAL ACCOUNTS**  
*70 Government Direction, Management and Control*  
*74 General Government Services*

**DIRECT STATE SERVICES**

06-9400 Utilities and Other Services . . . . .	<u>\$2,596,000</u>
Total Direct State Services Appropriation, General	
Government Services. . . . .	<u>\$2,596,000</u>
<i>Direct State Services:</i>	
Fuel and Utilities . . . . .	(\$937,000)
Household and Security . . . . .	(1,659,000)
 Total General Fund Appropriation. . . . .	 <u>\$215,044,000</u>
 Total Appropriation, All State Funds. . . . .	 <u>\$215,044,000</u>

2. The following amounts appropriated out of the General Fund, unless otherwise specifically indicated, under P.L.2004, c.71, for the purposes specified are amended:

**34 DEPARTMENT OF EDUCATION**  
*30 Educational, Cultural and Intellectual Development*  
*34 Educational Support Services*

**STATE AID**

38-5120 Facilities Planning and	
School Building Aid . . . . .	<u>\$295,968,000</u>
Total State Aid Appropriation,	
Educational Support Services . . . . .	<u>\$1,607,489,000</u>

**State Aid:**

38 School Construction and  
Renovation Fund . . . . . (\$174,696,000)

**74 DEPARTMENT OF STATE****30 Educational, Cultural and Intellectual Development****36 Higher Educational Services****2405 Higher Education Student Assistance Authority****GRANTS-IN-AID**

45-2405 Student Assistance Programs . . . . . \$231,989,000  
Total Grants-in-Aid Appropriation, Higher Education  
Student Assistance Authority Support . . . . . \$231,989,000

**State Aid:**

45 New Jersey STARS (Student  
Tuition Assistance Reward Scholarship) . . . (\$2,000,000)

**82 DEPARTMENT OF THE TREASURY****30 Educational, Cultural and Intellectual Development****36 Higher Educational Services****GRANTS-IN-AID**

49-2155 Miscellaneous Higher Education Programs . . . . \$85,562,000  
Total Grants-in-Aid Appropriation,  
Higher Educational Services . . . . . \$110,921,000

**State Aid:**

49 Higher Education Capital Improvement  
Program - Debt Service . . . . . (\$25,131,000)  
49 Dormitory Safety Trust Fund -  
Debt Service . . . . . (3,278,000)

**94 INTER-DEPARTMENTAL ACCOUNTS****70 Government Direction, Management and Control****74 General Government Services****CAPITAL CONSTRUCTION**

08-9450 Capital Projects -- Statewide . . . . . \$168,653,000  
Total Capital Construction Appropriation,  
General Government Services . . . . . \$168,653,000

**Capital Projects:**

General State Projects:

08 State House Renovations . . . . . (\$4,420,000)

08 Hughes Justice Complex . . . . .	(7,702,000)
08 Other State Projects . . . . .	(19,766,000)
Counter-Terrorism Projects:	
08 State Police Multipurpose Building/ Troop "C" Headquarters . . . . .	(5,059,000)
08 State Police Emergency Operations Center . . . . .	(717,000)

**DEBT SERVICE****42 DEPARTMENT OF ENVIRONMENTAL PROTECTION*****40 Community Development and Environmental Management******46 Environmental Planning and Administration***

99-4800 Bond Redemption . . . . .	<u>\$18,056,000</u>
Total Debt Service Appropriation, Department of Environmental Protection . . . . .	<u>\$37,660,000</u>
Special Purpose:	
Redemption:	
1989 New Jersey Open Space Preservation Bonds (P.L.1989, c.183) . . . . .	(\$2,666,000)
Green Acres, Clean Water, Farmland and Historic Preservation Bonds (P.L.1992, c.88) . . . . .	(1,926,000)
Port of New Jersey Revitalization, Dredging Bonds (P.L.1996, c.70) . . . . .	(320,000)

**82 DEPARTMENT OF THE TREASURY*****70 Government Direction, Management and Control******76 Management and Administration***

99-2000 Interest on Bonds . . . . .	\$141,187,000
99-2000 Bond Redemption . . . . .	<u>91,332,000</u>
Total Debt Service Appropriation, Department of the Treasury . . . . .	<u>\$232,519,000</u>
Special Purpose:	
Interest:	
Refunding Bonds (P.L.1985, c.74, as amended by P.L.1992, c.182) . . . . .	(\$109,548,000)
Payments on Future Bond Sales . . . . .	(15,362,000)
Redemption:	

Refunding Bonds	
(P.L.1985, c.74, as amended	
by P.L.1992, c.182) . . . . .	(69,880,000)
1989 Bridge Rehabilitation	
and Improvement and Railroad	
Right-of-way Preservation	
Bonds (P.L.1989, c.180) . . . . .	(445,000)
Developmental Disabilities' Waiting	
List Reduction and Human Services	
Facilities Construction Bonds	
(P.L.1994, c.108) . . . . .	(1,892,000)
Statewide Transportation and	
Local Bridge Bond Act of 1999	
(P.L.1999, c.181) . . . . .	(4,246,000)
Total Amended General Fund Appropriation . . . . .	<u>\$2,389,231,000</u>
Total Amended Appropriation, All State Funds. . . . .	<u>\$2,389,231,000</u>

3. This act shall take effect immediately.

Approved July 2, 2005.

CHAPTER 121

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, 2005 and regulating the disbursement thereof," approved June 30, 2004 (P.L.2004, c.71).

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.2004, c.71, there is appropriated out of the Property Tax Relief Fund the following sum for the purpose specified:

**82 DEPARTMENT OF THE TREASURY**  
**70 Government Direction, Management and Control**  
**75 State Subsidies and Financial Aid**

**GRANTS-IN-AID**

33-2078 Homestead Rebates . . . . . \$400,000,000

Total Grants-In-Aid Appropriation,  
 State Subsidies and Financial Aid . . . . . \$400,000,000  
**Grants-In-Aid:**  
 33 Homestead Property Tax Rebates for  
 Homeowners and Tenants (PTRF) . . . . . (\$400,000,000)

2. This act shall take effect immediately.

Approved July 2, 2005.

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CHAPTER 122

AN ACT concerning State school aid for certain school districts which are bordered by Abbott districts and supplementing P.L.1996, c.138 (C.18A:7F-1 et seq.).

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

**C.18A:7F-10.1 Additional State school aid for certain districts bordered by Abbott districts.**

1. a. In addition to any State school aid to which a school district is entitled for the school year under P.L.1996, c.138 (C.18A:7F-1 et seq.) or any other law, a school district, other than a regional or consolidated school district, which is bordered by three or more Abbott districts shall receive additional State school aid if the district meets one or more of the following criteria:

(1) the district's per pupil cost in the prebudget year as reported in the Department of Education's Comparative Spending Guide was less than the average per pupil cost for the Abbott districts in the prebudget year as calculated based on data from the Comparative Spending Guide;

(2) the district had an average school student mobility rate of 10% or greater as reported in the most recent New Jersey School Report Card;

(3) 35% or more of the district's students were eligible for free or reduced price meals under the federal school lunch program;

(4) 15% or more of the numbers shown in the most recent New Jersey School Report Card data for class size by grade level, other than prekindergarten, and school for a district indicated an average class size of 30 or more students; and

(5) the per capita personal income of the residents of the school district was \$19,000 or less for the 2004-2005 school year based upon aggregate total income reported on the NJ-1040 for 2001 and all public assistance

including Temporary Assistance to Needy Families for 2001. For each subsequent school year, the per capita personal income limit shall be increased by the CPI as defined in section 3 of P.L.1996, c.138 (C.18A:7F-3).

b. The additional State school aid to which a district is entitled pursuant to subsection a. of this section shall be calculated as follows:

Aid = (ADAPP - EDPP) x (1 + CPI) x RE x CF provided that Aid shall not be less than zero; and

where

ADAPP means the Abbott district average per pupil cost in the prebudget year as calculated based on data from the Department of Education's Comparative Spending Guide;

EDPP means the eligible district's per pupil cost in the prebudget year as reported in the Department of Education's Comparative Spending Guide;

CPI means the CPI as defined in section 3 of P.L.1996, c.138 (C.18A:7F-3);

RE means the eligible district's projected resident enrollment for the budget year; and

CF means the cost factor for the budget year which shall equal for the first budget year 23% for an eligible district that meets five of the criteria established pursuant to subsection a. of this section, 15% for an eligible district that meets four of those criteria, 11% for an eligible district that meets three of those criteria, 6.5% for an eligible district that meets two of those criteria, and 4% for an eligible district that meets one of those criteria.

In the calculation of additional State aid for subsequent budget years, CF shall be increased by adding 10% for each subsequent year.

c. The aid received by a school district pursuant to subsection b. of this section shall be adjusted pursuant to the procedures established in subsection a. of section 5 of P.L. 1996, c.138 (C.18A:7F-5) to reflect actual pupil counts as reported on the last school day prior to October 16 of the budget year and actual per pupil costs in the budget year as reported in the Department of Education's Comparative Spending Guide.

**C.18A:7F-10.2 Conditions for aid for 2005-2006 school year; future eligibility.**

2. Notwithstanding the provisions of section 1 of this act, for the 2005-2006 school year a school district which meets the requirements of subsection a. of that section shall not receive additional State aid pursuant to the provisions of subsection b. of that section unless the district received High Expectations for Learning Proficiency Aid in the 2004-2005 school year pursuant to the FY 2005 annual appropriations act. Such a district shall be eligible for additional State aid for subsequent school years if it meets the requirements of subsection a. of section 1 of this act.



3. This act shall take effect immediately and shall first apply to the 2005-2006 school year.

Approved July 2, 2005.

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CHAPTER 123

AN ACT concerning the funding of certain hospital care and unemployment compensation benefits by redirecting \$350 million in payroll taxes from the unemployment compensation fund to the Health Care Subsidy Fund and extending certain unemployment compensation benefits, and amending R.S.43:21-7, P.L.1992, c.160 and P.L.1970, c.324.

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

1. R.S.43:21-7 is amended to read as follows:

**Contributions.**

43:21-7. Contributions. Employers other than governmental entities, whose benefit financing provisions are set forth in section 4 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations liable for payment in lieu of contributions on the basis set forth in section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the unemployment compensation fund, contributions as set forth in subsections (a), (b) and (c) hereof, and the provisions of subsections (d) and (e) shall be applicable to all employers, consistent with the provisions of the "unemployment compensation law" and the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

(a) Payment.

(1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this chapter (R.S.43:21-1 et seq.), with respect to having individuals in his employ during that calendar year, at the rates and on the basis hereinafter set forth. Such contributions shall become due and be paid by each employer to the controller for the fund, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to \$0.005 or more, in which case it shall be increased to \$0.01.

(b) Rate of contributions. Each employer shall pay the following contributions:

(1) For the calendar year 1947, and each calendar year thereafter, 2 7/10% of wages paid by him during each such calendar year, except as otherwise prescribed by subsection (c) of this section.

(2) The "wages" of any individual, with respect to any one employer, as the term is used in this subsection (b) and in subsections (c), (d) and (e) of this section 7, shall include the first \$4,800.00 paid during calendar year 1975, for services performed either within or without this State; provided that no contribution shall be required by this State with respect to services performed in another state if such other state imposes contribution liability with respect thereto. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessors, then, for the purpose of determining whether the successor employer has paid wages with respect to employment equal to the first \$4,800.00 paid during calendar year 1975, any wages paid to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer.

(3) For calendar years beginning on and after January 1, 1976, the "wages" of any individual, as defined in the preceding paragraph (2) of this subsection (b), shall be established and promulgated by the Commissioner of Labor and Workforce Development on or before September 1 of the preceding year and shall be, 28 times the Statewide average weekly remuneration paid to workers by employers, as determined under R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if not already a multiple thereof, provided that if the amount of wages so determined for a calendar year is less than the amount similarly determined for the preceding year, the greater amount will be used; provided, further, that if the amount of such wages so determined does not equal or exceed the amount of wages as defined in subsection (b) of section 3306 of the Federal Unemployment Tax Act, Chapter 23 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)), the wages as determined in this paragraph in any calendar year shall be raised to equal the amount established under the Federal Unemployment Tax Act for that calendar year.

(c) Future rates based on benefit experience.

(1) A separate account for each employer shall be maintained and this shall be credited with all the contributions which he has paid on his own

behalf on or before January 31 of any calendar year with respect to employment occurring in the preceding calendar year; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday, an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this chapter (R.S.43:21-1 et seq.) shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid with respect to benefit years commencing on and after January 1, 1953, to any individual on or before December 31 of any calendar year with respect to unemployment in such calendar year and in preceding calendar years shall be charged against the account or accounts of the employer or employers in whose employment such individual established base weeks constituting the basis of such benefits, except that, with respect to benefit years commencing after January 4, 1998, an employer's account shall not be charged for benefits paid to a claimant if the claimant's employment by that employer was ended in any way which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant for benefits if the claimant had applied for benefits at the time when that employment ended. Benefits paid under a given benefit determination shall be charged against the account of the employer to whom such determination relates. When each benefit payment is made, either a copy of the benefit check or other form of notification shall be promptly sent to the employer against whose account the benefits are to be charged. Such copy or notification shall identify the employer against whose account the amount of such payment is being charged, shall show at least the name and social security account number of the claimant and shall specify the period of unemployment to which said check applies. If the total amount of benefits paid to a claimant and charged to the account of the appropriate employer exceeds 50% of the total base year, base week wages paid to the claimant by that employer, then such employer shall have canceled from his account such excess benefit charges as specified above.

Each employer shall be furnished an annual summary statement of benefits charged to his account.

(2) Regulations may be prescribed for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(3) No employer's rate shall be lower than 5.4% unless assignment of such lower rate is consistent with the conditions applicable to additional

credit allowance for such year under section 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. s.3303(a)(1)), any other provision of this section to the contrary notwithstanding.

(4) Employer Reserve Ratio. (A) Each employer's rate shall be  $2\frac{8}{10}\%$ , except as otherwise provided in the following provisions. No employer's rate for the 12 months commencing July 1 of any calendar year shall be other than  $2\frac{8}{10}\%$ , unless as of the preceding January 31 such employer shall have paid contributions with respect to wages paid in each of the three calendar years immediately preceding such year, in which case such employer's rate for the 12 months commencing July 1 of any calendar year shall be determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions, paid on his own behalf, for all past years exceeds the total benefits charged to his account for all such years, his contribution rate shall be:

(1)  $2\frac{5}{10}\%$ , if such excess equals or exceeds 4%, but less than 5%, of his average annual payroll (as defined in paragraph (2), subsection (a) of R.S.43:21-19);

(2)  $2\frac{2}{10}\%$ , if such excess equals or exceeds 5%, but is less than 6%, of his average annual payroll;

(3)  $1\frac{9}{10}\%$ , if such excess equals or exceeds 6%, but is less than 7%, of his average annual payroll;

(4)  $1\frac{6}{10}\%$ , if such excess equals or exceeds 7%, but is less than 8%, of his average annual payroll;

(5)  $1\frac{3}{10}\%$ , if such excess equals or exceeds 8%, but is less than 9%, of his average annual payroll;

(6) 1%, if such excess equals or exceeds 9%, but is less than 10%, of his average annual payroll;

(7)  $\frac{7}{10}$  of 1%, if such excess equals or exceeds 10%, but is less than 11%, of his average annual payroll;

(8)  $\frac{4}{10}$  of 1%, if such excess equals or exceeds 11% of his average annual payroll.

(B) If the total of an employer's contributions, paid on his own behalf, for all past periods for the purposes of this paragraph (4), is less than the total benefits charged against his account during the same period, his rate shall be:

(1) 4%, if such excess is less than 10% of his average annual payroll;

(2)  $4\frac{3}{10}\%$ , if such excess equals or exceeds 10%, but is less than 20%, of his average annual payroll;

(3)  $4\frac{6}{10}\%$ , if such excess equals or exceeds 20% of his average annual payroll.

(C) Specially assigned rates. If no contributions were paid on wages for employment in any calendar year used in determining the average annual

payroll of an employer eligible for an assigned rate under this paragraph (4), the employer's rate shall be specially assigned as follows:

(i) if the reserve balance in its account is positive, its assigned rate shall be the highest rate in effect for positive balance accounts for that period, or 5.4%, whichever is higher, and (ii) if the reserve balance in its account is negative, its assigned rate shall be the highest rate in effect for deficit accounts for that period.

(D) The contribution rates prescribed by subparagraphs (A) and (B) of this paragraph (4) shall be increased or decreased in accordance with the provisions of paragraph (5) of this subsection (c) for experience rating periods through June 30, 1986.

(5) (A) Unemployment Trust Fund Reserve Ratio. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 4% but is less than 7% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 3/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection. If on March 31 of any calendar year the balance of the unemployment trust fund exceeds 2 1/2% but is less than 4% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection.

If on March 31 of any calendar year the balance of the unemployment trust fund is less than 2 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer (1) eligible for a contribution rate calculation based upon benefit experience, shall be increased by (i) 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3), (4)(A) or (4)(B) of this subsection, and (ii) an additional amount equal to 20% of the total rate established herein, provided, however, that the final contribution rate for each employer shall be computed to the nearest multiple of 1/10% if not already a multiple thereof; (2) not eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (4) of this subsection. For the period commencing July 1, 1984 and ending June 30, 1986, the contribution rate for each employer liable to pay contributions

under R.S.43:21-7 shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(B) If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 10% but is less than 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 6/10 of 1% if his account for all past periods reflects an excess of contributions paid over total benefits charged of 3% or more of his average annual payroll, otherwise by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%.

(C) The "balance" in the unemployment trust fund, as the term is used in subparagraphs (A) and (B) above, shall not include moneys credited to the State's account under section 903 of the Social Security Act, as amended (42 U.S.C.s.1103), during any period in which such moneys are appropriated for the payment of expenses incurred in the administration of the "unemployment compensation law."

(D) Prior to July 1 of each calendar year the controller shall determine the Unemployment Trust Reserve Ratio, which shall be calculated by dividing the balance of the unemployment trust fund as of the prior March 31 by total taxable wages reported to the controller by all employers as of March 31 with respect to their employment during the last calendar year.

(E) (i) (Deleted by amendment, P.L.1997, c.263).

(ii) (Deleted by amendment, P.L.2001, c.152).

(iii) (Deleted by amendment, P.L.2003, c.107).

(iv) (Deleted by amendment, P.L.2004, c.45).

(v) With respect to the experience rating year beginning on July 1, 2003, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in para-

graph 4 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

**EXPERIENCE RATING TAX TABLE**  
**Fund Reserve Ratio<sup>1</sup>**

Employer Reserve Ratio <sup>2</sup>	2.50%	2.00%	1.50%	1.00%	0.99%
	and Over A	to 2.49% B	to 1.99% C	to 1.49% D	and Under E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

<sup>1</sup> Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

<sup>2</sup> Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

(vi) With respect to experience rating years beginning on or after July 1, 2004, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column

headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph 4 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

**EXPERIENCE RATING TAX TABLE**  
**Fund Reserve Ratio<sup>1</sup>**

Employer Reserve Ratio <sup>2</sup>	1.40% and Over A	1.00% to 1.39% B	0.75% to 0.99% C	0.50% to 0.74% D	0.49% and Under E
<b>Positive Reserve Ratio:</b>					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
<b>Deficit Reserve Ratio:</b>					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

<sup>1</sup> Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

<sup>2</sup> Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

(F) (i) (Deleted by amendment, P.L.1997, c.263).



(ii) With respect to experience rating years beginning on or after July 1, 1997, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 1.00%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(iii) With respect to experience rating years beginning on or after July 1, 2004, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 0.50%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(G) On or after January 1, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.1%, except that, during any experience rating year starting before January 1, 1998 in which the fund reserve ratio is equal to or greater than 7.00% or during any experience rating year starting on or after January 1, 1998, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (G) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under.

(H) On or after January 1, 1993 until December 31, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 52.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%. On or after January 1, 1994 until December 31, 1995, except as provided pursuant to subparagraph (I) of this paragraph (5), notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 36.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the

employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after April 1, 1996 until December 31, 1996, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 25.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after January 1, 1997 until December 31, 1997, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 10.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On and after January 1, 1998 until December 31, 2000 and on or after January 1, 2002 until June 30, 2006, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor, as set out below, computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%:

From January 1, 1998 until December 31, 1998, a factor of 12%;

From January 1, 1999 until December 31, 1999, a factor of 10%;  
From January 1, 2000 until December 31, 2000, a factor of 7%;  
From January 1, 2002 until March 31, 2002, a factor of 36%;  
From April 1, 2002 until June 30, 2002, a factor of 85%;  
From July 1, 2002 until June 30, 2003, a factor of 15%;  
From July 1, 2003 until June 30, 2004, a factor of 15%;  
From July 1, 2004 until June 30, 2005, a factor of 7%; and  
From July 1, 2005 until June 30, 2006, a factor of 16%.

The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(I) If the fund reserve ratio decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, the provisions of subparagraph (H) of this paragraph (5) shall cease to be in effect as of July 1 of that calendar year.

If, upon calculating the unemployment compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, 1997, March 31, 1998 or March 31, 1999, the controller finds that the fund reserve ratio has decreased to a level of less than 3.00%, the Commissioner of Labor shall notify the State Treasurer of this fact and of the dollar amount necessary to bring the fund reserve ratio up to a level of 3.00%. The State Treasurer shall, prior to March 31, 1997, March 31, 1998 or March 31, 1999, as applicable, transfer from the General Fund to the unemployment compensation fund, revenues in the amount specified by the commissioner and which, upon deposit in the unemployment compensation fund, shall result, upon recalculation, in a fund reserve ratio used to determine employer contributions beginning July 1, 1997, July 1, 1998, July 1, 1999, as applicable, of at least 3.00%. If, upon calculating the unemployment compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, 2000, the controller finds that the fund reserve ratio has decreased to a level of less than 3.00%, the Commissioner of Labor and Workforce Development shall notify the State Treasurer of this fact and of the dollar amount necessary to bring the fund reserve ratio up to a level of 3.00%. The State Treasurer shall, prior to March 31, 2000, transfer from the General Fund to the unemployment compensation fund, revenues in the amount specified by the commissioner and which, upon deposit in the unemployment compensation fund, shall result, upon recalculation, in a fund reserve ratio used to determine employer contributions beginning July 1, 2000 of at least 3.00%.

(J) On or after July 1, 2001, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.0175%, except that, during any experience rating year starting on or after July 1, 2001, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (J) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under. The amount of the reduction in the employer contributions stipulated by this subparagraph (J) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraphs (G) and (H) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (J) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(6) Additional contributions.

Notwithstanding any other provision of law, any employer who has been assigned a contribution rate pursuant to subsection (c) of this section for the year commencing July 1, 1948, and for any year commencing July 1 thereafter, may voluntarily make payment of additional contributions, and upon such payment shall receive a recomputation of the experience rate applicable to such employer, including in the calculation the additional contribution so made. Any such additional contribution shall be made during the 30-day period following the date of the mailing to the employer of the notice of his contribution rate as prescribed in this section, unless, for good cause, the time for payment has been extended by the controller for not to exceed an additional 60 days; provided that in no event may such payments which are made later than 120 days after the beginning of the year for which such rates are effective be considered in determining the experience rate for the year in which the payment is made. Any employer receiving any extended period of time within which to make such additional payment and failing to make such payment timely shall be, in addition to the required amount of additional payment, a penalty of 5% thereof or \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment under this subsection shall be made only in the form of credits against accrued or future contributions.

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the controller shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer, pursuant to regulation, if it is determined that the employment

experience of the predecessor employer with respect to the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Unless the predecessor employer was owned or controlled (by legally enforceable means or otherwise), directly or indirectly, by the successor in interest, or the predecessor employer and the successor in interest were owned or controlled (by legally enforceable means or otherwise), directly or indirectly, by the same interest or interests, the transfer of the employment experience of the predecessor shall not be effective if such successor in interest, within four months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, files a written notice protesting the transfer of the employment experience of the predecessor employer.

(B) An employer who transfers part of his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, may jointly make application with such successor in interest for transfer of that portion of the employment experience of the predecessor employer relating to the portion of the organization, trade, assets or business transferred to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer. The transfer of employment experience may be allowed pursuant to regulation only if it is found that the employment experience of the predecessor employer with respect to the portion of the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Credit shall be given to the successor in interest only for the years during which contributions were paid by the predecessor employer with respect to that part of the organization, trade, assets or business transferred.

(C) A transfer of the employment experience in whole or in part having become final, the predecessor employer thereafter shall not be entitled to consideration for an adjusted rate based upon his or its experience or the part thereof, as the case may be, which has thus been transferred. A successor in interest to whom employment experience or a part thereof is transferred pursuant to this subsection shall, as of the date of the transfer of the organization, trade, assets or business, or part thereof, immediately become an employer if not theretofore an employer subject to this chapter (R.S.43:21-1 et seq.).

(d) Contributions of workers to the unemployment compensation fund and the State disability benefits fund.

(1) (A) For periods after January 1, 1975, each worker shall contribute to the fund 1% of his wages with respect to his employment with an em-

ployer, which occurs on and after January 1, 1975, after such employer has satisfied the condition set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer; provided, however, that such contributions shall be at the rate of 1/2 of 1% of wages paid with respect to employment while the worker is in the employ of the State of New Jersey, or any governmental entity or instrumentality which is an employer as defined under R.S.43:21-19(h)(5), or is covered by an approved private plan under the "Temporary Disability Benefits Law" or while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31).

(B) Effective January 1, 1978 there shall be no contributions by workers in the employ of any governmental or nongovernmental employer electing or required to make payments in lieu of contributions unless the employer is covered by the State plan under the "Temporary Disability Benefits Law" (C.43:21-25 et seq.), and in that case contributions shall be at the rate of 1/2 of 1%, except that commencing July 1, 1986, workers in the employ of any nongovernmental employer electing or required to make payments in lieu of contributions shall be required to make contributions to the fund at the same rate prescribed for workers of other nongovernmental employers.

(C)(i) Notwithstanding the above provisions of this paragraph (1), during the period starting July 1, 1986 and ending December 31, 1992, each worker shall contribute to the fund 1.125% of wages paid with respect to his employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under R.S.43:21-19(h)(6), regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection R.S.43:21-19(h) with respect to becoming an employer. Contributions, however, shall be at the rate of 0.625% while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law" while the worker is exempt under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that such contributions shall be at the rate of 0.625% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, the contributions to the fund shall be 0.125%.

(ii) (Deleted by amendment, P.L.1995, c.422.)

(D) Notwithstanding any other provisions of this paragraph (1), during the period starting January 1, 1993 and ending June 30, 1994, each worker shall contribute to the unemployment compensation fund 0.5% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer. No contributions, however, shall be made by the worker while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.) or while the worker is exempt under section 7 of P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that the contributions shall be at the rate of 0.50% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, no contributions shall be made to the fund.

Each worker shall, starting on January 1, 1996 and ending March 31, 1996, contribute to the unemployment compensation fund 0.60% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 1998 and ending December 31, 1998, contribute to the unemployment compensation fund 0.10% of wages paid with respect to the worker's employment with a governmental employer

electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 1999 until December 31, 1999, contribute to the unemployment compensation fund 0.15% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 2000 until December 31, 2001, contribute to the unemployment compensation fund 0.20% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 2002 until June 30, 2004, contribute to the unemployment compensation fund 0.1825% of wages paid with respect to the worker's employment with a governmental employer



electing or required to pay contributions or a nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on and after July 1, 2004, contribute to the unemployment compensation fund 0.3825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

(E) Each employer shall, notwithstanding any provision of law in this State to the contrary, withhold in trust the amount of his workers' contributions from their wages at the time such wages are paid, shall show such deduction on his payroll records, shall furnish such evidence thereof to his workers as the division or controller may prescribe, and shall transmit all such contributions, in addition to his own contributions, to the office of the controller in such manner and at such times as may be prescribed. If any employer fails to deduct the contributions of any of his workers at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, he alone shall thereafter be liable for such contributions, and for the purpose of R.S.43:21-14, such contributions shall be treated as employer's contributions required from him.

(F) As used in this chapter (R.S.43:21-1 et seq.), except when the context clearly requires otherwise, the term "contributions" shall include the contributions of workers pursuant to this section.

(G) Each worker shall, starting on July 1, 1994, contribute to the State disability benefits fund an amount equal to 0.50% of wages paid with respect to the worker's employment with a government employer electing or required

to pay contributions to the State disability benefits fund or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, unless the employer is covered by an approved private disability plan or is exempt from the provisions of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.) under section 7 of that law (C.43:21-31) or any other provision of that law.

(2) (A) (Deleted by amendment, P.L.1984, c.24.)

(B) (Deleted by amendment, P.L.1984, c.24.)

(C) (Deleted by amendment, P.L.1994, c.112.)

(D) (Deleted by amendment, P.L.1994, c.112.)

(E) (i) (Deleted by amendment, P.L.1994, c.112.)

(ii) (Deleted by amendment, P.L.1996, c.28.)

(iii) (Deleted by amendment, P.L.1994, c.112.)

(3) If an employee receives wages from more than one employer during any calendar year, and either the sum of his contributions deposited in and credited to the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of benefits under one or more approved private plans under the provisions of section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) and deducted from his wages, or the sum of such latter contributions, if the employee is covered during such calendar year only by two or more private plans, exceeds an amount equal to 1/2 of 1% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3) during the calendar years beginning on or after January 1, 1976, the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to such refund. Such refund shall be made by the controller from the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of such refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) such determination to be based upon the ratio of the amount of such wages exempt from contributions to such fund, as provided in subparagraph (B) of paragraph (1) of this subsection with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the disability benefits fund, as provided in subparagraph (G) of paragraph (1) of this subsection. The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total

private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the amount so prorated. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the State disability benefits fund.

(4) If an individual does not receive any wages from the employing unit which for the purposes of this chapter (R.S.43:21-1 et seq.) is treated as his employer, or receives his wages from some other employing unit, such employer shall nevertheless be liable for such individual's contributions in the first instance; and after payment thereof such employer may deduct the amount of such contributions from any sums payable by him to such employing unit, or may recover the amount of such contributions from such employing unit, or, in the absence of such an employing unit, from such individual, in a civil action; provided proceedings therefor are instituted within three months after the date on which such contributions are payable. General rules shall be prescribed whereby such an employing unit may recover the amount of such contributions from such individuals in the same manner as if it were the employer.

(5) Every employer who has elected to become an employer subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to the provisions of R.S.43:21-8, shall post and maintain printed notices of such election on his premises, of such design, in such numbers, and at such places as the director may determine to be necessary to give notice thereof to persons in his service

(6) Contributions by workers, payable to the controller as herein provided, shall be exempt from garnishment, attachment, execution, or any other remedy for the collection of debts.

(e) Contributions by employers to State disability benefits fund.

(1) Except as hereinafter provided, each employer shall, in addition to the contributions required by subsections (a), (b), and (c) of this section, contribute 1/2 of 1% of the wages paid by such employer to workers with respect to employment unless he is not a covered employer as defined in section 3 of the "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that the rate for the State of New Jersey shall be 1/10 of 1% for the calendar year 1980 and for the first six months of 1981. Prior to July 1, 1981 and prior to July 1 each year thereafter, the controller shall review the experience accumulated in the account of the State of New Jersey and establish a rate for the next following fiscal year which, in combination with worker contributions, will produce sufficient revenue to keep the account in balance; except that the rate so established shall not be less than 1/10 of 1%. Such contributions shall become due and be paid by the employer to the controller

for the State disability benefits fund as established by law, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to \$0.005 or more, in which case it shall be increased to \$0.01.

(2) During the continuance of coverage of a worker by an approved private plan of disability benefits under the "Temporary Disability Benefits Law," the employer shall be exempt from the contributions required by subparagraph (1) above with respect to wages paid to such worker.

(3) (A) The rates of contribution as specified in subparagraph (1) above shall be subject to modification as provided herein with respect to employer contributions due on and after July 1, 1951.

(B) A separate disability benefits account shall be maintained for each employer required to contribute to the State disability benefits fund and such account shall be credited with contributions deposited in and credited to such fund with respect to employment occurring on and after January 1, 1949. Each employer's account shall be credited with all contributions paid on or before January 31 of any calendar year on his own behalf and on behalf of individuals in his service with respect to employment occurring in preceding calendar years; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him to the fund either on his own behalf or on behalf of such individuals. Benefits paid to any covered individual in accordance with Article III of the "Temporary Disability Benefits Law" on or before December 31 of any calendar year with respect to disability in such calendar year and in preceding calendar years shall be charged against the account of the employer by whom such individual was employed at the commencement of such disability or by whom he was last employed, if out of employment.

(C) The controller may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(D) Prior to July 1 of each calendar year, the controller shall make a preliminary determination of the rate of contribution for the 12 months

commencing on such July 1 for each employer subject to the contribution requirements of this subsection (e).

(1) Such preliminary rate shall be  $\frac{1}{2}$  of 1% unless on the preceding January 31 of such year such employer shall have been a covered employer who has paid contributions to the State disability benefits fund with respect to employment in the three calendar years immediately preceding such year.

(2) If the minimum requirements in (1) above have been fulfilled and the credited contributions exceed the benefits charged by more than \$500.00, such preliminary rate shall be as follows:

(i)  $\frac{2}{10}$  of 1% if such excess over \$500.00 exceeds 1% but is less than  $1\frac{1}{4}\%$  of his average annual payroll (as defined in this chapter (R.S.43:21-1 et seq.);

(ii)  $\frac{15}{100}$  of 1% if such excess over \$500.00 equals or exceeds  $1\frac{1}{4}\%$  but is less than  $1\frac{1}{2}\%$  of his average annual payroll;

(iii)  $\frac{1}{10}$  of 1% if such excess over \$500.00 equals or exceeds  $1\frac{1}{2}\%$  of his average annual payroll.

(3) If the minimum requirements in (1) above have been fulfilled and the contributions credited exceed the benefits charged but by not more than \$500.00 plus 1% of his average annual payroll, or if the benefits charged exceed the contributions credited but by not more than \$500.00, the preliminary rate shall be  $\frac{1}{4}$  of 1%.

(4) If the minimum requirements in (1) above have been fulfilled and the benefits charged exceed the contributions credited by more than \$500.00, such preliminary rate shall be as follows:

(i)  $\frac{35}{100}$  of 1% if such excess over \$500.00 is less than  $\frac{1}{4}$  of 1% of his average annual payroll;

(ii)  $\frac{45}{100}$  of 1% if such excess over \$500.00 equals or exceeds  $\frac{1}{4}$  of 1% but is less than  $\frac{1}{2}$  of 1% of his average annual payroll;

(iii)  $\frac{55}{100}$  of 1% if such excess over \$500.00 equals or exceeds  $\frac{1}{2}$  of 1% but is less than  $\frac{3}{4}$  of 1% of his average annual payroll;

(iv)  $\frac{65}{100}$  of 1% if such excess over \$500.00 equals or exceeds  $\frac{3}{4}$  of 1% but is less than 1% of his average annual payroll;

(v)  $\frac{75}{100}$  of 1% if such excess over \$500.00 equals or exceeds 1% of his average annual payroll.

(5) Determination of the preliminary rate as specified in (2), (3) and (4) above shall be subject, however, to the condition that it shall in no event be decreased by more than  $\frac{1}{10}$  of 1% of wages or increased by more than  $\frac{2}{10}$  of 1% of wages from the preliminary rate determined for the preceding year in accordance with (1), (2), (3) or (4), whichever shall have been applicable.

(E)(1) Prior to July 1 of each calendar year the controller shall determine the amount of the State disability benefits fund as of December 31 of the preceding calendar year, increased by the contributions paid thereto during

January of the current calendar year with respect to employment occurring in the preceding calendar year. If such amount exceeds the net amount withdrawn from the unemployment trust fund pursuant to section 23 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47) plus the amount at the end of such preceding calendar year of the unemployment disability account (as defined in section 22 of said law (C.43:21-46), such excess shall be expressed as a percentage of the wages on which contributions were paid to the State disability benefits fund on or before January 31 with respect to employment in the preceding calendar year.

(2) The controller shall then make a final determination of the rates of contribution for the 12 months commencing July 1 of such year for employers whose preliminary rates are determined as provided in (D) hereof, as follows:

(i) If the percentage determined in accordance with paragraph (E)(1) of this subsection equals or exceeds  $1\frac{1}{4}\%$ , the final employer rates shall be the preliminary rates determined as provided in (D) hereof, except that if the employer's preliminary rate is determined as provided in (D)(2) or (D)(3) hereof, the final employer rate shall be the preliminary employer rate decreased by such percentage of excess taken to the nearest  $\frac{5}{100}$  of 1%, but in no case shall such final rate be less than  $\frac{1}{10}$  of 1%.

(ii) If the percentage determined in accordance with paragraph (E)(1) of this subsection equals or exceeds  $\frac{3}{4}$  of 1% and is less than  $1\frac{1}{4}$  of 1%, the final employer rates shall be the preliminary employer rates.

(iii) If the percentage determined in accordance with paragraph (E)(1) of this subsection is less than  $\frac{3}{4}$  of 1%, but in excess of  $\frac{1}{4}$  of 1%, the final employer rates shall be the preliminary employer rates determined as provided in (D) hereof increased by the difference between  $\frac{3}{4}$  of 1% and such percentage taken to the nearest  $\frac{5}{100}$  of 1%; provided, however, that no such final rate shall be more than  $\frac{1}{4}$  of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(2) hereof, more than  $\frac{1}{2}$  of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(1) and (D)(3) hereof, nor more than  $\frac{3}{4}$  of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(4) hereof.

(iv) If the amount of the State disability benefits fund determined as provided in paragraph (E)(1) of this subsection is equal to or less than  $\frac{1}{4}$  of 1%, then the final rate shall be  $\frac{2}{5}$  of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(2) hereof,  $\frac{7}{10}$  of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(1) and (D)(3) hereof, and 1.1% in the case of an employer whose preliminary rate is determined as provided in (D)(4) hereof. Notwithstanding any other provision of law or any determination made by the

controller with respect to any 12-month period commencing on July 1, 1970, the final rates for all employers for the period beginning January 1, 1971, shall be as set forth herein.

2. Section 29 of P.L.1992, c.160 (C.43:21-7b) is amended to read as follows:

**C.43:21-7b Contributions to Health Care Subsidy Fund.**

29. a. Beginning January 1, 1993 until December 31, 1995, except as provided pursuant to subsection b. of this section, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.6% of the employee's taxable wages.

Beginning April 1, 1996 through December 31, 1996, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.6% of the employee's taxable wages, except that the total amount contributed to the fund when combined with the employee's contribution made pursuant to R.S.43:31-7(d)(1)(D) for the period January 1, 1996 through March 31, 1996, shall not exceed 0.6% of the employee's taxable wages for the 1996 calendar year.

Beginning January 1, 1997 through December 31, 1997, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.5% of the employee's taxable wages.

Beginning on January 1, 1998 until December 31, 1998, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.30% of the employee's taxable wages.

Beginning on January 1, 1999 until December 31, 1999, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.25% of the employee's taxable wages.

Beginning on January 1, 2000 until June 30, 2004, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.20% of the employee's taxable wages.

Also beginning on January 1, 1993 until December 31, 1995 and beginning April 1, 1996 until December 31, 1997, each employer shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to the amount that the employer's contribution to the unemployment compensation fund is decreased pursuant to subparagraph (H) of paragraph (5) of subsection (c) of R.S.43:21-7.

Also beginning on January 1, 1998 until December 31, 2000, and beginning on January 1, 2002 and ending June 30, 2006, each employer shall, in

such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to the amount that the employer's contribution to the unemployment compensation fund is decreased pursuant to subparagraph (H) of paragraph (5) of subsection (c) of R.S.43:21-7.

b. If the unemployment compensation fund reserve ratio, as determined pursuant to paragraph (5) of subsection (c) of R.S.43:21-7, decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, the provisions of subsection a. of this section shall cease to be in effect as of July 1 of that calendar year and each employer who would be subject to making the contributions pursuant to subsection a. of this section if that subsection were in effect shall, beginning on July 1 of that calendar year, contribute to the fund an amount equal to 0.62% of the total wages paid by the employer and shall continue to contribute that amount until December 31, 1995.

c. If the total amount of contributions to the fund pursuant to this section during the calendar year 1993 exceeds \$600 million, all contributions which exceed \$600 million shall be deposited in the unemployment compensation fund. If the total amount of contributions to the fund pursuant to this section during calendar year 1994 or calendar year 1995 exceeds \$500 million, all contributions which exceed \$500 million shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1996 or 1997 exceeds \$330 million, all contributions which exceed \$330 million in calendar year 1996 or 1997 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1998 exceeds \$288 million, all contributions which exceed \$288 million in the calendar year 1998 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1999 exceeds \$233.9 million, all contributions which exceed \$233.9 million in the calendar year 1999 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 2000 exceeds \$178.6 million, all contributions which exceed \$178.6 million in the calendar year 2000 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 2001 exceeds \$94.9 million, all contributions which exceed \$94.9 million in the calendar year 2001 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the period beginning January 1, 2002 and ending June 30, 2002 exceeds \$516.5 million, all contributions which exceed \$516.5 million in the period beginning January 1, 2002 and ending June 30, 2002 shall be deposited in



the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the fiscal year 2003 or fiscal year 2004 exceeds \$325 million, all contributions which exceed \$325 million in the fiscal year 2003 or fiscal year 2004 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the fiscal year 2005 exceeds \$100 million, all contributions which exceed \$100 million in the fiscal year 2005 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the fiscal year 2006 exceeds \$350 million, all contributions which exceed \$350 million in the fiscal year 2006 shall be deposited in the unemployment compensation fund.

d. All necessary administrative costs related to the collection of contributions pursuant to this section shall be paid from the contributions.

3. Section 5 of P.L.1970, c.324 (C.43:21-24.11) is amended to read as follows:

**C.43:21-24.11 Definitions.**

5. For the purposes of the extended benefit program and as used in this act, unless the context clearly requires otherwise:

a. "Extended benefit period" means a period which

(1) Begins with the third week after a week for which there is a state "on" indicator; and

(2) Ends with either of the following weeks, whichever occurs later:

(a) The third week after the first week for which there is a state "off" indicator; or

(b) The thirteenth consecutive week of such period; provided, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week after the close of a prior extended benefit period which was in effect with respect to this State; and provided further, that no extended benefit period may become effective in this State prior to the effective date of this act.

b. (Deleted by amendment.)

c. (Deleted by amendment.)

d. There is a "state 'on' indicator" for this State for a week if:

(1) The division determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of the respective week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the "unemployment compensation law" (R.S.43:21-1 et seq.):

(a) Equaled or exceeded 120% of the average of these rates for the corresponding 13-week period during each of the preceding 2 calendar years,

and, for weeks beginning after September 25, 1982, equaled or exceeded 5%; or

(b) With respect to benefits for weeks of unemployment beginning after September 25, 1982, equaled or exceeded 6%; or

(2) With respect to any week of unemployment beginning after December 27, 2003, the average seasonally adjusted rate of total unemployment in the State, as determined by the United States Secretary of Labor for the most recent three-month period for which data for all states are published:

(a) Equals or exceeds 6.5%; and

(b) Equals or exceeds 110% of the average seasonally adjusted rate of total unemployment in the State during either or both of the corresponding three-month periods ending in the two preceding calendar years.

e. There is a "state 'off' indicator" for this State for a week if the division determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of the respective week and the immediately preceding 12 weeks, neither paragraph (1) or (2) of subsection d. was satisfied.

f. "Rate of insured unemployment," for purposes of subsections d. and e. means the percentage derived by dividing

(1) The average weekly number of individuals filing claims for regular benefits in this State for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the division on the basis of its reports to the United States Secretary of Labor, by

(2) The average monthly covered employment for the specified period.

g. "Regular benefits" means benefits payable to an individual under the "unemployment compensation law" (R.S.43:21-1 et seq.) or under any other State law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. s.8501 et seq.) other than extended benefits.

h. "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. s.8501 et seq.) payable to an individual under the provisions of this act for weeks of unemployment in his eligibility period.

i. "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within the extended benefit period, any weeks thereafter which begin in the period.

j. "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

(1) Has received prior to the week, all of the regular benefits that were available to him under the "unemployment compensation law" (R.S. 43:21-1 et seq.) or any other State law (including dependents' allowances and benefits

payable to federal civilian employees and ex-servicemen under 5 U.S.C. s.8501 et seq.) in his current benefit year that includes such week, provided, that for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to him although as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(2) His benefit year having expired prior to such week, has no, or insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week; and

(3) (a) has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

(b) has not received and is not seeking unemployment benefits under the Unemployment Compensation Law of Canada; but if he is seeking these benefits and the appropriate agency finally determines that he is not entitled to benefits under that law he is considered an exhaustee if the other provisions of this definition are met.

k. "State law" means the unemployment insurance law of any state approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code of 1986, 26 U.S.C. s.3304.

l. "High unemployment period" means any period beginning after December 27, 2003 during which the average seasonally adjusted rate of total unemployment in the State, as determined by the United States Secretary of Labor for the most recent three-month period for which data for all states are published:

(1) Equals or exceeds 8%; and

(2) Equals or exceeds 110% of the average seasonally adjusted rate of total unemployment in the State during either or both of the corresponding three-month periods ending in the two preceding calendar years.

4. Section 9 of P.L.1970, c.324 (C.43:21-24.15) is amended to read as follows:

**C.43:21-24.15 Total extended benefit amount.**

9. a. Except as provided in subsection b. of this section, the total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be the lesser of the following amounts:

(1) 50% of the total of regular benefits which were payable to him under the "unemployment compensation law" (R.S.43:21-1 et seq.) in his applicable benefit year; or

(2) Thirteen times his weekly benefit amount which was payable to him under the "unemployment compensation law" (R.S.43:21-1 et seq.) for a week of total unemployment in the applicable benefit year.

b. With respect to weeks beginning during a high unemployment period, the total extended benefit amount payable to an eligible individual with respect to his applicable benefit year shall be the lesser of the following amounts:

(1) 80% of the total of regular benefits which were payable to the individual under the "unemployment compensation law" (R.S.43:21-1 et seq.) during the applicable benefit year; or

(2) Twenty times the weekly benefit amount which was payable to the individual under the "unemployment compensation law" (R.S.43:21-1 et seq.) for a week of total unemployment during the applicable benefit year.

c. Notwithstanding any other provisions of the "unemployment compensation law" (R.S.43:21-1 et seq.), if the benefit year of an adversely affected worker covered by a certification under subchapter A, chapter 2, Title II of the Trade Act of 1974, P.L.93-618, 19 U.S.C. s.2271 et seq. as amended, ends within an extended benefit period, the remaining balance of extended benefits that the individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

5. This act shall take effect immediately.

Approved July 2, 2005.

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#### CHAPTER 124

AN ACT providing for enhanced collection of certain debt owed to the State, amending N.J.S.2A:17-50, N.J.S.2A:17-52, N.J.S.2A:17-55 and N.J.S.2A:17-56 and P.L.1981, c.239 and supplementing Title 54 of the Revised Statutes.

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

**C.2A:16-11.1 Issuance of certificate of debt; definitions.**

1. a. In addition to any other remedy provided by law, where a debt is owed to a State department or agency, and the person who owes the debt has failed to comply within 30 days after service of any notice, demand or order directing payment of any amount found to be due, the Department of the Treasury, on behalf of the department or agency, may issue a certificate of debt to the Clerk of the Superior Court stating that the person identified in the certificate of debt is indebted to the State in such amount as shall be stated in the certificate of debt.

b. The certificate of debt shall reference the statute, regulation or other legal authority under which the indebtedness arises. Thereupon the clerk to whom such certificate of debt shall have been issued shall immediately enter upon the record of docketed judgments the name of such person or entity as debtor; the State as creditor; the address of such person or entity, if shown in the certificate of debt; a reference to the statute, regulation or other legal authority under which the debt arises; and the date of making such entries.

c. The docketing of the certificate of debt shall have the same force and effect as a civil judgment docketed in the Superior Court subject to the procedures for appeal as set forth in section 4 of P.L. 2005, c. 124 (C.52:18-38). The docketing of the certificate of debt shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court.

d. As used in this section and in sections 2, 3, 4, 5, 6, and 8 of P.L.2005, c.124 (C.52:18-36, C.52:18-37, C.52:18-38, C.52:14F-22, C.52:18-39 and C.52:14F-23):

"Debt" means a fee, fine, cost, penalty or assessment that has been due and owing a State department or agency for 120 days or more. "Debt" does not include inter-agency debts and debts associated with loans, notes, grants, and contracts.

e. As used in this amendatory and supplementary act, "State department or agency" does not include an independent authority or instrumentality that is independent of the operational and budgetary control of the department to which it is allocated.

**C.52:18-36 Collection of debt.**

2. The Department of the Treasury shall have all the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action, but without prejudice to any right of appeal. Upon entry by the clerk of the certificate of debt in the record of docketed judgments in accordance with section 1 of P.L.2005, c.124 (C.2A:16-11.1), interest in the amount specified by the court rules for post-judgment interest shall accrue from the date of the docketing of the

certificate of debt; however, payment of interest may be waived by the Treasurer or the Treasurer's designee.

**C.52:18-37 Fee for unpaid debts.**

3. In the event that the debt remains unpaid following the issuance of the certificate of debt and the State takes any further collection action, including referral of the matter to the Attorney General or the Attorney General's designee, the fee imposed, in lieu of the actual cost of collection, may be 20 percent of debts of \$1,000 or more. The Treasurer or his designee may establish a sliding scale, not to exceed a maximum amount of \$200, for debt principal amounts of less than \$1,000 at the time the certificate of debt is forwarded to the Superior Court for filing.

**C.52:18-38 Written notification to debtor of issuance of certificate of debt.**

4. a. The Treasurer shall provide written notification to the debtor of the proposed issuance of the certificate of debt pursuant to section 1 of P.L.2005, c.124 (C.2A:16-11.1) at least 30 days prior to the proposed issuance. Such notice shall be mailed to the debtor's last known address. The notice shall advise the debtor that, if the debtor wishes to contest the validity of the underlying debt that is the subject of the certificate of debt, he may appeal the determination of underlying debt within 30 days of the mailing of the notice by filing an appeal with the State Treasurer.

b. Filing of such appeal shall stay the issuance of the certificate of debt pending determination by the Office of Administrative Law in accordance with section 5 of P.L.2005, c.124 (C.52:14F-22). Upon exhaustion and determination of such appeal in favor of the State, the stay shall be lifted and the certificate of debt issued.

**C.52:14F-22 Appeals referred to Office of Administrative Law.**

5. a. Appeals filed with the Treasurer pursuant to section 4 of P.L.2005, c.124 (C.52:18-38) shall be referred to the Office of Administrative Law for hearing, and shall be given priority by that office.

b. The Office of Administrative Law shall establish a system for expedited hearings of contested determinations of debt in accordance with the provisions of section 4 of P.L.2005, c.124 (C.52:18-38).

c. The Office of Administrative Law shall establish a system for expedited hearings of the State's applications for wage executions in accordance with the provisions of subsection b. of N.J.S. 2A:17-50.

d. Nothing herein shall preclude the Office of Administrative Law from joining the hearings of contested determinations of debt and the State's applications for wage executions in appropriate cases.

e. The provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall apply to hearings and appeals pursuant to P.L.2005, c.124 (C.2A:16-11.1 et al.).

**C.52:18-39 Construction of act.**

6. Nothing in this act shall be construed as depriving the State of any remedy for the enforcement of any State debt through any procedure or remedies provided in the law imposing such debt or in any other law, nor shall this act be construed as repealing or altering any such law or laws.

7. N.J.S.2A:17-50 is amended to read as follows:

**Order to issue wage execution; application; jurisdiction.**

2A:17-50. a. When a judgment has been recovered in the Superior Court, and where any wages, debts, earnings, salary, income from trust funds, or profits are due and owing to the judgment debtor, or thereafter become due and owing to him, to the amount of \$48.00 or more a week, the judgment creditor may, on notice to the judgment debtor unless the court otherwise orders, apply to the court in which the judgment was recovered, or to the court having jurisdiction of the same, and upon satisfactory proofs, by affidavit or otherwise, of such facts, the court shall grant an order directing that an execution issue against the wages, debts, earnings, salary, income from trust funds, or profits of the judgment debtor.

b. Notwithstanding the provisions of subsection a. or any other law to the contrary, when a wage execution application is filed by the State arising out of a determination by a State department or agency that a person owes the department or agency a debt as defined in section 1 of P.L.2005, c.124 (C.2A:16-11.1), such application may be filed with the Office of Administrative Law rather than with the Superior Court.

**C.52:14F-23 Administrative Law Judge, power to hear application for a wage execution.**

8. a. An Administrative Law Judge shall have the power to hear the State's application for a wage execution pursuant to subsection b. of N.J.S. 2A:17-50 and to issue an order directing that an execution issue against wages, earnings, salary, income from trust funds or profits of the person who owes the debt.

b. The State shall serve the person who owes the debt with a copy of the application for wage execution. Such notice shall be mailed to the person's last known address and shall advise the person that, if the person wishes to contest the application, he may request a hearing within 30 days by filing such request with the Office of Administrative Law and the State Treasurer.

c. Such applications shall be heard and decided by the Office of Administrative Law within 45 days of the date of the filing of the application by the State.

d. The provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall apply to hearings and appeals pursuant to this section.

e. An order of an Administrative Law Judge pursuant to this section shall be considered final agency action 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.

9. N.J.S. 2A:17-52 is amended to read as follows:

**Number of executions issued and levied at same time; priority.**

2A:17-52. Number of executions issued and levied at same time.

a. Only one execution against the wages, debts, earnings, salary, income from trust funds or profits of such judgment debtor shall be satisfied at one time, and where more than one execution shall be issued pursuant to the provisions of this article against the same judgment debtor, they shall be satisfied in the order of priority in which such executions are presented to the person or persons from whom such wages, debts, earnings, salary, income from trust funds or profits are due and owing, irrespective of the fact that such executions shall be issued out of different courts; provided, however, that where more than one such execution shall be presented to any such person on the same day and one of such executions derives from a court order for suitable support and maintenance of a wife, child or children it shall be first satisfied, notwithstanding the prior presentation on the same day of any other such execution.

b. Notwithstanding subsection a., any wage execution applications filed by the State after the effective date of P.L.2005, c.124, including those arising out of a determination by a State department or agency that a person owes the department or agency a debt as defined in section 1 of P.L.2005, c.124 (C.2A:16-11.1), shall have priority over any other wage execution filed on or after the effective date of this act except as follows:

(1) the execution set forth in this subsection shall not have priority over any execution that derives from a court order for suitable support and maintenance of a wife, child or children;

(2) the execution set forth in this subsection shall not have priority over any execution otherwise required to have priority pursuant to any other law.

10. N.J.S.2A:17-55 is amended to read as follows:



**Modification of execution.**

2A:17-55. Either party may apply at any time to the court or, in the case of executions pursuant to subsection b. of N.J.S.2A:17-50, to an Administrative Law Judge from which an execution mentioned in N.J.S. 2A:17-50 shall issue, upon such notice to the other party as such court shall direct, for a modification of such execution. Upon the hearing, such court or Administrative Law Judge may make such modification of such execution as shall be deemed just. Such execution as so modified shall continue in full force and effect until fully paid and satisfied, or until further modified as herein provided.

11. N.J.S. 2A:17-56 is amended to read as follows:

**Limitation on amount specified in execution.**

2A:17-56. a. In no case shall the amount specified in an execution issued out of any court against the wages, debts, earnings, salary, income from trust funds or profits due and owing, or which may thereafter become due and owing to a judgment debtor, exceed 10%, unless the income of such debtor shall exceed 250 % of the poverty level for an individual taking into account the size of the individual's family, in which case the court out of which the execution shall issue may order a larger percentage.

b. Notwithstanding subsection a. or any other law to the contrary, for all wage execution applications filed by the State pursuant to subsection b. of N.J.S.2A:17-50 after the effective date of P.L.2005, c.124 (C.2A:16-11.1 et al.), the State may seek a wage execution of up to 25% of the debtor's gross earnings, provided that after the execution the debtor's income will not be less than 250 % of the poverty level for an individual taking into account the size of the individual's family.

Nothing in this subsection shall be construed to violate any provision of federal law.

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

**C.54A:9-8.1 Setoff of indebtedness to State agencies; precedence of child support indebtedness.**

1. a. Whenever any taxpayer or resident shall be entitled to any refund of taxes pursuant to the "New Jersey Gross Income Tax Act" (N.J.S.54A:1-1 et seq.), including an earned income tax credit provided as a refund pursuant to P.L.2000, c.80 (C.54A:4-6 et al.), or whenever any individual is eligible to receive a homestead rebate pursuant to P.L.1990, c.61 (C.54:4-8.57 et al.), P.L.1999, c.63 (C.54:4-8.58a et al.) or P.L.2004, c.40, and if the rebate is not required to be paid over to the municipal tax collector under the provisions

of section 8 of P.L.1990, c.61 (C.54:4-8.64), and at the same time the taxpayer or resident shall be indebted to any agency or institution of State Government, to the Victims of Crime Compensation Board for the portion of an assessment ordered pursuant to N.J.S.2C:43-3.1 for deposit in the Victims of Crime Compensation Board Account or restitution ordered to be paid to the board pursuant to N.J.S.2C:44-2 for deposit in the Victims of Crime Compensation Board Account, or for child support under Title IV-A, Title IV-D, or Title IV-E of the federal Social Security Act (42 U.S.C. s.601 et seq.), or other indebtedness in accordance with section 1 of P.L.1995, c.290 (C.2A:17-56.11b) the Department of the Treasury shall apply or cause to be applied the refund, homestead rebate, or all, or so much of any or all as shall be necessary, to satisfy the indebtedness. Child support indebtedness shall take precedence over all other indebtedness. The Department of the Treasury shall retain a percentage of the proceeds of any collection setoff as shall be necessary to provide for any expenses of the collection effort.

b. A State department or agency which is owed a debt shall notify the Department of the Treasury of the existence of the debt and shall request that the Department of the Treasury execute a setoff as provided for in this section.

13. This act shall take effect immediately

Approved July 2, 2005.

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## CHAPTER 125

AN ACT authorizing a multistate personal income tax refund set-off program, supplementing Title 54A of the New Jersey Statutes.

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

**C.54A:9-8.4 Definitions relative to multistate personal income tax refund setoff program; authorization, procedure.**

1. a. As used in this section:

"Taxpayer" means any person identified by a claimant state, under this section, as owing taxes to that claimant state, including the spouse of the taxpayer if the spouse filed a joint return with the taxpayer for the tax year for which tax is owed.

"Claimant state" means any other state of the United States, the City of Philadelphia, Pennsylvania, New York City, New York, or the District of

Columbia that extends a like comity for the collection of tax owed to this State.

"Taxes" means any amount of tax imposed on the income of an individual or an estate and paid by the individual or estate under the laws of the claimant state, including any additions to tax for penalties and interest, which is finally due and payable to the claimant state, and with respect to which any administrative or judicial remedies, or both, have been exhausted or have lapsed, and which is legally enforceable under the laws of the claimant state, whether or not there is an outstanding judgment for such sum.

"Refund" means any taxpayer's claim to repayment of an overpayment of gross income tax determined by this State to be owed to the taxpayer by this State, after the overpayment has been applied to any other debt of the taxpayer to this State.

"Tax officer" means a unit or official of a claimant state, or the duly authorized agent of such unit or official, charged with the imposition, assessment or collection of taxes of that state.

b. Upon the request and certification of the tax officer of a claimant state, the director may withhold all or a portion of any refund to which such taxpayer would otherwise be entitled and pay a withheld amount to the claimant state, in accordance with the provisions of this section. The director shall not withhold a refund unless the laws of the claimant state: allow the director to certify that an individual or an estate owes gross income tax, including any additions to tax for penalties and interest, to this State and to request that the tax officer of the claimant state withhold all or a portion of any claim to repayment of an overpayment of tax imposed on the income of an individual or an estate and paid by the individual or estate under the laws of the claimant state to which such person would otherwise be entitled and provide for the payment of such withheld amount to this State.

c. A certification from a claimant state shall include the full name and address of the taxpayer; the taxpayer's Social Security number or federal employer identification number; the amount of individual income tax owed to that state, including a detailed statement for each taxable period showing tax, interest and penalty; and a statement that any administrative or judicial remedies, or both, have been exhausted or have lapsed and that the amount of individual income tax is legally enforceable under the laws of that state.

d. Upon receipt by the director of the required certification, the director shall notify the taxpayer: that the director received a request to withhold the refund; that the taxpayer has the right to protest the withholding of the refund; that failure to file a protest in accordance with subsection e. of this section shall constitute a waiver of any demand against this State on account of the withheld amount; and that the withheld amount will be paid to the claimant state. The notice shall include a copy of the certification by the tax

officer of the claimant state. Ninety-one days after the date on which it is mailed, a notice under this subsection shall be final, except only for such amounts as to which the taxpayer has filed a written protest with the director, as provided in subsection e. of this section.

e. A taxpayer notified in accordance with subsection d. of this section may, on or before the ninetieth day after the mailing of the notice by the director, protest the withholding of a refund, by filing with the director a written protest in which the taxpayer shall set forth the grounds on which the protest is based. If a timely protest is filed, the director shall impound the claimed amount of the refund and send a copy of the protest to the claimant state for determination of the protest on its merits in accordance with the laws of that state. The director shall pay the impounded amount to the taxpayer, if the claimant state fails, within 45 days of the director mailing the copy of the protest to the claimant state, to certify that the claimant state has reviewed the grounds on which the protest is based and to recertify the amount of taxes which is finally due and payable to the claimant state.

f. Subject to the provisions of subsections d. and e. of this section, the director shall: pay the claimant state the entire amount withheld or the amount certified, whichever is less; pay any refund in excess of the certified amount to the taxpayer; and, if the amount certified exceeds the amount withheld, withhold amounts from subsequent refunds due to the taxpayer, provided that claimant state agrees to withhold subsequent claims to repayment of an overpayment of tax imposed on the income of an individual or an estate and paid by the individual or estate under the laws of the claimant state due to persons certified by the director as owing gross income tax to this State.

g. For any refund amount paid to a claimant state under this section, interest as provided under section 7 of P.L.1992, c.175 (C.54:49-15.1) or subsection (f) of N.J.S.54A:9-7 shall not be allowed or paid to the claimant state, the taxpayer, or any other person or entity.

h. The director may enter into agreements with the tax officers of claimant states relating to procedures and methods to be employed by a claimant state with respect to: the operation of this section; safeguards against the disclosure or inappropriate use of any tax record information that identifies, directly or indirectly, a particular taxpayer; and a minimum amount of taxes owed by a taxpayer to a claimant state, so that, if a taxpayer owes less than that amount to such claimant state, the claimant state will not avail itself of the provisions of this section with respect to that taxpayer.

i. The collection procedures prescribed by this section shall not be construed as a substitute for any other remedy available by law to the director.

2. This act shall take effect immediately.

Approved July 2, 2005.

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CHAPTER 126

AN ACT conforming the sales and use tax to the Streamlined Sales and Use Tax Agreement to provide for entry therein, amending P.L.1980, c.105, P.L.1981, c.546, P.L.1985, c.24, P.L.1993, c.226, P.L.1993, c.373, and P.L.1997, c.162, amending and supplementing P.L.1966, c.30, and repealing section 6 of P.L.1989, c.123.

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

1. Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to read as follows:

**C.54:32B-2 Definitions.**

2. Unless the context in which they occur requires otherwise, the following terms when used in this act shall mean:

- (a) "Person" includes an individual, trust, partnership, limited partnership, limited liability company, society, association, joint stock company, corporation, public corporation or public authority, estate, receiver, trustee, assignee, referee, fiduciary and any other legal entity.

- (b) "Purchase at retail" means a purchase by any person at a retail sale.

- (c) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

- (d) "Receipt" means the amount of the sales price of any tangible personal property or service taxable under this act.

- (e) "Retail sale" means any sale, lease, or rental for any purpose, other than for resale, sublease, or subrent.

- (1) For the purposes of this act a sale is for "resale, sublease, or subrent" if it is a sale (A) for resale either as such or as converted into or as a component part of a product produced for sale by the purchaser, including the conversion of natural gas into another intermediate or end product, other than electricity or thermal energy, produced for sale by the purchaser, or (B) for use by that person in performing the services subject to tax under subsection (b) of section 3 where the property so sold becomes a physical component part of the property upon which the services are performed or where the

property so sold is later actually transferred to the purchaser of the service in conjunction with the performance of the service subject to tax.

(2) For the purposes of this act, the term "retail sale" 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) (Deleted by amendment, P.L.2005, c.126).

(4) The term "retail sale" 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 seller.

(f) "Sale, selling or purchase" means 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" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. "Tangible personal property" includes electricity, water, gas, steam, and prewritten computer software.

(h) "Use" means the exercise of any right or power over tangible personal property by the purchaser thereof and includes, but is not limited to, the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any distribution, any installation, any affixation to real or personal property, or any consumption of such property. Use also includes the exercise of any right or power over intrastate or interstate

telecommunications and prepaid calling services. Use also includes the exercise of any right or power over utility service.

(i) "Seller" means a person making sales, leases or rentals of personal property or services.

(1) The term "seller" includes:

(A) A person making sales, leases or rentals of tangible personal property or services, the receipts from which are taxed by this act;

(B) A person maintaining a place of business in the State and making sales, whether at such place of business or elsewhere, to persons within the State of tangible personal property or services, the use of which is taxed by this act;

(C) A person who solicits business either by employees, independent contractors, agents or other representatives or by distribution of catalogs or other advertising matter and by reason thereof makes sales to persons within the State of tangible personal property or services, the use of which is taxed by this act;

(D) Any other person making sales to persons within the State of tangible personal property or services, the use of which is taxed by this act, who may be authorized by the director to collect the tax imposed by this act;

(E) The State of New Jersey, any of its agencies, instrumentalities, public authorities, public corporations (including a public corporation created pursuant to agreement or compact with another state) or political subdivisions when such entity sells services or property of a kind ordinarily sold by private persons;

(F) (Deleted by amendment, P.L.2005, c.126); and

(G) A person who sells, stores, delivers or transports energy to users or customers in this State whether by mains, lines or pipes located within this State or by any other means of delivery.

(2) In addition, when in the opinion of the director it is necessary for the efficient administration of this act to treat any salesman, representative, peddler or canvasser as the agent of the seller, distributor, supervisor or employer under whom the agent operates or from whom the agent obtains tangible personal property sold by the agent or for whom the agent solicits business, the director may, in the director's discretion, treat such agent as the seller jointly responsible with the agent's principal, distributor, supervisor or employer for the collection and payment over of the tax.

(j) "Hotel" means 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" means the use or possession or the right to the use or possession, of any room in a hotel.

(l) "Occupant" means 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" means 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" means 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" means 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" means 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" means 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" means any admission charge paid for admission to a theater, opera house, concert hall or other hall or place of assembly for a live, dramatic, choreographic or musical performance.

(s) "Lessor" means any person who is the owner, licensee, or lessee of any premises or tangible personal property which the person leases, sub-leases, or grants a license to use to other persons.

(t) "Place of amusement" means any place where any facilities for entertainment, amusement, or sports are provided.

(u) "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 retail sales of such property where the item was obtained by the person making the sale, through purchase or otherwise, for the person's own use.

(v) "Motor vehicle" includes all vehicles propelled otherwise than by muscular power (excepting such vehicles as run only upon rails or tracks), trailers, semitrailers, house trailers, 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" includes: every seller of tangible personal property or services; every recipient of amusement charges; every operator of a hotel; and every seller of telecommunications. Said terms shall also include any officer or employee of a corporation or of a dissolved corporation who as



such officer or employee is under a duty to act for such corporation in complying with any requirement of this act and any member of a partnership.

(x) "Customer" includes: 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" includes: (1) all property sold to a person within the State, whether or not the sale is made within the State, the use of which property is subject to tax under section 6 or will become subject to tax when such property is received by or comes into the possession or control of such person within the State; (2) all services rendered to a person within the State, whether or not such services are performed within the State, upon tangible personal property the use of which is subject to tax under section 6 or will become subject to tax when such property is distributed within the State or is received by or comes into possession or control of such person within the State; (3) intrastate or interstate telecommunications sourced to this State pursuant to section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by amendment, P.L.1995, c.184); (5) energy sold, exchanged or delivered in this State for use in this State; (6) utility service sold, exchanged or delivered in this State for use in this State; (7) direct mail processing services in connection with direct mail distributed in this State; and (8) (Deleted by amendment, P.L.2005, c.126).

(z) "Director " means the Director of the Division of Taxation of the State Department of the Treasury, or any officer, employee or agency of the Division of Taxation in the Department of the Treasury duly authorized by the director (directly, or indirectly by one or more redelegations of authority) to perform the functions mentioned or described in this act.

(aa) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A "lease or rental" may include future options to purchase or extend.

(1) "Lease or rental" does not include:

(A) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(B) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or one percent of the total required payments; or

(C) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subparagraph, an operator must do more than maintain, inspect, or set-up the tangible personal property.

(2) "Lease or rental" does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. s.7701(h)(1).

(3) The definition of "lease or rental" provided in this subsection shall be used for the purposes of this act regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the federal Internal Revenue Code or other provisions of federal, state or local law.

(bb) (Deleted by amendment, P.L.2005, c.126).

(cc) "Telecommunications" means the act or privilege of originating or receiving messages or information through the use of any kind of one-way or two-way communication; including but not limited to voice, video, facsimile, teletypewriter, computer, mobile telecommunications service or any other type of communication; using electronic or electromagnetic methods, and all services and equipment provided in connection therewith or by means thereof. "Telecommunications" shall not include:

(1) one-way radio or television broadcasting transmissions available universally to the general public without a fee;

(2) purchases of telecommunications by a telecommunications provider for use as a component part of telecommunications provided to an ultimate retail consumer who (A) originates or terminates the taxable end-to-end communications or (B) pays charges exempt from taxation pursuant to paragraph (5) of this subsection;

(3) services provided by a person, or by that person's wholly owned subsidiary, not engaged in the business of rendering or offering telecommunications services to the public, for private and exclusive use within its organization, provided however, that "telecommunications" shall include the sale of telecommunications services attributable to the excess unused telecommunications capacity of that person to another;

(4) charges in the nature of subscription fees paid by subscribers for cable television service;

(5) charges subject to the local calling rate paid by inserting coins into a coin operated telecommunications device available to the public; and

(6) purchases of telecommunications using a prepaid calling service.

(dd) "Interstate telecommunication" means any telecommunication that originates or terminates inside this State, including international telecommunication. In the case of mobile telecommunications service, "interstate telecommunication" means any mobile telecommunications service that originates in one state and terminates in another state, territory, or foreign country that is provided to a customer with a place of primary use in this State.

(ee) "Intrastate telecommunication" means any telecommunication that originates and terminates within this State. In the case of mobile telecommunications service, "intrastate telecommunication" means any mobile telecommunications service that originates and terminates within the same state that is provided to a customer with a place of primary use in this State.

(ff) "Natural gas" means any gaseous fuel distributed through a pipeline system.

(gg) "Energy" means natural gas or electricity.

(hh) "Utility service" means the transportation or transmission of natural gas or electricity by means of mains, wires, lines or pipes, to users or customers.

(ii) "Self-generation unit" means a facility located on the user's property, or on property purchased or leased from the user by the person owning the self-generation unit and such property is contiguous to the user's property, which generates electricity to be used only by that user on the user's property and is not transported to the user over wires that cross a property line or public thoroughfare unless the property line or public thoroughfare merely bifurcates the user's or self-generation unit owner's otherwise contiguous property.

(jj) "Co-generation facility" means a facility the primary purpose of which is the sequential production of electricity and steam or other forms of useful energy which are used for industrial or commercial heating or cooling purposes and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub.L.95-617.

(kk) "Non-utility" means a company engaged in the sale, exchange or transfer of natural gas that was not subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to December 31, 1997.

(ll) "Pre-paid calling service" means the right to purchase exclusively telecommunications services, that must be paid for in advance, that enables the origination of calls using an access number or authorization code, whether manually or electronically dialed; provided, that the remaining amount of units of service that have been pre-paid shall be known by the service provider on a continuous basis.

(mm) "Mobile telecommunications service" means commercial mobile radio service, as defined in section 20.3 of title 47 of the Code of Federal Regulations as in effect on June 1, 1999.

(nn) "Place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which shall be the residential street address or the primary business street address of the customer and within the licensed service area of the home service provider. For the purposes of determining the primary place

of use, the terms used shall have the meanings provided pursuant to the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252).

(oo) (1) "Sales price" is the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(A) The seller's cost of the property sold;

(B) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(C) Charges by the seller for any services necessary to complete the sale;

(D) Delivery charges, unless separately stated on the invoice, bill or similar document given to purchaser;

(E) Installation charges; and

(F) The value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise.

(2) "Sales price" does not include:

(A) Discounts, including cash, term, or coupons that are not reimbursed by a third party, that are allowed by a seller and taken by a purchaser on a sale;

(B) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(C) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(D) The amount of sales price for which food stamps have been properly tendered in full or part payment pursuant to the federal Food Stamp Act of 1977, Pub.L. 95-113 (7 U.S.C. s.2011 et seq.); or

(E) Credit for any trade-in of property of the same kind accepted in part payment and intended for resale if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(pp) "Purchase price" means the measure subject to use tax and has the same meaning as "sales price."

(qq) "Sales tax" means the tax imposed on certain transactions pursuant to the provisions of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

(rr) "Delivery charges" means charges by the seller for preparation and delivery to a location designated by the purchaser of personal property or

services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. If a shipment includes both exempt and taxable property, the seller should allocate the delivery charge by using: (1) a percentage based on the total sales price of the taxable property compared to the total sales price of all property in the shipment; or (2) a percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment.

(ss) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addresses on a mailing list provided by the purchaser or at the direction of the purchaser in cases in which the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

(tt) "Streamlined Sales and Use Tax Agreement" means the agreement entered into as governed and authorized by the "Uniform Sales and Use Tax Administration Act," P.L.2001, c.431 (C.54:32B-44 et seq.).

(uu) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

2. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read as follows:

**C.54:32B-3 Imposition of sales tax.**

3. There is imposed and there shall be paid a tax of 6% upon:

(a) The receipts from every retail sale of tangible personal property, except as otherwise provided in this act.

(b) The receipts from every sale, except for resale, of the following services:

(1) Producing, fabricating, processing, printing or imprinting tangible personal property, performed for a person who directly or indirectly furnishes the tangible personal property, not purchased by him for resale, upon which such services are performed.

(2) Installing tangible personal property, or maintaining, servicing, repairing tangible personal property not held for sale in the regular course of business, whether or not the services are performed directly or by means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction therewith, except (i) such services rendered by an individual who is engaged directly by a private homeowner or lessee in or about his residence and who is not in a regular

trade or business offering his services to the public, (ii) such services rendered with respect to personal property exempt from taxation hereunder pursuant to section 13 of P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment, P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning, tailoring, weaving, pressing, shoe repairing and shoeshining and (v) services rendered in installing property which, when installed, will constitute an addition or capital improvement to real property, property or land.

(3) Storing all tangible personal property not held for sale in the regular course of business and the rental of safe deposit boxes or similar space.

(4) Maintaining, servicing or repairing real property, other than a residential heating system unit serving not more than three families living independently of each other and doing their cooking on the premises, whether the services are performed in or outside of a building, as distinguished from adding to or improving such real property by a capital improvement, but excluding services rendered by an individual who is not in a regular trade or business offering his services to the public, and excluding garbage removal and sewer services performed on a regular contractual basis for a term not less than 30 days.

(5) Direct-mail processing services, except for direct-mail processing services in connection with distribution of direct mail to out-of-State recipients.

(6) (Deleted by amendment, P.L.1995, c.184).

(7) Utility service provided to persons in this State, any right or power over which is exercised in this State.

Wages, salaries and other compensation paid by an employer to an employee for performing as an employee the services described in this subsection are not receipts subject to the taxes imposed under this subsection (b).

Services otherwise taxable under paragraph (1) or (2) of this subsection (b) are not subject to the taxes imposed under this subsection, where the tangible personal property upon which the services were performed is delivered to the purchaser outside this State for use outside this State.

(c) (1) Receipts from the sale of prepared food in or by restaurants, taverns, 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, 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

(2) Receipts from sales of food and beverages sold through 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.

(3) For the purposes of this subsection:

"Food and beverages sold through vending machines" means food and beverages dispensed from a machine or other mechanical device that accepts payment; and

"Prepared food" means:

A. food sold in a heated state or heated by the seller; or

B. two or more food ingredients mixed or combined by the seller for sale as a single item, but not including food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, part 401.11 of its Food Code so as to prevent food borne illnesses; or

C. food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; provided however, that "prepared food" does not include the following sold without eating utensils:

A. food sold by a seller whose proper primary NAICS classification is manufacturing in section 311, except subsector 3118 (bakeries);

B. food sold in an unheated state by weight or volume as a single item;  
or

C. bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

(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 a permanent resident.

(e) (1) Any admission charge to or for the use of any place of amusement in the State, including charges for admission to race tracks, baseball, football, basketball or exhibitions, dramatic or musical arts performances, motion picture theaters, except charges for admission to boxing, wrestling, kick boxing or combative sports exhibitions, events, performances or contests

which charges are taxed under any other law of this State or under section 20 of P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or lease or a license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee, and shall be paid by the holder, licensee or lessee.

(2) The amount paid as charge of a roof garden, cabaret or other similar place in this State, to the extent that a tax upon such charges has not been paid pursuant to subsection (c) hereof.

(f) (1) The receipts from every sale, except for resale, of intrastate or interstate telecommunications sourced to this State in accordance with section 29 of P.L.2005, c.126 (C.54:32B-3.4).

(2) The receipts from every sale, except for resale, of intrastate or interstate mobile telecommunications services billed by or for a customer's home service provider and provided to a customer with a place of primary use in this State. The provisions and definitions of the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C. ss. 116-126 (Pub.L. 106-252), are applicable herein.

(g) The receipts from every sale, except for resale, of prepaid calling service and the recharge of prepaid calling service.

3. Section 4 of P.L.1966, c.30 (C.54:32B-4) is amended to read as follows:

**C.54:32B-4 Tax bracket schedule, pay phone formula.**

4. a. For the purpose of adding and collecting the tax imposed by this act, or an amount equal as nearly as possible or practicable to the average equivalent thereof, to be reimbursed to the seller by the purchaser, a seller shall use one of the two following options:

(1) a tax shall be calculated based on the following formula:

Amount of Sale	Amount of Tax
\$0.01 to \$0.10	No Tax
0.11 to 0.22	\$0.01
0.23 to 0.38	0.02
0.39 to 0.56	0.03
0.57 to 0.72	0.04
0.73 to 0.88	0.05
0.89 to \$1.10	0.06



and in addition to a tax of \$0.06 on each full dollar, a tax shall be collected on each part of a dollar in excess of a full dollar, in accordance with the above formula; or

(2) tax shall be calculated to the third decimal place. One-half cent (\$0.005) or higher shall be rounded up to the next cent; less than \$0.005 shall be dropped in order to round the result down.

Sellers may compute the tax due on a transaction on either an item or an invoice basis.

b. For charges paid by inserting coins into a coin operated telecommunications device available to the public the tax shall be computed to the nearest multiple of five cents of the tax otherwise due pursuant to subsection a. of this section, except that, if the amount of the tax is midway between multiples of five cents, the next higher multiple shall apply.

4. Section 6 of P.L.1966, c.30 (C.54:32B-6) is amended to read as follows:

**C.54:32B-6 Imposition of compensating use tax.**

6. Unless property or services have already been or will be subject to the sales tax under this act, there is hereby imposed on and there shall be paid by every person a use tax for the use within this State of 6%, except as otherwise exempted under this act, (A) of any tangible personal property purchased at retail, including energy, provided however, that electricity consumed by the generating facility that produced it shall not be subject to tax, (B) of any tangible personal property manufactured, processed or assembled by the user, if items of the same kind of tangible personal property are offered for sale by him in the regular course of business, or if items of the same kind of tangible personal property are not offered for sale by him in the regular course of business and are used as such or incorporated into a structure, building or real property, (C) of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any taxable services described in paragraphs (1) and (2) of subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-3) have been performed, (D) of interstate or intrastate telecommunications and mobile telecommunications described in subsection (f) of section 3 of P.L.1966, c.30, (E) (Deleted by amendment, P.L.1995, c.184), (F) of utility service provided to persons in this State for use in this State, provided however, that utility service used by the facility that provides the service shall not be subject to tax, (G) of direct-mail processing services described in paragraph (5) of subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-3) and (H) of prepaid calling service and the recharge of prepaid calling service. For purposes of clause (A) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the

consideration given or contracted to be given for such property or for the use of such property, but excluding any credit for property of the same kind accepted in part payment and intended for resale, plus the cost of transportation, except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser, provided however, that there shall be no exclusion for the cost of the utility service. For the purposes of clause (B) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the price at which items of the same kind of tangible personal property are offered for sale by the user, or if items of the same kind of tangible personal property are not offered for sale by the user in the regular course of business and are used as such or incorporated into a structure, building or real property the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for the tangible personal property manufactured, processed or assembled by the user into the tangible personal property the use of which is subject to use tax pursuant to this section, and the mere storage, keeping, retention or withdrawal from storage of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him. For purposes of clause (C) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for the service, including the consideration for any tangible personal property transferred in conjunction with the performance of the service, plus the cost of transportation, except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser. For the purposes of clause (D) of this section, the tax shall be at the applicable rate on the charge made by the telecommunications service provider. For purposes of clause (F) of this section, the tax shall be at the applicable rate on the charge made by the utility service provider. For purposes of clause (G) of this section, the tax shall be at the applicable rate on that proportion of the amount of all processing costs charged by a direct-mail processing service provider that is attributable to the service distributed in this State. For the purposes of clause (H) of this section, the tax shall be at the applicable rate on the consideration given or contracted to be given for the prepaid calling service or the recharge of the prepaid calling service.

5. Section 7 of P.L.1966, c.30 (C.54:32B-7) is amended to read as follows:

**C.54:32B-7 Special rules for computing price and consideration.**

7. (a) The retail sales tax imposed under subsection (a) of section 3 and the compensating use tax imposed under section 6, when computed in

respect to tangible personal property wherever manufactured, processed or assembled and used by such manufacturer, processor or assembler in the regular course of business within this State, shall be based on the price at which items of the same kind of tangible personal property are offered for sale by him.

(b) Tangible personal property, which has been purchased by a resident of the State of New Jersey outside of this State for use outside of this State and subsequently becomes subject to the compensating use tax imposed under this act, shall be taxed on the basis of the purchase price of such property, provided, however:

(1) That where a taxpayer affirmatively shows that the property was used outside such State by him for more than six months prior to its use within this State, such property shall be taxed on the basis of current market value of the property at the time of its first use within this State. The value of such property, for compensating use tax purposes, may not exceed its cost.

(2) That the compensating use tax on such tangible personal property brought into this State (other than for complete consumption or for incorporation into real property located in this State) and used in the performance of a contract or subcontract within this State by a purchaser or user for a period of less than six months may be based, at the option of the taxpayer, on the fair rental value of such property for the period of use within this State.

(c) Leased tangible personal property which has been purchased outside this State for lease outside of this State and subsequently becomes subject to the compensating use tax imposed under this act shall be taxed on the basis of the purchase price of such property, provided however, that the compensating use tax on such property brought into and used within this State may be based on the total of the lease payments attributable to the lease of that property attributable to the period of the lease remaining after first use in this State.

(d) Sales tax imposed on the lease or rental of tangible personal property in New Jersey shall be based on either the total of the periodic payments required under the agreement or the original purchase price of the property. The full amount of sales tax due on the complete term of a lease or rental for more than six months shall be remitted with the monthly or quarterly sales and use tax return due for the period in which the leased personal property was delivered to the lessee in this State. However, if the tax is paid on a lease or rental based on the original purchase price of the tangible personal property, a subsequent lease or rental of the same property shall not be subject to the tax imposed under P.L. 1966, c.30 (C.54:32B-1 et seq.).

If leased property is subsequently removed on a permanent basis from this State, the lessee shall be entitled to a refund of the tax allocable to the

portion of the lease or rental that remains in effect after the property has been removed from this State, but only if the other state does not allow a credit for the sales or use tax paid to this State on the lease or rental transaction, and further, in the case of property removed to a state that imposes or computes tax on leases or rentals based on a lump sum or accelerated basis, only if the other state also allows a corresponding refund with respect to the lease of property upon which a sales or use tax is due and paid to this State.

(e) The purchase of energy shall be subject to the compensating use tax imposed under section 6 on the basis of the purchase price of the energy, including any charges for utility service.

6. Section 1 of P.L.1993, c.226 (C.54:32B-7.1) is amended to read as follows:

**C.54:32B-7.1 Sales tax imposed on sale of certain race horses; refunds, certain.**

1. a. The sale of a race horse through a claiming race within the State shall be subject to the sales tax imposed by section 3 of P.L.1966, c.30 (C.54:32B-3) on the sales price.

b. Notwithstanding the provisions of subsection a. of this section, the purchaser of the horse in the second or a subsequent sale through a claiming race of that horse within the State during a single calendar year shall be allowed a refund on that portion of the tax paid by the purchaser on the amount of the total sales price that does not exceed the highest of any prior sales price paid for the same horse within the State during that calendar year. Such claim for refund may be made by the purchaser by filing a claim, within four years of the date of purchase, with the New Jersey Division of Taxation for a refund of that part of the sales tax paid. If no previous purchases have been made within the calendar year, no such refund shall be allowed.

c. Each holder of a permit to conduct horse racing in this State pursuant to P.L.1940, c.17 (C.5:5-22 et seq.) shall maintain and make available to the Division of Taxation, upon reasonable request, an accurate and detailed list of those sales that may result in a refund claim pursuant to this section.

7. Section 13 of P.L.1980, c.105 (C.54:32B-8.1) is amended to read as follows:

**C.54:32B-8.1 Exemption for certain medical supplies, equipment; definitions.**

13. a. Receipts from sales of the following sold for human use are exempt from the tax imposed under the "Sales and Use Tax Act":

- (1) drugs sold pursuant to a doctor's prescription;
- (2) over-the-counter drugs;
- (3) diabetic supplies;

- (4) prosthetic devices;
- (5) tampons or like products;
- (6) medical oxygen;
- (7) human blood and its derivatives;
- (8) durable medical equipment for home use;
- (9) mobility enhancing equipment; and
- (10) repair and replacement parts for any of the foregoing exempt devices and equipment.

b. As used in this section:

"Drug" means a compound, substance or preparation, and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages:

(1) recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them; or

(2) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

(3) intended to affect the structure or any function of the body.

"Over-the-counter-drug" means a drug that contains a label which identifies the product as a drug, required by 21 CFR 201.66. The label includes:

(1) a "Drug Facts" panel or

(2) a statement of the "active ingredient" or "active ingredients" with a list of those ingredients contained in the compound, substance or preparation.

"Over-the-counter drug" does not include a grooming and hygiene product.

"Grooming and hygiene product" is soap or cleaning solution, shampoo, toothpaste, mouthwash, anti-perspirant, or sun tan lotion or screen, regardless of whether the item meets the definition of "over-the-counter drug."

"Prescription" means an order, formula or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this State.

"Prosthetic device" means a replacement, corrective, or supportive device including repair and replacement parts for same worn on or in the body in order to:

(1) artificially replace a missing portion of the body; or

(2) prevent or correct a physical deformity or malfunction; or

(3) support a weak or deformed portion of the body.

"Durable medical equipment" means equipment, including repair and replacement parts, but not including mobility enhancing equipment, that:

(1) can withstand repeated use;

(2) is primarily and customarily used to serve a medical purpose;

3. is generally not useful to a person in the absence of illness or injury; and

4. is not worn in or on the body.

"Mobility enhancing equipment" means equipment, including repair and replacement parts, other than durable medical equipment, that:

1. is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either at home or in a motor vehicle; and

2. is not generally used by persons with normal mobility; and

3. does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

c. 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 tax imposed under the "Sales and Use Tax Act" provided under this section.

8. Section 14 of P.L.1980, c.105 (C.54:32B-8.2) is amended to read as follows:

**C.54:32B-8.2 Food items, certain, exemption from tax; definitions.**

14. a. Receipts from the following are exempt from the tax imposed under the "Sales and Use Tax Act:" sales of food and food ingredients and dietary supplements, sold for human consumption off the premises where sold but not including (1) candy, and (2) soft drinks, all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form.

b. The exemption in this section is not applicable to prepared food subject to tax under subsection (c) of section 3 of the Sales and Use Tax Act (C.54:32B-3).

c. As used in this section:

"Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation containing flour or requiring refrigeration;

"Dietary supplement" means any product, other than tobacco, intended to supplement the diet, that:

(1) contains one or more of the following dietary ingredients: a vitamin; a mineral; an herb or other botanical; an amino acid; a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; a concentrate, metabolite, constituent, extract, or combination of any ingredient described herein;

(2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(3) is required to be labeled as a dietary supplement, identifiable by the "Supplemental Facts" box found on the label and as required pursuant to 21 C.F.R. s.101.36;

"Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value, "Food and food ingredients" does not include alcoholic beverages or tobacco;

"Soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain: milk or milk products; soy, rice or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume; and

"Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

9. Section 16 of P.L.1980, c.105 (C.54:32B-8.4) is amended to read as follows:

**C.54:32B-8.4 Clothing, footwear, exemption from tax; definitions.**

16. a. Receipts from sales of articles of clothing and footwear for human use are exempt from the tax imposed under the "Sales and Use Tax Act." This exemption does not apply to clothing accessories or equipment, sport or recreational equipment, or protective equipment.

b. Receipts from sales of protective equipment necessary for the daily work of the user are exempt from the tax imposed under the "Sales and Use Tax Act."

c. Receipts from sales of sewing materials, such as fabrics, thread, knitting yarn, buttons and zippers, purchased by noncommercial purchasers for incorporation into clothing as a constituent part thereof, are exempt from the tax imposed under the "Sales and Use Tax Act."

d. As used in this section:

"Clothing" means all human wearing apparel suitable for general use. Clothing shall not include: clothing accessories or equipment, sport or recreational equipment, protective equipment, sewing equipment and supplies, or sewing materials that become part of clothing.

"Clothing accessories or equipment" means incidental items worn on the person or in conjunction with clothing.

"Protective equipment" means items for human wear and designed as protection of the wearer against injury or disease or as protections against damage or injury of other persons or property but not suitable for general use.

"Sport or recreational equipment" means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use.

10. Section 18 of P.L.1980, c.105 (C.54:32B-8.6) is amended to read as follows:

**C.54:32B-8.6 Casual sales, exemption from tax.**

18. Receipts from casual sales except as to sales of motor vehicles, whether for use on the highways or otherwise, except as to sales of boats or vessels registered or subject to registration under the "New Jersey Boat Act of 1962," P.L.1962, c.73 (C.12:7-34.36 et seq.), and all amendments and supplements thereto, are exempt from the tax imposed under the "Sales and Use Tax Act." A manufactured home, as defined in subsection d. of section 3 of P.L.1983, c.400 (C.54:4-1.4) shall not be deemed a motor vehicle for the purposes of this section.

11. Section 33 of P.L.1980, c.105 (C.54:32B-8.21) is amended to read as follows:

**C.54:32B-8.21 School textbooks, exemption from tax.**

33. Receipts from sales of school textbooks for use by students in a school, college, university or other educational institution, approved as such by the Department of Education or by the New Jersey Commission on Higher Education, when the educational institution, upon forms and pursuant to regulations prescribed by the director, has declared the books are required for school purposes and the purchaser has supplied the seller with the form at the time of the sale are exempt from the tax imposed under the Sales and Use Tax Act.

12. Section 1 of P.L.1981, c.546 (C.54:32B-8.36) is amended to read as follows:

**C.54:32B-8.36 Recycling, treatment, conveyance equipment, exemption from tax.**

1. a. Receipts from the sales of recycling equipment are exempt from the tax imposed under the "Sales and Use Tax Act." For purposes of this subsection "recycling equipment" means any equipment which is used exclusively to sort and prepare solid waste for recycling or in the recycling of solid waste. "Recycling equipment" does not include conventional motor vehicles, or any



equipment used in a process after the first marketable product is produced, or in the case of recycling iron or steel, any equipment used to reduce the waste to molten state and in any process thereafter.

b. (1) Receipts from the sales of treatment equipment or conveyance equipment are exempt from the tax imposed under the "Sales and Use Tax Act," provided that the Commissioner of the Department of Environmental Protection has determined that the operation of the system in which the equipment is being or is to be used, and the reuse of wastewater effluent that results from that operation, are or will be beneficial to the environment. For purposes of this subsection, "treatment equipment" means any equipment that is used exclusively to treat effluent from a primary wastewater treatment facility, which effluent would otherwise have been discharged into the waters of the State, for purposes of reuse in an industrial process thereafter, and "conveyance equipment" means any equipment that is used exclusively to transport that effluent to the facility in which the treatment equipment has been or is to be installed and to transport the product of that further treatment to the site of that reuse.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the seller shall charge and collect the tax from the purchaser on such sales at the rate then in effect, and the tax shall be refunded to the purchaser by the filing of a claim, within three years of the date of purchase, with the New Jersey Division of Taxation for a refund of sales or use tax paid. Proof of claim for refund shall be demonstrated by a copy of a determination of environmental benefit issued to the purchaser by the Commissioner of the Department of Environmental Protection pursuant to section 1 of P.L.2001, c.321 (C.54:10A-5.31), and by any additional information as the director may require, including but not limited to proof of tax paid.

13. Section 1 of P.L.1985, c.24 (C.54:32B-8.39) is amended to read as follows:

**C.54:32B-8.39 Certain direct mail receipts, exemption from tax.**

1. Receipts from sales of direct mail for distribution to out-of-State recipients and receipts from sales of direct-mail processing services in connection with distribution of direct mail 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 direct mail whether prepared in, or shipped into New Jersey after preparation and stored for subsequent shipment to out-of-State customers. The direct-mail processing services exemption provided by this section shall apply to receipts from charges for all direct mail 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 direct mail materials and transporting to the point of shipment by the mail service or other carrier.

14. Section 1 of P.L.1993, c.373 (C.54:32B-8.45) is amended to read as follows:

**C.54:32B-8.45 One-half sales tax rate, counties, certain.**

1. a. Receipts of retail sales, except retail sales of motor vehicles, of alcoholic beverages, and cigarettes as defined in the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), made by a seller from a place of business regularly operated by the seller for the purpose of making retail sales at which items are regularly exhibited and offered for retail sale and which is not utilized primarily for the purpose of catalogue or mail order sales, in which county is situated an entrance to an interstate bridge or tunnel connecting New Jersey with a state that does not impose a retail sales and use tax or imposes a retail sales and use tax at a rate at least five percentage points lower than the rate in this State, are exempt to the extent of 50% of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

b. The exemption provided by subsection a. of this section shall apply unless a seller advises the director, in writing, that it intends to collect the tax at the full rate imposed under the "Sales and Use Tax Act".

**C.54:32B-8.56 Certain prewritten software, exemption from tax; definitions.**

15. Receipts from sales of prewritten software delivered electronically are exempt from the tax imposed under the "Sales and Use Tax Act", P.L.1966, c.30 (C.54:32B-1 et seq.). The exemption provided by this section shall not apply to receipts from sales of prewritten software delivered by a load and leave method.

"Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

"Computer software" means a set of coded instruction designed to cause a computer or automatic data processing equipment to perform a task.

"Delivered electronically" means delivered from the seller to the purchaser by means other than tangible storage media.

"Electronic" means relating to technology having electrical, digital magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Load and leave" means delivery to the purchaser by the use of a tangible storage medium where the tangible storage medium is not physically transferred to the purchaser.

"Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or pre-written portions thereof shall not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than such purchaser. If a person modifies or enhances computer software of which that person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, shall remain pre-written software; provided, however, that if there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute pre-written computer software. "Prewritten computer software" shall not include software delivered electronically.

**C.54:32B-8.57 Sale-leaseback transaction, exemption from tax.**

16. Receipts from a sale-leaseback transaction are exempt from the tax imposed under the "Sales and Use Tax Act", P.L.1966, c.30 (C.54:32B-1 et seq.). For purposes of this section, a "sale-leaseback" means a transaction where the owner of tangible property sells the property to a lessor, who leases it back to the owner within 180 days from when the property was originally placed in service by the owner. A sale-leaseback shall be considered a financing arrangement and shall not be considered a separate sale, use, or lease of the property.

17. Section 9 of P.L.1966, c.30 (C.54:32B-9) is amended to read as follows:

**C.54:32B-9 Exempt organizations.**

9. (a) Except as to motor vehicles sold by any of the following, any sale, service or amusement charge by or to any of the following or any use or occupancy by any of the following shall not be subject to the sales and use taxes imposed under this act:

(1) The State of New Jersey, or any of its agencies, instrumentalities, public authorities, public corporations (including a public corporation created pursuant to agreement or compact with another state) or political subdivisions where it is the purchaser, user or consumer, or where it is a seller of services or property of a kind not ordinarily sold by private persons;

(2) The United States of America, and any of its agencies and instrumentalities, insofar as it is immune from taxation where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons;

(3) The United Nations or any international organization of which the United States of America is a member where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons.

(b) Except as otherwise provided in this section any sale or amusement charge by or to any of the following or any use or occupancy by any of the following, where such sale, charge, use or occupancy is directly related to the purposes for which the following have been organized, shall not be subject to the sales and use taxes imposed under this act: a corporation, association, trust, or community chest, fund or foundation, organized and operated exclusively (1) for religious, charitable, scientific, testing for public safety, literary or educational purposes; or (2) for the prevention of cruelty to children or animals; or (3) as a volunteer fire company, rescue, ambulance, first aid or emergency company or squad; or (4) as a National Guard organization, post or association, or as a post or organization of war veterans, or the Marine Corps League, or as an auxiliary unit or society of any such post, organization or association; or (5) as an association of parents and teachers of an elementary or secondary public or private school exempt under the provisions of this section. Such a sale, charge, use or occupancy by, or a sale or charge to, an organization enumerated in this subsection, shall not be subject to the sales and use taxes only if no part of the net earnings of the organization inures to the benefit of any private shareholder or individual, no substantial part of the activities of the organization is carrying on propaganda, or otherwise attempting to influence legislation, and the organization does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(c) Nothing in this section shall exempt from the taxes imposed under the "Sales and Use Tax Act":

(1) the sale of a motor vehicle by an organization described in subsection (b) of this section, unless the purchaser is an organization exempt under this section;

(2) retail sales of tangible personal property by any shop or store operated by an organization described in subsection (b) of this section, unless the tangible personal property was received by the organization as a gift or contribution and the shop or store is one in which substantially all the work in carrying on the business of the shop or store is performed for the organization without compensation and substantially all of the shop's or store's

merchandise has been received by the organization as gifts or contributions or unless the purchaser is an organization exempt under this section; or

(3) the sale or use of energy or utility service to or by an organization described in paragraph (1) of subsection (a) or subsection (b) of this section.

(d) Any organization enumerated in subsection (b) of this section shall not be entitled to an exemption granted pursuant to this section unless it has complied with such requirements for obtaining a tax immunity authorization as may be provided in this act.

(e) Where any organization described in subsection (b) of this subsection carries on its activities in furtherance of the purposes for which it was organized, in premises in which, as part of those activities, it operates a hotel, occupancy of rooms in the premises and rents from those rooms received by the organization shall not be subject to tax under the "Sales and Use Tax Act."

(f) (1) Except as provided in paragraph (2) of this subsection, any admissions all of the proceeds of which inure exclusively to the benefit of the following organizations shall not be subject to any of the taxes imposed under subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3):

(A) an organization described in paragraph (1) of subsection (a) or subsection (b) of this section;

(B) a society or organization conducted for the sole purpose of maintaining symphony orchestras or operas and receiving substantial support from voluntary contributions; or

(C) (Deleted by amendment, P.L.1999, c.416).

(D) a police or fire department of a political subdivision of the State, or a volunteer fire company, ambulance, first aid, or emergency company or squad, or exclusively to a retirement, pension or disability fund for the sole benefit of members of a police or fire department or to a fund for the heirs of such members.

(2) The exemption provided under paragraph (1) of this subsection shall not apply in the case of admissions to:

(A) Any athletic game or exhibition unless the proceeds shall inure exclusively to the benefit of elementary or secondary schools or unless in the case of an athletic game between two elementary or secondary schools, the entire gross proceeds from such game shall inure to the benefit of one or more organizations described in subsection (b) of this section;

(B) Carnivals, rodeos, or circuses in which any professional performer or operator participates for compensation;

(3) Admission charges for admission to the following places or events shall not be subject to any of the taxes imposed under subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3):

(A) Any admission to agricultural fairs if no part of the net earnings thereof inures to the benefit of any stockholders or members of the association conducting the same; provided the proceeds therefrom are used exclusively for the improvement, maintenance and operation of such agricultural fairs.

(B) Any admission to a home or garden which is temporarily open to the general public as a part of a program conducted by a society or organization to permit the inspection of historical homes and gardens; provided no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

(C) Any admissions to historic sites, houses and shrines, and museums conducted in connection therewith, maintained and operated by a society or organization devoted to the preservation and maintenance of such historic sites, houses, shrines and museums; provided no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

18. Section 10 of P.L.1966, c.30 (C.54:32B-10) is amended to read as follows:

**C.54:32B-10 Sale of motor vehicle, aircraft, boat, vessel, exemption from tax.**

10. (a) Receipts from any sale of a motor vehicle, an aircraft or a boat or other vessel shall not be subject to the retail sales tax imposed under subsection (a) of section 3, despite the taking of physical possession by the purchaser within this State, provided that the purchaser, at the time of taking delivery:

- (1) is a nonresident of this State,
- (2) has no permanent place of abode in this State,
- (3) is not engaged in carrying on in this State any employment, trade, business or profession in which the motor vehicle, aircraft or boat or other vessel will be used in this State,
- (4) prior to taking delivery, furnishes to the seller: any affidavit, statement or additional evidence, documentary or otherwise, which the director may require to assure proper administration of the tax imposed upon subsection (a) of section 3, and
- (5) will not house, moor, base or otherwise place the aircraft, boat or other vessel in this State for use on other than a transient basis or for repairs at any time within 12 months from the date of purchase. In the event that any of the conditions specified in this subsection (a) have not been met, the exemption herein granted shall not be applicable and the purchaser shall be liable for the payment of the sales tax.

(b) A seller shall not be liable for failure to collect tax on receipts from any sale of a motor vehicle, an aircraft or a boat or other vessel; provided that the seller prior to making delivery obtains and keeps available for inspection by the director any affidavit, statement or additional evidence, documentary or otherwise, as may be required to be furnished under subsection (a) above; provided, that such affidavit, statement or additional evidence is not known by the seller, prior to making physical delivery of the motor vehicle, aircraft or boat or other vessel, to be false.

19. Section 11 of P.L.1966, c.30 (C.54:32B-11) is amended to read as follows:

**C.54:32B-11 Certain uses of property exempt from tax.**

11. The following uses of property shall not be subject to the compensating use tax imposed under this act:

(1) In respect to the use of property used by the purchaser in this State prior to July 1, 1966.

(2) In respect to the use of property purchased by the user while a nonresident of this State, except in the case of tangible personal property which the user, in the performance of a contract, incorporates into real property located in the State. A person while engaged in any manner in carrying on in this State any employment, trade, business or profession, not entirely in interstate or foreign commerce, shall not be deemed a nonresident with respect to the use in this State of property in such employment, trade, business or profession.

(3) In respect to the use of property or services upon the sale of which the purchaser would be expressly exempt from the taxes imposed under subsection (a) or (b) of section 3.

(4) In respect to the use of property which is converted into or becomes a component part of a product produced for sale or for market sampling by the purchaser.

(5) In respect to the use of paper in the application of newspapers and periodicals.

(6) In respect to the use of property or services to the extent that a retail sales or use tax was legally due and paid thereon, without any right to a refund or credit thereof, to any other State or jurisdiction within any other state but only when it is shown that such other State or jurisdiction allows a corresponding exemption with respect to the sale or use of tangible personal property or services upon which such a sales tax or compensating use tax was paid to this State. To the extent that the tax imposed by this act is at a higher rate than the rate of tax in the first taxing jurisdiction, this exemption shall be inapplicable and the tax imposed by section 6 of this act shall apply to the extent of the difference in such rates.

(7) In respect to the use of natural gas by an eligible person, other than a co-generation facility, as defined in section 34 of P.L.1997, c.162 (C.54:32B-14.1), up to the base level of volume as defined in section 34 of P.L.1997, c.162, but only as long as the eligible person remains at the same physical site that was occupied on December 31, 1995.

20. Section 12 of P.L.1966, c.30 (C.54:32B-12) is amended to read as follows:

**C.54:32B-12 Collection of tax from customer.**

12. (a) Every person required to collect the tax shall collect the tax from the customer when collecting the price, service charge, amusement charge or rent to

which it applies. If the customer is given any sales slip, invoice, receipt or other statement or memorandum of the price, service charge, amusement charge or rent paid or payable, the tax shall be stated, charged and shown separately on the first of such documents given to him. The tax shall be paid to the person required to collect it as trustee for and on account of the State.

(b) For the purpose of the proper administration of this act and to prevent evasion of the tax hereby imposed, and subject to the rules regarding the administration of exemptions authorized by the Streamlined Sales and Use Tax Agreement, it shall be presumed that all receipts for property or services of any type mentioned in subsections (a), (b) and (c) of section 3, all rents for occupancy of the type mentioned in subsection (d) of said section, and all amusement charges of any type mentioned in subsection (e) of said section, are subject to tax until the contrary is established, and the burden of proving that any such receipt, amusement charge or rent is not taxable hereunder shall be upon the person required to collect tax or the customer. Unless a seller shall have taken from the purchaser a certificate, signed by the purchaser if in paper form and bearing the purchaser's name and address and the number of the purchaser's registration certificate, to the effect that the property or service was purchased for resale or the purchaser prior to taking delivery, furnishes to the seller any affidavit, statement or additional evidence, documentary or otherwise, which the director may require demonstrating that the purchaser is an exempt organization described in section 9(b)(1), the sale shall be deemed a taxable retail sale. Provided however, the director may, in the director's discretion, authorize a purchaser, who acquires tangible personal property or services under circumstances which make it impossible at the time of acquisition to determine the manner in which the tangible personal property or services will be used, to pay the tax directly to the director and waive the collection of the tax by the seller or provide for direct pay authority under rules adopted under the Streamlined Sales and Use Tax Agreement. Provided further, the director shall authorize any eligible person, as defined in section 34 of P.L.1997, c.162 (C.54:32B-14.1), who purchases natural gas from a non-utility on and after January 1, 1998 through December 31, 2002, to pay the tax on the commodity directly to the director and waive the collection of the tax by the seller. No such authority shall be granted or exercised except upon application to the director, and the issuance by the director of a direct payment permit. If a direct payment permit is granted, its use shall be subject to conditions specified by the director, and the payment of tax on all acquisitions pursuant to the permit shall be made directly to the director by the permit holder.

(c) The director may provide by regulation that the tax upon receipts from sales on the installment plan may be paid on the amount of each installment and upon the date when such installment is due. He may also provide by regulation for the exclusion from taxable receipts, amusement charges or rents of amounts subject, as applicable, to the provisions of section 30 of P.L.2005, c.126 (C.54:32B-12.1), representing sales where the contract of sale has been canceled,



the property returned or the receipt, charge or rent has been ascertained to be uncollectible or, in the case the tax has been paid upon such receipt, charge or rent, for refund or credit of the tax so paid.

21. Section 14 of P.L.1966, c.30 (C.54:32B-14) is amended to read as follows:

**C.54:32B-14 Liability for tax.**

14. (a) Every person required to collect any tax imposed by this act shall be personally liable for the tax imposed, collected or required to be collected under this act. Any such person shall have the same right in respect to collecting the tax from that person's customer or in respect to non-payment of the tax by the customer as if the tax were a part of the purchase price of the property or service, amusement charge or rent, as the case may be, and payable at the same time; provided, however, that the director shall be joined as a party in any action or proceeding brought to collect the tax.

(b) Where any customer has failed to pay a tax imposed by this act to the person required to collect the same, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the customer directly to the director and it shall be the duty of the customer to file a return with the director and to pay the tax to the director within 20 days of the date the tax was required to be paid.

(c) The director may, whenever the director deems it necessary for the proper enforcement of this act, provide by regulation that customers shall file returns and pay directly to the director any tax herein imposed, at such times as returns are required to be filed and payment over made by persons required to collect the tax.

(d) No person required to collect any tax imposed by this act shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the tax is not considered as an element in the price, amusement charge or rent payable by the customer, or except as provided by subsection (f) of this section that the person required to collect the tax will pay the tax, that the tax will not be separately charged and stated to the customer or that the tax will be refunded to the customer. Upon written application duly made and proof duly presented to the satisfaction of the director showing that in the particular business of the person required to collect the tax it would be impractical for the seller to separately charge the tax to the customer, the director may waive the application of the requirement herein as to such seller.

(e) All sellers of energy or utility service shall include the tax imposed by the "Sales and Use Tax Act" within the purchase price of the tangible personal property or service.

(f) A vendor other than a vendor subject to subsection (e) of this section making retail sales of tangible personal property or sales of services may

advertise that the vendor will pay the tax for the customer subject to the conditions of this subsection.

(1) The advertising shall indicate that the vendor is, in fact, paying the tax for the customer and shall not indicate or imply that the sale or charge is exempt from taxation.

(2) Notwithstanding the provisions of section 12 of P.L.1966, c.30 (C.54:32B-12) to the contrary, any sales slip, invoice, receipt or other statement or memorandum of the price or service charge paid or payable given to the customer shall state that the tax will be paid by the vendor; provided however that such record shall be otherwise subject to the provisions of section 12 of P.L.1966, c.30 (C.54:32B-12).

(3) The vendor shall pay the amount of tax due on the retail sale or service receipt, as determined pursuant to section 4 of P.L.1966, c.30 (C.54:32B-4), as trustee for and on account of the State, and shall have the same liability for that amount of tax pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), as for an amount collected from a customer.

(g) No person required to collect any tax imposed by this act shall be held liable for having charged and collected the incorrect amount of sales and use tax by reason of reliance on erroneous data provided by the director with respect to tax rates, boundaries or taxing jurisdiction assignments or contained in the taxability matrix.

(h) In connection with a purchaser's request from a seller of over-collected sales or use taxes, a seller shall be presumed to have a reasonable business practice, if in the collection of such sales or use taxes, the seller: (1) uses either a provider or a system, including a proprietary system, that is certified by the State; and (2) has remitted to the State all taxes collected less any deductions, credits, or collection allowances.

22. Section 34 of P.L.1997, c.162 (C.54:32B-14.1) is amended to read as follows:

**C.54:32B-14.1 Tax treatment of certain purchases of natural gas, "eligible person" defined.**

34. a. As used in this act, "eligible person" means any person other than a co-generation facility as defined in this act whose last purchase and delivery of natural gas on or before December 31, 1995 was from a non-utility, or a cogeneration facility which ceased operation in 1996 and subsequently began to purchase non-utility natural gas, and who satisfactorily documents such purchase to the director.

b. An eligible person shall determine and certify to the director, and satisfactorily document to the director, a base level of volume as of December 31, 1995 or December 31, 1996 in the case of a co-generation facility which ceased operation in 1996 and subsequently began to purchase non-utility natural gas, which shall be equal to the average annual volume

of natural gas units purchased by the eligible person from any non-utility and delivered, but such computation shall not include any purchases delivered prior to January 1, 1992, provided however, that the base level of volume of an eligible person other than a co-generation facility shall be reduced on an annual basis beginning in 1999 by multiplying the base level of volume as of December 31, 1995 by the following reduction ratios: 0.8 in 1999, 0.6 in 2000, 0.4 in 2001 and 0.2 in 2002. In 2003 and thereafter there shall be no exemption for purchases of natural gas by an eligible person other than a co-generation facility.

c. For purchases of natural gas from a non-utility on and after January 1, 1998 through December 31, 2002, an eligible person shall issue a direct payment certificate to the non-utility and shall pay any sales or use tax due pursuant to the method prescribed by this section. Unless specifically exempt from the tax imposed under the Sales and Use Tax Act pursuant to subsection b. of section 26 of P.L.1997, c.162 (C.54:32B-8.46), utility service is subject to the tax imposed pursuant to section 3 of P.L.1966, c.30 (C.54:32B-3).

d. On an annual basis, each eligible person, other than a co-generation facility, shall be required to file with the director:

(1) An energy volume report, which shall contain a certification as to the gross annual volume of gas (in units) purchased and delivered in the previous 12-month period from any non-utility and utility, the purchase price per unit, and any additional information that the director deems necessary to effectuate the provisions herein; and

(2) An energy use tax return, wherein any tax due on natural gas purchased from a utility or non-utility shall be reported and remitted as follows:

(a) If the certified gross annual volume (in units) was purchased solely from a non-utility, and does not exceed the base level of volume, no sales and use tax shall be due on purchases of natural gas in that calendar year;

(b) If the certified gross annual volume (in units) was purchased solely from a non-utility, and exceeds the base level of volume, the sales and use tax shall be remitted on the purchases of natural gas that exceed the base level of volume, based on the purchase price of the gas; and

(c) If the certified gross annual volume in units was purchased from both a utility and non-utility seller or solely from a utility seller, the director shall refund to the eligible person all sales taxes paid on purchases not in excess of the base level of volume. The eligible person shall remit to the director all unpaid sales taxes on the purchases of natural gas that exceed the base level of volume, based on the purchase price.

23. Section 15 of P.L.1966, c.30 (C.54:32B-15) is amended to read as follows:

**C.54:32B-15 Certificate of registration; streamlined methods.**

15. (a) On or before June 20, 1966, or in the case of persons commencing business or opening new places of business after such date, within three days after such commencement or opening, every person required to collect any tax imposed by this act and every person purchasing tangible personal property for resale shall file with the director a certificate of registration in a form prescribed by the director. In the case of a person commencing business or opening a new place of business on or after the first day of the third month following the enactment of P.L.1993, c.274 (C.40:52-1.3 et al.), the certificate shall be filed at least 15 business days before the commencement or opening. The director shall within five days after such registration issue, without charge, to each registrant a certificate of authority empowering the registrant to collect the tax and a duplicate thereof for each additional place of business of such registrant. Each certificate or duplicate shall state the place of business to which it is applicable. Such certificate of authority shall be prominently displayed in the place of business of the registrant. A registrant who has no regular place of doing business shall attach such certificate to his cart, stand, truck or other merchandising device. Such certificates shall be nonassignable and nontransferable and shall be surrendered to the director immediately upon the registrant's ceasing to do business at the place named.

(b) Any person who is not otherwise required to collect any tax imposed by this act and who makes sales to persons within the State of tangible personal property or services, the use of which is subject to tax under this act, may if he so elects file a certificate of registration with the director who may, in his discretion and subject to such conditions as he may impose, issue to him a certificate of authority to collect the compensating use tax imposed by this act.

(c) A seller that registers to pay or collect and remit sales or use tax in accordance with the terms of the Streamlined Sales and Use Tax Agreement may select one of the following methods of remittance or other method allowed by State law to remit the taxes collected, subject to the liabilities and conditions established pursuant to section 10 of P.L.2001, c.431 (C.54:32B-53):

- (1) a model 1 seller, that selects a certified service provider as an agent to perform all the seller's sales or use tax functions, other than the seller's obligation to remit tax on its own purchases;
- (2) a model 2 seller, that selects a certified automated system to use which calculates the amount of tax due on a transaction; or
- (3) a model 3 seller, that uses its own proprietary automated sales tax system that has been certified as a certified automated system.

(d) A certified service provider in model 1 shall be allowed a monetary allowance in accordance with the terms of the contract that the states participating in the Streamlined Sales and Use Tax Agreement sign with the provider. The director shall prescribe the allowance in accordance with the terms of the contract, which shall be funded entirely from money collected in model 1.

A monetary allowance to a certified service provider may be based on one or more of the following incentives:

(1) A base rate that applies to taxable transactions processed by the provider.

(2) For a period not to exceed 24 months following a voluntary seller's registration through the Streamlined Sales and Use Tax Agreement's central registration process, a percentage of tax revenue generated for a member state by the voluntary seller for each member state for which the seller does not have a requirement to register to collect the tax.

(e) A model 2 seller shall be allowed a monetary allowance which the director shall prescribe in accordance with the terms arrived at by the member states of the Streamlined Sales and Use Tax Agreement. The member states initially anticipate that they will provide a monetary allowance to sellers under model 2 based on the following:

(1) Each seller shall receive a base rate for a period not to exceed 24 months following the commencement of participation by the seller.

(2) For a period not to exceed 24 months following a voluntary seller's registration through the Streamlined Sales and Use Tax Agreement's central registration process, a percentage of tax revenue generated for a member state by the voluntary seller for each member state for which the seller does not have a requirement to register to collect the tax.

(f) A model 3 seller and all other sellers that are not under model 1 or model 2 shall be allowed a monetary allowance which the director shall prescribe in accordance with the terms arrived at by the member states of the Streamlined Sales and Use Tax Agreement. The member states initially anticipate that they will provide a monetary allowance to sellers under model 3 and to all other sellers that are not under models 1 or 2 will be based on the following: for a period not to exceed 24 months following a voluntary seller's registration through the Streamlined Sales and Use Tax Agreement's central registration process, a percentage of tax revenue generated for a member state by the voluntary seller for each member state for which the seller does not have a requirement to register to collect the tax.

24. Section 17 of P.L.1966, c.30 (C.54:32B-17) is amended to read as follows:

**C.54:32B-17 Returns; streamlined systems; amnesty.**

17. (a) Every person required to collect or pay tax under this act shall on or before August 28, 1966, and on or before the twentieth day of each month thereafter, make and file a return for the preceding month with the director. The return of a seller of tangible personal property or services shall show his receipts from sales and also the aggregate value of tangible personal property and services sold by him, the use of which is subject to tax under this act, and the amount of taxes required to be collected with respect to such sales and use. The return of a recipient of amusement charges shall show all such charges and the amount of tax thereon, and the return of a person required to collect tax on leases or rentals shall show all lease or rental payments received or charged and the amount of tax thereon.

(b) The director may permit or require returns to be made covering other periods and upon such dates as he may specify. In addition, the director may require payments of tax liability at such intervals and based upon such classifications as he may designate. In prescribing such other periods to be covered by the return or intervals or classifications for payment of tax liability, the director may take into account the dollar volume of tax involved as well as the need for insuring the prompt and orderly collection of the taxes imposed.

(c) The form of returns shall be prescribed by the director and shall contain such information as he may deem necessary for the proper administration of this act. The director may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

(d) Pursuant to the Streamlined Sales and Use Tax Agreement, the director is authorized to accept certified automated systems and certified service providers to aid in the administration of the collection of the tax imposed under the "Sales and Use Tax Act".

(e) Subject to the limitations of this subsection and other provisions of the "Sales and Use Tax Act":

(1) In addition to the powers of the director prescribed pursuant to section 24 of P.L.1966, c.30 (C.54:32B-24) and the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq., and notwithstanding the provisions of any other law to the contrary, the director shall grant "amnesty" for uncollected or unpaid sales or use tax to a seller that registers to collect and remit applicable sales or use tax on sales made to purchasers in this State in accordance with the terms of the Streamlined Sales and Use Tax Agreement, provided that the seller was not so registered in this State in the twelve-month period preceding the commencement of this State's participation in the agreement.

(2) Under terms of the "amnesty" granted pursuant to paragraph (1) of this subsection, a seller that registers shall not be assessed for uncollected

or unpaid sales or use tax and shall not be assessed penalties or interest for sales made during the period the seller was not registered in this State, provided that the seller registers pursuant to paragraph (1) of this subsection within twelve months of the effective date of this State's participation in the Streamlined Sales and Use Tax Agreement.

(3) The limitations on deficiency assessments, penalties and interest pursuant to paragraph (2) of this subsection shall not be available to a seller with respect to any matter for which the seller received notice of the commencement of an audit and which audit is not yet finally resolved including any related administrative and judicial processes.

(4) The limitations on deficiency assessments, penalties and interest pursuant to paragraph (2) of this subsection shall not be available for sales or use taxes already paid or remitted to the State or to taxes already collected by the seller.

(5) The "amnesty" limitations on deficiency assessments, penalties and interest pursuant to paragraph (2) of this subsection shall be in full effect and the director shall not assess deficiencies for uncollected or unpaid sales or use tax and shall not assess penalties or interest for sales made during the period the seller was not registered in this State so long as the seller continues registration and continues collection and remittance of applicable sales or use taxes for a period of at least 36 months: provided however that the director may make such assessments by reason of the seller's fraud or intentional misrepresentation of a material fact. The statutes of limitations applicable to asserting a tax liabilities, deficiencies, penalties and interest are tolled for this 36 month period.

(6) The "amnesty" granted pursuant to paragraph (1) of this subsection shall apply only to sales or use taxes due from a seller in its capacity as a seller and shall not apply to sales or use taxes due from a seller in its capacity as a buyer.

25. Section 18 of P.L.1966, c.30 (C.54:32B-18) is amended to read as follows:

**C.54:32B-18 Payment of tax.**

18. Every person required to file a return under this act shall, at the time of filing such return, pay to the director the taxes imposed by this act as well as all other moneys collected by such person acting or purporting to act under the provisions of this act. All the taxes for the period for which a return is required to be filed or for such lesser interval as shall have been designated by the director, shall be due and payable to the director on the date limited for the filing of the return for such period, or on the date limited for such lesser interval as the director has designated, without regard to

whether a return is filed or whether the return which is filed correctly shows the amount of receipts, amusement charges or rents or the value of property or services sold or purchased or the taxes due thereon. Where the director, in the director's discretion, deems it necessary to protect the revenues to be obtained under this act, the director may require any person required to collect the tax imposed by this act to file a bond with the director, issued by a surety company authorized to transact business in this State and approved by the Commissioner of Banking and Insurance of this State as to solvency and responsibility, in such amount as the director may fix, to secure the payment of any tax or penalties or interest due or which may become due from such person under this act. In the event that the director determines that a seller is to file such bond, the director shall give notice to the seller to that effect, specifying the amount of the bond required. Such person shall file such bond within 5 days after the giving of such notice unless within such 5 days that person shall request in writing a hearing before the director at which the necessity, propriety and amount of the bond shall be determined by the director. Such determination shall be final and shall be complied with within 15 days after the giving of notice thereof. In lieu of such bond, securities approved by the director or cash in such amount as the director may prescribe, may be deposited, which shall be kept in the custody of the director who may at any time without notice to the depositor apply them to any tax or interest or penalties due, and for that purpose the securities may be sold by the director at public or private sale without notice to the depositor thereof.

**C.54:32B-3.1 Sourcing of retail sale of product; definitions.**

26. a. The retail sale, excluding lease or rental, of a product shall be sourced as follows:

(1) If the product is received by the purchaser at a business location of the seller, then the sale shall be sourced to that business location.

(2) If the product is not received by the purchaser at a business location of the seller, then the sale shall be sourced to the location where receipt by the purchaser (or the purchaser's donee, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery to the purchaser (or donee), known to the seller.

(3) If paragraphs (1) and (2) of this subsection do not apply, then the sale shall be sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(4) If paragraphs (1), (2), and (3) of this subsection do not apply, then the sale shall be sourced to the location indicated by an address for the



purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, if use of this address does not constitute bad faith.

(5) If the rules of paragraph (1), (2), (3), or (4) of this subsection do not apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location shall be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided (disregarding for these purposes any location that merely provided the digital transfer of the product sold).

b. The lease or rental of tangible personal property, other than property identified in subsection c. or subsection d. of this section, shall be sourced as follows:

(1) If a lease or rental that requires recurring periodic payments, then the first periodic payment shall be sourced the same as a retail sale in accordance with the provisions of subsection a. of this section. Periodic payments made subsequent to the first payment shall be sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

(2) If a lease or rental does not require recurring periodic payments, then the payment shall be sourced the same as a retail sale in accordance with the provisions of subsection a. of this section.

(3) This subsection shall not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

c. The lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in subsection d. of this section, shall be sourced as follows:

(1) If a lease or rental requires recurring periodic payments, then each periodic payment shall be sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, if use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations.

(2) If a lease or rental does not require recurring periodic payments, then the payment shall be sourced the same as a retail sale in accordance with the provisions of subsection a. of this section.

(3) This subsection shall not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

d. The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subsection a. of this section, notwithstanding the exclusion of lease or rental under subsection a. of this section.

e. For the purposes of this section,

"Transportation equipment" means:

(1) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce;

(2) Trucks and truck-tractors with a Gross Vehicle Weight Rating (GVWR) of 10,001 pounds or greater, trailers, semi-trailers, or passenger buses that are:

A. Registered through the International Registration Plan; and

B. Operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

(3) Aircraft that are operated by air carriers authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; or

(4) Containers designed for use on and component parts attached or secured on the items set forth in subsections (d)(1) through (d)(3); and

"Receive" and "receipt" mean:

(1) Taking possession of tangible personal property,

(2). Making first use of services, or

(3) Taking possession or making first use of digital goods, whichever comes first.

The terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

**C.54:32B-3.2 Multiple points of use exemption form, circumstances when applicable.**

27. a. Notwithstanding the general sourcing provisions of section 26 of P.L.2005, c.126 (C.54:32B-3.1), a business purchaser that is not a holder of a direct pay permit that knows at the time of its purchase of a digital good, computer software delivered electronically, or a service that the digital good, computer software delivered electronically, or service will be concurrently available for use in more than one jurisdiction shall deliver to the seller in

conjunction with its purchase a multiple points of use exemption form ("MPU exemption form") disclosing this fact.

b. Upon receipt of the MPU exemption form, the seller shall be relieved of all obligation to collect, pay, or remit the applicable tax and the purchaser shall be obligated to collect, pay, or remit the applicable tax on a direct pay basis.

c. A purchaser delivering the MPU exemption form may use any reasonable, but consistent and uniform, method of apportionment that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.

d. The MPU exemption form shall remain in effect for all future sales by the seller to the purchaser (except as to the subsequent sale's specific apportionment that is governed by the principle of subsection c. of this section and the facts existing at the time of the sale) until it is revoked in writing.

e. A holder of a direct pay permit shall not be required to deliver a MPU exemption form to the seller. A direct pay permit holder shall follow the provisions of subsection c. of this section in apportioning the tax due on a digital good or a service that will be concurrently available for use in more than one jurisdiction.

**C.54:32B-3.3 Direct mail form, information to seller.**

28. a. Notwithstanding the general sourcing provisions of section 26 of P.L.2005, c.126 (C.54:32B-3.1), a purchaser of direct mail that is not a holder of a direct pay permit shall provide to the seller in conjunction with the purchase either a direct mail form or information to show the jurisdictions to which the direct mail is delivered to recipients.

(1) Upon receipt of the direct mail form, the seller shall be relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser shall be obligated to pay or remit the applicable tax on a direct pay basis. A direct mail form shall remain in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.

(2) Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the seller shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the seller shall be relieved of any further obligation to collect tax on any transaction for which the seller has collected tax pursuant to the delivery information provided by the purchaser.

b. If the purchaser of direct mail does not have a direct pay permit and does not provide the seller with either a direct mail form or delivery information, as required by subsection a. of this section, the seller shall collect the tax according to paragraph (5) of subsection a. of section 26 of P.L.2005,

c.126 (C.54:32B-3.1). Nothing in this subsection shall limit a purchaser's obligation for sales or use tax to any state to which the direct mail is delivered.

c. If a purchaser of direct mail provides the seller with documentation of direct pay authority, the purchaser shall not be required to provide a direct mail form or delivery information to the seller.

**C.54:32B-3.4 Sourcing of certain telecommunication services; definitions.**

29. a. Notwithstanding the general sourcing provisions of section 26 of P.L.2005, c.126 (C.54:32B-3.1), except for the telecommunication services enumerated in subsection c. of this section, the sale of telecommunication service sold on a call-by-call basis shall be sourced to:

- (1) each level of taxing jurisdiction where the call originates and terminates in that jurisdiction; or
- (2) each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

b. Except for the telecommunication services enumerated in subsection c. of this section, a sale of telecommunications services sold on a basis other than a call-by-call basis shall be sourced to the customer's place of primary use.

c. The sale of the following telecommunication services shall be sourced to each level of taxing jurisdiction as follows:

(1) A sale of mobile telecommunications services other than air-to-ground radiotelephone service and prepaid calling service shall be sourced to the customer's place of primary use as required by the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C. s.116 et seq.

(2) A sale of post-paid calling service shall be sourced to the origination point of the telecommunications signal as first identified by either:

- (a) the seller's telecommunications system; or
- (b) information received by the seller from its service provider, if the system used to transport such signals is not that of the seller.

(3) A sale of prepaid calling service shall be sourced in accordance with the general sourcing provisions of section 26 of P.L.2005, c.126 (C.54:32B-3.1); provided however, that in the case of a sale of mobile telecommunications service that is a prepaid telecommunications service, the rule provided in paragraph (5) of subsection (a) of that section shall include as an option the location associated with the mobile telephone number.

(4) A sale of a private communication service shall be sourced as follows:

- (a) Service for a separate charge related to a customer channel termination point shall be sourced to each level of jurisdiction in which such customer channel termination point is located.

(b) Service for which all customer termination points are located entirely within one jurisdiction or levels of jurisdiction shall be sourced to such jurisdiction in which the customer channel termination points are located.

(c) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segments of channel are separately charged shall be sourced fifty percent to each level of jurisdiction in which the customer channel termination points are located.

(d) Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments of channel are not separately billed shall be sourced to each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

d. For the purposes of this section:

"Air-to-ground radiotelephone service" means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft;

"Call-by-call basis" means any method of charging for telecommunications services in which the price is measured by individual calls;

"Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points;

"Customer" means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, then the end user of the telecommunications service is the customer of the telecommunication service, but this provision applies only for the purpose of sourcing sales of telecommunications services under this section. "Customer" does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area;

"Customer channel termination point" means the location where the customer either inputs or receives the communications;

"End user" means the person who utilizes the telecommunication service. In the case of an entity, "end user" means the individual who utilizes the service on behalf of the entity;

"Home service provider" has the same meaning as that term is defined by the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C. s.124;

"Mobile telecommunications service" has the same meaning as that term is defined by the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C. s.124;

"Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" shall be within the licensed service area of the home service provider;

"Post-paid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service that would be a prepaid calling service except it is not exclusively a telecommunications service;

"Prepaid calling service" means the right to access exclusively telecommunications services, which shall be paid for in advance that enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;

"Private communication service" means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels; and

"Service address" means

(1) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(2) If the location in paragraph (1) of this definition is not known, "service address" means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, in the case that the system used to transport such signals is not that of the seller; or

(3) If the locations in paragraphs (1) and (2) of this definition are not known, "service address" means the location of the customer's place of primary use.

**C.54:32B-12.1 Deduction from taxable sales for bad debts.**

30. a. A seller shall be allowed a deduction from taxable sales for bad debts.

b. The amount of the deduction from taxable sales allowed pursuant to subsection a. of this section shall not include interest.

c. For the purposes of this section, "bad debt" has the same meaning as that term is defined by 26 U.S.C. s.166 as the basis for calculating bad debt recovery; provided however, the amount calculated pursuant to 26 U.S.C. s.166 shall be adjusted to exclude: financing charges or interest; sales or use taxes charged on the purchase price; uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid; expenses incurred in attempting to collect any debt, and repossessed property.

d. The deduction from taxable sales allowed pursuant to subsection a. of this section shall be deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subsection, a claimant who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.

e. If the deduction from taxable sales allowed pursuant to subsection a. of this section is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount so collected shall be paid and reported on the return filed for the period in which the collection is made.

f. If the amount of the deduction from taxable sales allowed pursuant to subsection a. of this section exceeds the amount of taxable sales for the period during which the bad debt is written off, a refund claim may be filed within four years from the due date of the return on which the bad debt could first be claimed.

g. If filing responsibilities have been assumed by a certified service provider, the certified services provider may claim, on behalf of the seller, any deduction from taxable sales allowed pursuant to subsection a. of this section. The certified service provider shall credit or refund the full amount of any bad debt allowance or refund received to the seller.

h. For the purposes of reporting a payment received on a bad debt for which the deduction from taxable sales allowed pursuant to subsection a. of this section was previously claimed, any payments made on a debt or account shall first be applied proportionally to the taxable price of the property or service and the sales tax thereon, and secondly to interest, service charges, and any other charges.

i. In situations in which the books and records of the party claiming the deduction from taxable sales allowed pursuant to subsection a. of this section support an allocation of the bad debts among the member states, the allocation shall be permitted.

31. Section 24 of P.L.1966, c.30 (C.54:32B-24) is amended to read as follows:

**C.54:32B-24 General powers of the director.**

24. General powers of the director. In addition to the powers granted to the director in this act, the director is hereby authorized and empowered:

1. To make, adopt and amend rules and regulations appropriate to the carrying out of this act and the purposes thereof;

2. To extend, for cause shown by general regulation or individual authorization, the time of filing any return for a period not exceeding three months on such terms and conditions as the director may require; and for cause shown, to remit penalties and interest as provided for in the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.;

3. To delegate the director's functions hereunder to any officer or employee of the director's division such of the director's powers as the director may deem necessary to carry out efficiently the provisions of this act, and the person or persons to whom such power has been delegated shall possess and may exercise all of the power and perform all of the duties herein conferred and imposed upon the director;

4. To prescribe methods for determining the amount of receipt, amusement charges, or rents and for determining which of them are taxable and which are nontaxable;

5. To require any person required to collect tax to keep detailed records of all receipts, amusement charges, or rents received, charged or accrued, including those claimed to be nontaxable, and also of the nature, type, value and amount of all purchases, sales, services rendered, admissions, occupancies, names and addresses of customers, and other facts relevant in determining the amount of tax due and to furnish such information upon request to the director;

6. To assess, determine, revise and readjust the taxes imposed by this act;

7. To publish and maintain, as the director deems necessary, lists of specific items of tangible personal property which are found to be foods and drugs exempt from tax under sections 13 and 14 of P.L.1980, c.105 (C.54:32B-8.1 and 54:32B-8.2);

8. To enter into agreements with other states and the District of Columbia, providing for the reciprocal enforcement of the sales and use tax laws



imposed by the states entering into such an agreement. Such agreement may empower the duly authorized officer of any contracting state, which extends like authority to officers or employees of this State, to sue for the collection of that state's sales and use taxes in the courts of this State;

9. To require alcoholic beverage wholesalers to make report of sales to retailers, as wholesaler and retailer are defined pursuant to the "New Jersey Alcoholic Beverage Control Act," R.S.33:1-1 et seq., with such content, in such form and at such times as the director may prescribe. The information provided to the director under this paragraph shall identify retailers by their sales tax registration number issued pursuant to section 15 of P.L.1966, c.30 (C.54:32B-15) and shall be available for transmission to the director by electronic means, or computer tape or disc, as the director may require;

10. To give due regard to the provisions of the Streamlined Sales and Use Tax Agreement regarding rate changes.

32. Section 20 of P.L.1966, c.30 (C.54:32B-20) is amended to read as follows:

**C.54:32B-20 Refunds, credit.**

20. (a) In the manner provided in this section the director shall refund or credit any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the director for such refund shall be made within four years from the payment thereof. Such application may be made by a customer who has actually paid the tax. Such application may also be made by a person required to collect the tax, who has collected and paid over such tax to the director, provided that the application is made within four years of the payment to him by the customer, but no actual refund of moneys shall be made to such person until the person shall first establish to the satisfaction of the director, under such regulations as the director may prescribe, that the person has repaid to the customer the amount for which the application for refund is made. The director may, in lieu of any refund, allow credit on payments due from the applicant.

(b) A person shall not be entitled to a revision, refund or credit under this section of a tax, interest or penalty which had been determined to be due pursuant to the provisions of section 19 of P.L.1966, c.30 (C.54:32B-19) where the person has had a hearing or an opportunity for a hearing as provided in said section or has failed to use the remedies therein provided unless the person otherwise meets the requirements of subsection b. of R.S.54:49-14. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the director made pursuant to section 19 of P.L.1966, c.30 (C.54:32B-19) unless it be found that such determination was

erroneous, illegal or unconstitutional or otherwise improper, pursuant to law, in which event refund or credit shall be made of the tax, interest or penalty found to have been overpaid.

(c) (1) A purchaser may seek a refund of over-collected sales or use tax from the seller. This refund procedure shall provide the first course of remedy available to a purchaser seeking such a refund. A cause of action seeking a return of over-collected sales or use taxes from the seller shall not accrue until the purchaser has provided written notice to a seller and the seller has had sixty days to respond. Such notice shall contain the information necessary to determine the validity of the request.

(2) In connection with a purchaser's request from a seller of over-collected sales or use tax, the seller shall be presumed to have a reasonable business practice, if in the collection of such sales or use taxes, the seller:

(i) uses either a provider or a system including a proprietary system, certified by the State; and

(ii) has remitted to the State all taxes collected less any deductions, credits, or collection allowances.

**C.54:32B-28.1 Effective date of rate change; conformance with Streamlined Agreement.**

33. On and after October 1, 2005:

a. The effective date of any sales and use tax rate change shall be the first day of the calendar quarter next succeeding the expiration of one full calendar quarter immediately following enactment of the rate change;

b. Any exemption, exception or exclusion from sales and use taxation shall be enacted only in accordance with the applicable provisions of the Streamlined Sales and Use Tax Agreement;

c. The State shall be subject to the uniform rules for the remittance of funds as provided in the Streamlined Sales and Use Tax Agreement;

d. The State shall be subject to the privacy and confidentiality provisions provided in the Streamlined Sales and Use Tax Agreement for participants in the system and consumers who deal with Model 1 sellers;

e. The uniform rules for the recovery of bad debts contained in the Streamlined Sales and Use Tax Agreement shall be in effect; and

f. The State shall not use registration with the central registration system and the collection of sales and use taxes in the member states as a factor in determining whether the seller has nexus with this State for any tax at any time.

**C.54:32B-28.2 Application of definition of "lease or rental."**

34. Notwithstanding the provisions of P.L.2005, c.126 to the contrary, the definition of "lease or rental" enacted by P.L.2005, c.126 shall be applied only prospectively from the date of enactment of P.L.2005, c.126 and shall

have no retroactive impact on existing leases or rentals. The definition shall not have any impact on the treatment of sale-leaseback transactions entered into before the date of enactment of P.L.2005, c.126.

**C.54:32B-54 "Streamlined Sales Tax Fund;" use, administration.**

35. a. There is hereby created in the Department of Treasury a special account, to be known as the "Streamlined Sales Tax Fund." There shall be deposited into this account the sales and use tax revenue derived from amendments and supplements to P.L.1966, c.32 (C.54:32B-1 et seq.) by reason of the State's participation in the Streamlined Sales and Use Tax Agreement as authorized under section 5 of P.L.2001, c.431 (C.54:32B-48), and as enacted under the provisions of P.L.2005, c.126. The Director of the Division of Taxation, subject to review and approval by the Director of the Division of Budget and Accounting, shall certify to the Treasurer the amount to be deposited into the "Streamlined Sales Tax Fund" by the last day of the month following the close of each sales tax reporting quarter. The director may use for this purpose an estimate of an amount equal to the anticipated membership dues and other costs of participation in the Streamlined Sales and Use Tax Agreement. Amounts in the account shall be annually appropriated for the payment of dues payable by this State to the governing board and for other costs of administration of the Streamlined Sales and Use Tax Agreement allocated and assessed to this State by the governing board in consequence of this State participating in the agreement.

b. The Director of the Division of Taxation may request an additional annual allocation of funds to reimburse the division for costs incurred in administration and enforcement of the Sales and Use Tax Streamlining Agreement on behalf of this State. Such allocation shall be made within the limits of funds appropriated or otherwise made available for this purpose.

c. The Director of the Division of Taxation may request additional allocations of funds to reimburse the division for costs and expenses incurred by the division and its employees in participating in multi-state discussions as authorized pursuant to section 4 of P.L.2001, c.431 (C.54:32B-47). Such allocation shall be made within the limits of funds appropriated or otherwise made available for this purpose.

**C.54:32B-55 Quarterly reports of certain revenues under the Streamlined Agreement.**

36. For each quarterly sales tax reporting period, the Director of the Division of Taxation shall report to the State Treasurer the amount of sales and use tax revenue received from sellers that do not have a requirement to register to collect sales and use tax pursuant to New Jersey law and the total monetary allowance paid to certified service providers. If in any quarter, the monetary allowance provided to certified service providers exceeds 80 percent of the sales tax revenue received from sellers using a certified service

provider that do not have a requirement to register to collect tax, the State Treasurer is authorized to withdraw from the agreement pursuant to the procedures specified in the Streamlined Sales and Use Tax Agreement.

**Repealer.**

37. Section 6 of P.L.1989, c.123 (C.54:32B-8.40) is repealed.

38. This act shall take effect October 1, 2005.

Approved July 2, 2005.

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CHAPTER 127

AN ACT concerning the allowance of deductions for certain qualified production activities income under the corporation business tax and the gross income tax, amending P.L.1945, c.162 and supplementing Title 54A of the New Jersey Statutes.

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

1. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to read as follows:

**C.54:10A-4 Definitions.**

4. For the purposes of this act, unless the context requires a different meaning:

(a) "Commissioner" or "director" shall mean the Director of the Division of Taxation of the State Department of the Treasury.

(b) "Allocation factor" shall mean the proportionate part of a taxpayer's net worth or entire net income used to determine a measure of its tax under this act.

(c) "Corporation" shall mean any corporation, joint-stock company or association and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument, any other entity classified as a corporation for federal income tax purposes, and any state or federally chartered building and loan association or savings and loan association.

(d) "Net worth" shall mean the aggregate of the values disclosed by the books of the corporation for (1) issued and outstanding capital stock, (2) paid-in or capital surplus, (3) earned surplus and undivided profits, and (4) surplus reserves which can reasonably be expected to accrue to holders or

owners of equitable shares, not including reasonable valuation reserves, such as reserves for depreciation or obsolescence or depletion. Notwithstanding the foregoing, net worth shall not include any deduction for the amount of the excess depreciation described in paragraph (2)(F) of subsection (k) of this section. The foregoing aggregate of values shall be reduced by 50% of the amount disclosed by the books of the corporation for investment in the capital stock of one or more subsidiaries, which investment is defined as ownership (1) of at least 80% of the total combined voting power of all classes of stock of the subsidiary entitled to vote and (2) of at least 80% of the total number of shares of all other classes of stock except nonvoting stock which is limited and preferred as to dividends. In the case of investment in an entity organized under the laws of a foreign country, the foregoing requisite degree of ownership shall effect a like reduction of such investment from the net worth of the taxpayer, if the foreign entity is considered a corporation for any purpose under the United States federal income tax laws, such as (but not by way of sole examples) for the purpose of supplying deemed paid foreign tax credits or for the purpose of status as a controlled foreign corporation. In calculating the net worth of a taxpayer entitled to reduction for investment in subsidiaries, the amount of liabilities of the taxpayer shall be reduced by such proportion of the liabilities as corresponds to the ratio which the excluded portion of the subsidiary values bears to the total assets of the taxpayer.

In the case of banking corporations which have international banking facilities as defined in subsection (n), the foregoing aggregate of values shall also be reduced by retained earnings of the international banking facility. Retained earnings means the earnings accumulated over the life of such facility and shall not include the distributive share of dividends paid and federal income taxes paid or payable during the tax year.

If in the opinion of the commissioner, the corporation's books do not disclose fair valuations the commissioner may make a reasonable determination of the net worth which, in his opinion, would reflect the fair value of the assets, exclusive of subsidiary investments as defined aforesaid, carried on the books of the corporation, in accordance with sound accounting principles, and such determination shall be used as net worth for the purpose of this act.

(e) (Deleted by amendment, P.L.1998, c.114.)

(f) "Investment company" shall mean any corporation whose business during the period covered by its report consisted, to the extent of at least 90% thereof of holding, investing and reinvesting in stocks, bonds, notes, mortgages, debentures, patents, patent rights and other securities for its own account, but this shall not include any corporation which: (1) is a merchant or a dealer of stocks, bonds and other securities, regularly engaged in buying

the same and selling the same to customers; or (2) had less than 90% of its average gross assets in New Jersey, at cost, invested in stocks, bonds, debentures, mortgages, notes, patents, patent rights or other securities or consisting of cash on deposit during the period covered by its report; or (3) is a banking corporation, a savings institution, or a financial business corporation as defined in the Corporation Business Tax Act.

(g) "Regulated investment company" shall mean any corporation which for a period covered by its report, is registered and regulated under the Investment Company Act of 1940 (54 Stat. 789), as amended.

(h) "Taxpayer" shall mean any corporation, and any partnership required, or consenting, to report or to pay taxes, interest or penalties under this act. "Taxpayer" shall not include a partnership that is listed on a United States national stock exchange.

(i) "Fiscal year" shall mean an accounting period ending on any day other than the last day of December on the basis of which the taxpayer is required to report for federal income tax purposes.

(j) Except as herein provided, "privilege period" shall mean the calendar or fiscal accounting period for which a tax is payable under this act.

(k) "Entire net income" shall mean total net income from all sources, whether within or without the United States, and shall include the gain derived from the employment of capital or labor, or from both combined, as well as profit gained through a sale or conversion of capital assets.

For the purpose of this act, the amount of a taxpayer's entire net income shall be deemed prima facie to be equal in amount to the taxable income, before net operating loss deduction and special deductions, which the taxpayer is required to report, or, if the taxpayer is classified as a partnership for federal tax purposes, would otherwise be required to report, to the United States Treasury Department for the purpose of computing its federal income tax, provided however, that in the determination of such entire net income,

(1) Entire net income shall exclude for the periods set forth in paragraph (2)(F)(i) of this subsection, any amount, except with respect to qualified mass commuting vehicles as described in section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately prior to January 1, 1984, which is included in a taxpayer's federal taxable income solely as a result of an election made pursuant to the provisions of paragraph (8) of that section.

(2) Entire net income shall be determined without the exclusion, deduction or credit of:

(A) The amount of any specific exemption or credit allowed in any law of the United States imposing any tax on or measured by the income of corporations.

(B) Any part of any income from dividends or interest on any kind of stock, securities or indebtedness, except as provided in paragraph (5) of subsection (k) of this section.

(C) Taxes paid or accrued to the United States, a possession or territory of the United States, a state, a political subdivision thereof, or the District of Columbia, or to any foreign country, state, province, territory or subdivision thereof, on or measured by profits or income, or business presence or business activity, or the tax imposed by this act, or any tax paid or accrued with respect to subsidiary dividends excluded from entire net income as provided in paragraph (5) of subsection (k) of this section.

(D) (Deleted by amendment, P.L.1985, c.143.)

(E) (Deleted by amendment, P.L.1995, c.418.)

(F) (i) The amount by which depreciation reported to the United States Treasury Department for property placed in service on and after January 1, 1981, but prior to taxpayer fiscal or calendar accounting years beginning on and after the effective date of P.L.1993, c.172, for purposes of computing federal taxable income in accordance with section 168 of the Internal Revenue Code in effect after December 31, 1980, exceeds the amount of depreciation determined in accordance with the Internal Revenue Code provisions in effect prior to January 1, 1981, but only with respect to a taxpayer's accounting period ending after December 31, 1981; provided, however, that where a taxpayer's accounting period begins in 1981 and ends in 1982, no modification shall be required with respect to this paragraph (F) for the report filed for such period with respect to property placed in service during that part of the accounting period which occurs in 1981. The provisions of this subparagraph shall not apply to assets placed in service prior to January 1, 1998 of a gas, gas and electric, and electric public utility that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998.

(ii) For the periods set forth in subparagraph (F)(i) of this subsection, any amount, except with respect to qualified mass commuting vehicles as described in section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately prior to January 1, 1984, which the taxpayer claimed as a deduction in computing federal income tax pursuant to a qualified lease agreement under paragraph (8) of that section.

The director shall promulgate rules and regulations necessary to carry out the provisions of this section, which rules shall provide, among others, the manner in which the remaining life of property shall be reported.

(G) (i) The amount of any civil, civil administrative, or criminal penalty or fine, including a penalty or fine under an administrative consent order, assessed and collected for a violation of a State or federal environmental law, an administrative consent order, or an environmental ordinance or resolution of a local governmental entity, and any interest earned on the penalty or fine,

and any economic benefits having accrued to the violator as a result of a violation, which benefits are assessed and recovered in a civil, civil administrative, or criminal action, or pursuant to an administrative consent order. The provisions of this paragraph shall not apply to a penalty or fine assessed or collected for a violation of a State or federal environmental law, or local environmental ordinance or resolution, if the penalty or fine was for a violation that resulted from fire, riot, sabotage, flood, storm event, natural cause, or other act of God beyond the reasonable control of the violator, or caused by an act or omission of a person who was outside the reasonable control of the violator.

(ii) The amount of treble damages paid to the Department of Environmental Protection pursuant to subsection a. of section 7 of P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the department in removing, or arranging for the removal of, an unauthorized discharge upon failure of the discharger to comply with a directive from the department to remove, or arrange for the removal of, the discharge.

(H) The amount of any sales and use tax paid by a utility vendor pursuant to section 71 of P.L.1997, c.162.

(I) Interest paid, accrued or incurred for the privilege period to a related member, as defined in section 5 of P.L.2002, c.40 (C.54:10A-4.4), except that a deduction shall be permitted to the extent that the taxpayer establishes by clear and convincing evidence, as determined by the director, that: (i) a principal purpose of the transaction giving rise to the payment of the interest was not to avoid taxes otherwise due under Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, (ii) the interest is paid pursuant to arm's length contracts at an arm's length rate of interest, and (iii)(aa) the related member was subject to a tax on its net income or receipts in this State or another state or possession of the United States or in a foreign nation, (bb) a measure of the tax includes the interest received from the related member, and (cc) the rate of tax applied to the interest received by the related member is equal to or greater than a rate three percentage points less than the rate of tax applied to taxable interest by this State.

A deduction shall also be permitted if the taxpayer establishes by clear and convincing evidence, as determined by the director, that the disallowance of a deduction is unreasonable, or the taxpayer and the director agree in writing to the application or use of an alternative method of apportionment under section 8 of P.L.1945, c.162 (C.54:10A-8); nothing in this subsection shall be construed to limit or negate the director's authority to otherwise enter into agreements and compromises otherwise allowed by law.

A deduction shall also be permitted to the extent that the taxpayer establishes by a preponderance of the evidence, as determined by the director, that the interest is directly or indirectly paid, accrued or incurred to (i) a related



member in a foreign nation which has in force a comprehensive income tax treaty with the United States, provided however that the taxpayer shall disclose on its return for the privilege period the name of the related member, the amount of the interest, the relevant foreign nation, and such other information as the director may prescribe or (ii) to an independent lender and the taxpayer guarantees the debt on which the interest is required.

(J) Amounts deducted for federal tax purposes pursuant to section 199 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.199, except that this exclusion shall not apply to amounts deducted pursuant to that section that are exclusively based upon domestic production gross receipts of the taxpayer which are derived only from any lease, rental, license, sale, exchange, or other disposition of qualifying production property which the taxpayer demonstrates to the satisfaction of the director was manufactured or produced by the taxpayer in whole or in significant part within the United States but not qualified production property that was grown or extracted by the taxpayer. "Manufactured or produced" as used in this paragraph shall be limited to performance of an operation or series of operations the object of which is to place items of tangible personal property in a form, composition, or character different from that in which they were acquired. The change in form, composition, or character shall be a substantial change, and result in a transformation of property into a different or substantially more usable product.

(3) The commissioner may, whenever necessary to properly reflect the entire net income of any taxpayer, determine the year or period in which any item of income or deduction shall be included, without being limited to the method of accounting employed by the taxpayer.

(4) There shall be allowed as a deduction from entire net income of a banking corporation, to the extent not deductible in determining federal taxable income, the eligible net income of an international banking facility determined as follows:

(A) The eligible net income of an international banking facility shall be the amount remaining after subtracting from the eligible gross income the applicable expenses;

(B) Eligible gross income shall be the gross income derived by an international banking facility, which shall include, but not be limited to, gross income derived from:

(i) Making, arranging for, placing or carrying loans to foreign persons, provided, however, that in the case of a foreign person which is an individual, or which is a foreign branch of a domestic corporation (other than a bank), or which is a foreign corporation or foreign partnership which is controlled by one or more domestic corporations (other than banks), domes-

tic partnerships or resident individuals, all the proceeds of the loan are for use outside of the United States;

(ii) Making or placing deposits with foreign persons which are banks or foreign branches of banks (including foreign subsidiaries) or foreign branches of the taxpayers or with other international banking facilities;

(iii) Entering into foreign exchange trading or hedging transactions related to any of the transactions described in this paragraph; or

(iv) Such other activities as an international banking facility may, from time to time, be authorized to engage in;

(C) Applicable expenses shall be any expense or other deductions attributable, directly or indirectly, to the eligible gross income described in subparagraph (B) of this paragraph.

(5) Entire net income shall exclude 100% of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of the 80% or more ownership of investment described in subsection (d) of this section and shall exclude 50% of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of 50% or more ownership of investment, such ownership of investment calculated in the same manner as the 80% or more of ownership of investment is calculated as described in subsection (d) of this section.

(6) (A) Net operating loss deduction. There shall be allowed as a deduction for the privilege period the net operating loss carryover to that period.

(B) Net operating loss carryover. A net operating loss for any privilege period ending after June 30, 1984 shall be a net operating loss carryover to each of the seven privilege periods following the period of the loss. The entire amount of the net operating loss for any privilege period (the "loss period") shall be carried to the earliest of the privilege periods to which the loss may be carried. The portion of the loss which shall be carried to each of the other privilege periods shall be the excess, if any, of the amount of the loss over the sum of the entire net income, computed without the exclusions permitted in paragraphs (4) and (5) of this subsection or the net operating loss deduction provided by subparagraph (A) of this paragraph, for each of the prior privilege periods to which the loss may be carried.

(C) Net operating loss. For purposes of this paragraph the term "net operating loss" means the excess of the deductions over the gross income used in computing entire net income without the net operating loss deduction provided for in subparagraph (A) of this paragraph and the exclusions in paragraphs (4) and (5) of this subsection.

(D) Change in ownership. Where there is a change in 50% or more of the ownership of a corporation because of redemption or sale of stock and

the corporation changes the trade or business giving rise to the loss, no net operating loss sustained before the changes may be carried over to be deducted from income earned after such changes. In addition where the facts support the premise that the corporation was acquired under any circumstances for the primary purpose of the use of its net operating loss carryover, the director may disallow the carryover.

(E) Notwithstanding the provisions of this paragraph (6) of subsection (k) of this section to the contrary, for privilege periods beginning during calendar year 2002 and calendar year 2003, no deduction for any net operating loss carryover shall be allowed and for privilege periods beginning during calendar year 2004 and calendar year 2005, there shall be allowed as a deduction for the privilege period so much of the net operating loss carryover as reduces entire net income otherwise calculated by 50%. If and only to the extent that any net operating loss carryover deduction is disallowed by reason of this subparagraph (E), the date on which the amount of the disallowed net operating loss carryover deduction would otherwise expire shall be extended by a period equal to the period for which application of the net operating loss was disallowed by this subparagraph.

Provided, that this subparagraph (E) shall not restrict the surrender or acquisition of corporation business tax benefit certificates pursuant to section 1 of P.L.1997, c.334 (C.34:1B-7.42a) and shall not restrict the application of corporation business tax benefit certificates pursuant to section 2 of P.L.1997, c.334 (C.54:10A-4.2).

(7) The entire net income of gas, electric and gas and electric public utilities that were subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting the New Jersey depreciation allowance for federal tax depreciation with respect to assets placed in service prior to January 1, 1998. For gas, electric, and gas and electric public utilities that were subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, the New Jersey depreciation allowance shall be computed as follows: All depreciable assets placed in service prior to January 1, 1998 shall be considered a single asset account. The New Jersey tax basis of this depreciable asset account shall be an amount equal to the carryover adjusted basis for federal income tax purposes on December 31, 1997 of all depreciable assets in service on December 31, 1997, increased by the excess, of the "net carrying value," defined to be adjusted book basis of all assets and liabilities, excluding deferred income taxes, recorded on the public utility's books of account on December 31, 1997, over the carryover adjusted basis for federal income tax purposes on December 31, 1997 of all assets and liabilities owned by the gas, electric, or gas and electric public utility as of December 31, 1997. "Books of account" for gas, gas and electric, and electric public utilities means the uniform system of accounts as promul-

gated by the Federal Energy Regulatory Commission and adopted by the Board of Public Utilities. The following adjustments to entire net income shall be made pursuant to this section:

(A) Depreciation for property placed in service prior to January 1, 1998 shall be adjusted as follows:

(i) Depreciation for federal income tax purposes shall be disallowed in full.

(ii) A deduction shall be allowed for the New Jersey depreciation allowance. The New Jersey depreciation allowance shall be computed for the single asset account described above based on the New Jersey tax basis as adjusted above as if all assets in the single asset account were first placed in service on January 1, 1998. Depreciation shall be computed using the straight line method over a thirty-year life. A full year's depreciation shall be allowed in the initial tax year. No half-year convention shall apply. The depreciable basis of the single account shall be reduced by the adjusted federal tax basis of assets sold, retired, or otherwise disposed of during any year on which gain or loss is recognized for federal income tax purposes as described in subparagraph (B) of this paragraph.

(B) Gains and losses on sales, retirements and other dispositions of assets placed in service prior to January 1, 1998 shall be recognized and reported on the same basis as for federal income tax purposes.

(C) The Director of the Division of Taxation shall promulgate regulations describing the methodology for allocating the single asset account in the event that a portion of the utility's operations are separated, spun-off, transferred to a separate company or otherwise desegregated.

(8) In the case of taxpayers that are gas, electric, gas and electric, or telecommunication public utilities as defined pursuant to subsection (q) of this section, the director shall have authority to promulgate rules and issue guidance correcting distortions and adjusting timing differences resulting from the adoption of P.L.1997, c.162 (C.54:10A-5.25 et al.).

(9) Notwithstanding paragraph (1) of this subsection, entire net income shall not include the income derived by a corporation organized in a foreign country from the international operation of a ship or ships, or from the international operation of aircraft, if such income is exempt from federal taxation pursuant to section 883 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

(10) Entire net income shall exclude all income of an alien corporation the activities of which are limited in this State to investing or trading in stocks and securities for its own account, investing or trading in commodities for its own account, or any combination of those activities, within the meaning of section 864 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.864, as in effect on December 31, 1998. Notwithstanding the previous

sentence, if an alien corporation undertakes one or more infrequent, extraordinary or non-recurring activities, including but not limited to the sale of tangible property, only the income from such infrequent, extraordinary or non-recurring activity shall be subject to the tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.), and that amount of income subject to tax shall be determined without regard to the allocation to that specific transaction of any general business expense of the taxpayer and shall be specifically assigned to this State for taxation by this State without regard to section 6 of P.L.1945, c.162 (C.54:10A-6). For the purposes of this paragraph, "alien corporation" means a corporation organized under the laws of a jurisdiction other than the United States or its political subdivisions.

(11) No deduction shall be allowed for research and experimental expenditures, to the extent that those research and experimental expenditures are qualified research expenses or basic research payments for which an amount of credit is claimed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research and experimental expenditures are also used to compute a federal credit claimed pursuant to section 41 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.41.

(12) (A) Notwithstanding the provisions of subsection (k) of section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.168, subsection (b) of section 1400L of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1400L, or any other federal law, for property acquired after September 10, 2001, the depreciation deduction otherwise allowed pursuant to section 167 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.167, shall be determined pursuant to the provisions of the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001.

(B) The director shall prescribe the rules and regulations necessary to carry out the provisions of this paragraph, including, among others, those for determining the adjusted basis of the acquired property for the purposes of the Corporation Business Tax Act (1945), P.L.1945, c.162.

(13) (A) Notwithstanding the provisions of section 179 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for property placed in service on or after January 1, 2004, the costs that a taxpayer may otherwise elect to treat as an expense which is not chargeable to a capital account shall be determined pursuant to the provisions of the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2002.

(B) The director shall prescribe the rules and regulations necessary to carry out the provisions of this paragraph, including, among others, those for determining the adjusted basis of the acquired property for the purposes of the Corporation Business Tax Act (1945), P.L.1945, c.162.

(l) "Real estate investment trust" shall mean any corporation, trust or association qualifying and electing to be taxed as a real estate investment trust under federal law.

(m) "Financial business corporation" shall mean any corporate enterprise which is (1) in substantial competition with the business of national banks and which (2) employs moneyed capital with the object of making profit by its use as money, through discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debt; buying and selling exchange; making of or dealing in secured or unsecured loans and discounts; dealing in securities and shares of corporate stock by purchasing and selling such securities and stock without recourse, solely upon the order and for the account of customers; or investing and reinvesting in marketable obligations evidencing indebtedness of any person, copartnership, association or corporation in the form of bonds, notes or debentures commonly known as investment securities; or dealing in or underwriting obligations of the United States, any state or any political subdivision thereof, or of a corporate instrumentality of any of them. This shall include, without limitation of the foregoing, business commonly known as industrial banks, dealers in commercial paper and acceptances, sales finance, personal finance, small loan and mortgage financing businesses, as well as any other enterprise employing moneyed capital coming into competition with the business of national banks; provided that the holding of bonds, notes, or other evidences of indebtedness by individual persons not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with the business of national banks, shall not be deemed financial business. Nor shall "financial business" include national banks, production credit associations organized under the Farm Credit Act of 1933 or the Farm Credit Act of 1971, Pub.L.92-181 (12 U.S.C. s.2091 et seq.), stock and mutual insurance companies duly authorized to transact business in this State, security brokers or dealers or investment companies or bankers not employing moneyed capital coming into competition with the business of national banks, real estate investment trusts, or any of the following entities organized under the laws of this State: credit unions, savings banks, savings and loan and building and loan associations, pawnbrokers, and State banks and trust companies.

(n) "International banking facility" shall mean a set of asset and liability accounts segregated on the books and records of a depository institution, United States branch or agency of a foreign bank, or an Edge or Agreement Corporation that includes only international banking facility time deposits and international banking facility extensions of credit as such terms are defined in section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the board of governors of the Federal Reserve System, 12 CFR Part 204, effec-

tive December 3, 1981. In the event that the United States enacts a law, or the board of governors of the Federal Reserve System adopts a regulation which amends the present definition of international banking facility or of such facilities' time deposits or extensions of credit, the Commissioner of Banking and Insurance shall forthwith adopt regulations defining such terms in the same manner as such terms are set forth in the laws of the United States or the regulations of the board of governors of the Federal Reserve System. The regulations of the Commissioner of Banking and Insurance shall thereafter provide the applicable definitions.

(o) "S corporation" means a corporation included in the definition of an "S corporation" pursuant to section 1361 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1361.

(p) "New Jersey S corporation" means a corporation that is an S corporation; which has made a valid election pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22); and which has been an S corporation continuously since the effective date of the valid election made pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22).

(q) "Public Utility" means "public utility" as defined in R.S.48:2-13.

(r) "Qualified investment partnership" means a partnership under this act that has more than 10 members or partners with no member or partner owning more than a 50% interest in the entity and that derives at least 90% of its gross income from dividends, interest, payments with respect to securities loans, and gains from the sale or other disposition of stocks or securities or foreign currencies or commodities or other similar income (including but not limited to gains from swaps, options, futures or forward contracts) derived with respect to its business of investing or trading in those stocks, securities, currencies or commodities, but "investment partnership" shall not include a "dealer in securities" within the meaning of section 1236 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1236.

(s) "Savings institution" means a state or federally chartered building and loan association, savings and loan association, or savings bank.

(t) "Partnership" means an entity classified as a partnership for federal income tax purposes.

**C.54A:5-15 Determination of amount of category of income, certain disallowance.**

2. Notwithstanding the provisions of N.J.S.54A:5-1, if any, or any other law to the contrary, for the purposes of determining the amount of a category of income pursuant to N.J.S.54A:5-1 that is net of expenses, no amounts shall be taken as a deduction pursuant to section 199 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.199, and the deduction of any amounts pursuant to section 199 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.199 shall be disallowed except that this disallowance

shall not apply to amounts deducted pursuant to section 199 of the federal Internal Revenue Code of 1986 that are exclusively based upon domestic production gross receipts of the taxpayer or allocable to the taxpayer under that section which are derived only from any lease, rental, license, sale, exchange, or other disposition of qualifying production property which the taxpayer shall demonstrate to the satisfaction of the director was manufactured or produced by the taxpayer in whole or in significant part within the United States but not qualified production property that was grown or extracted by the taxpayer. "Manufactured or produced" as used in this paragraph shall be limited to performance of an operation or series of operations the object of which is to place items of tangible personal property in a form, composition, or character different from that in which they were acquired. The change in form, composition, or character shall be a substantial change, and result in a transformation of property into a different or substantially more usable product.

3. This act shall take effect immediately and section 1 shall apply to privilege periods beginning after December 31, 2004 and section 2 shall apply to taxable years beginning after December 31, 2004.

Approved July 2, 2005.

#### CHAPTER 128

AN ACT modifying the insurance premiums tax treatment of health service corporations, amending P.L.1945, c.132.

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

1. Section 6 of P.L.1945, c.132 (C.54:18A-6) is amended to read as follows:

**C.54:18A-6 Maximum amount of taxable premiums.**

6. a. In the event that the taxable premiums collected by any company, as specified in sections 2 and 3 of this act, and all of its affiliates as defined in the chapter entitled "Insurance Holding Company Systems," P.L.1970, c.22 (C.17:27A-1 et seq.), during any year ending December 31, exceed twelve and one-half percentum (12 1/2%) of the total premiums collected by the company and all of its affiliates during the same year on all policies and contracts of insurance, whenever and wherever issued, the taxable premiums of such company shall not exceed a sum equal to twelve and



one-half percentum (12 1/2%) of such company's total premiums collected during the same year on all policies and contracts of insurance, whenever and wherever issued, calculated as specified in sections 4 and 5 of this act; provided, however, a company to which section 2 of this act (C.54:18A-2) applies shall in no event be deemed to be an affiliate of a company to which section 3 of this act (C. 54:18A-3) applies and provided, further, that as to any company licensed in this State prior to June 30, 1984, the taxable premiums of that company shall be calculated without regard to the premiums collected by any affiliate.

b. On and after January 1, 2005 the provisions of subsection a. of this section shall not apply to a health service corporation established pursuant to the provisions of P.L.1985, c.236 (C.17:48E-1 et seq.).

2. Section 16 of P.L.1945, c.132 (C.54:18A-9) is amended to read as follows:

**C.54:18A-9 Inapplicability to fraternal beneficiary society, insurance company.**

16. a. This act shall not apply to any fraternal beneficiary society. For the purposes of this act, "insurance company" shall include a corporation, and any person, partnership or unincorporated association required as an insurer to procure from the Commissioner of Banking and Insurance the certificate prescribed by section 1 of an act entitled "An act to regulate the transaction of the business of insurance by individuals, partnerships and unincorporated associations in this State" approved July 11, 1939 (P.L.1939, c.188; C.17:49-1), or under any other statute now in force or hereafter enacted, engaging in any kind or kinds of business specified in R.S.17:17-1, subject to the insurance laws of this State; provided, however, that no company or society, which by its act or certificate of incorporation has for its object the assistance of sick, needy or disabled members, the defraying of funeral expenses of deceased members and the provision for the wants of the surviving spouses and families of members after death, shall be deemed an insurance company within the purview of this act.

b. (1) For the purposes of P.L.1945, c.132 (C.54:18A-1 et seq.), "insurance company" shall include, beginning January 1, 1992, a health service corporation established pursuant to the provisions of P.L.1985, c.236 (C.17:48E-1 et seq.), with respect to its experience rated health insurance. An "insurance company" shall also include any life, accident, or health insurance company in which a health service corporation owns stock, controls, or otherwise becomes affiliated with, as provided in subsection e. of section 3 of P.L.1985, c.236 (C.17:48E-3).

(2) For the purposes of P.L.1945, c.132 (C.54:18A-1 et seq.), "insurance company" shall include, beginning January 1, 2005, a health service corpora-

tion established pursuant to the provisions of P.L.1985, c.236 (C.17:48E-1 et seq.), with respect to its experience rated and community rated health insurance. An "insurance company" shall also include any life, accident, or health insurance company in which a health service corporation owns stock, controls, or otherwise becomes affiliated with, as provided in subsection e. of section 3 of P.L.1985, c.236 (C.17:48E-3).

3. This act shall take effect immediately.

Approved July 2, 2005.

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## CHAPTER 129

AN ACT concerning the special interim assessment on health maintenance organizations, amending P.L.1973, c.337 and P.L.2004, c.49 and repealing sections 1 and 2 of P.L.2004, c.49.

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

1. Section 25 of P.L.1973, c.337 (C.26:2J-25) is amended to read as follows:

**C.26:2J-25 Statutory construction and relationship to other laws.**

25. Statutory construction and relationship to other laws.

a. Except as otherwise provided in this act, provisions of the insurance law and provisions of hospital, medical or health service corporation laws shall not be applicable to any health maintenance organization granted a certificate of authority under this act. This provision shall not apply to an insurer or hospital, medical or health service corporation licensed and regulated pursuant to the insurance laws or the hospital, medical or health service corporation laws of this State except with respect to its health maintenance organization activities authorized and regulated pursuant to this act. Charges paid by or on behalf of enrollees of a health maintenance organization with respect to health care services shall not be subject to taxation by the State or any of its political subdivisions, except as otherwise provided in section 3 of P.L.2004, c.49 (C.26:2J-47).

b. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, shall not be construed

to violate any provision of law relating to solicitation or advertising by health professionals.

c. Any health maintenance organization authorized under this act shall not be deemed to be practicing medicine and shall be exempt from the provisions of chapter 9 of Title 45, Medicine and Surgery, of the Revised Statutes relating to the practice of medicine.

d. Except as provided in P.L.2001, c.187 (C.2A:53A-30 et al.), no person participating in the arrangements of a health maintenance organization other than the actual provider of health care services or supplies directly to enrollees and their families shall be liable for negligence, misfeasance, nonfeasance or malpractice in connection with the furnishings of such services and supplies. The provisions of this subsection shall not be construed to eliminate any cause of action against a health maintenance organization otherwise provided by law.

e. A health maintenance organization shall be subject to the provisions of P.L.1970, c.22 (C.17:27A-1 et seq.), including those relating to merger or acquisition of control.

2. Section 3 of P.L.2004, c.49 (C.26:2J-47) is amended to read as follows:

**C.26:2J-47 Issuance of special interim assessment for FY2005 and annual assessment thereafter.**

3. a. (1) For the fiscal year 2005, the Commissioner of Banking and Insurance shall issue, in accordance with the provisions of this section, a special interim assessment, and in each fiscal year thereafter, an annual assessment, in the amount of one percent on the net written premiums received by each health maintenance organization granted a certificate of authority to operate in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), to be allocated to the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58) for the purpose of providing charity care payments to hospitals in accordance with the formula used for the distribution of charity care subsidies that are provided pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.).

(2) "Net written premiums received" means direct premiums as reported on the annual financial statement submitted pursuant to section 9 of P.L.1973, c.337 (C.26:2J-9), and to the commissioner on a quarterly basis.

b. The commissioner shall certify the amount of the annual assessment issued to each health maintenance organization as calculated pursuant to subsection a. of this section. Each health maintenance organization shall remit the amount so certified on a quarterly basis in each fiscal year to the Department of Banking and Insurance in accordance with the procedures established in P.L.1995, c.156 (C.17:1C-19 et seq.), and as prescribed by the

commissioner, who may adjust the quarterly payments from time to time as necessary to meet the current and estimated assessment obligation of each health maintenance organization in each fiscal year.

c. Amounts collected by the commissioner shall be allocated to the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58) and used solely for the purpose of providing charity care payments to hospitals in accordance with the formula used for the distribution of charity care subsidies that are provided pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.).

d. (1) A health maintenance organization shall not impose any additional premium, fee or surcharge on its premium or enrollee charge to recoup any assessment paid pursuant to this section.

(2) The provisions of paragraph (1) of this subsection shall not apply to a health maintenance organization with respect to any federally funded program underwritten by that health maintenance organization.

**Repealer.**

3. Sections 1 and 2 of P.L.2004, c.49 (C.26:2J-45 and 26:2J-46) are repealed.

4. This act shall take effect immediately, and shall apply to assessments made for fiscal year 2006 and thereafter.

Approved July 2, 2005.

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CHAPTER 130

AN ACT eliminating the New Jersey gross income tax pension exclusion for certain high income taxpayers, amending N.J.S.54A:6-10 and P.L.1977, c.273.

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

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

**Pensions and annuities.**

54A:6-10. Pensions and annuities. Gross income shall not include that part of any amount received as an annuity under an annuity, endowment, or life insurance contract which bears the same ratio to such amount as the investment in the contract as of the annuity starting date bears to the expected return under the contract as of such date. Where (1) part of the consideration for an annuity, endowment, or life insurance contract is contributed by the

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

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

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

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

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

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

for taxable years beginning on or after January 1, 2003, of up to \$20,000 for a married couple filing jointly, \$10,000 for a married person filing separately, or \$15,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1, which are received as an annuity, endowment or life insurance contract, or payments of any such amounts which are received as pension, disability, or retirement benefits, under any public or private plan, whether the consideration therefor is contributed by the employee or employer or both, by any person who is 62 years of age or older or who, by virtue of disability, is or would be eligible to receive payments under the federal Social Security Act, but for taxable years beginning on or after January 1, 2005, only if the taxpayer has gross income for the taxable year of not more than \$100,000.

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

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

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

**C.54A:6-15 Other retirement income.**

3. Other retirement income. a. Gross income shall not include income: for taxable years beginning before January 1, 2000, of up to \$10,000 for a married couple filing jointly, \$5,000 for a married person filing separately, or \$7,500 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

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

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

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

for taxable years beginning on or after January 1, 2003, gross income shall not include income of up to \$20,000 for a married couple filing jointly, \$10,000 for a married person filing separately, or \$15,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1, when received in any tax year by a person

aged 62 years or older who received no income in excess of \$3,000 from one or more of the sources enumerated in subsections a., b., k. and p. of N.J.S.54A:5-1, but for taxable years beginning on or after January 1, 2005, only if the taxpayer has gross income for the taxable year of not more than \$100,000, provided, however, that the total exclusion under this subsection and that allowable under N.J.S.54A:6-10 shall not exceed the amounts of the exclusions set forth in this subsection.

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

3. This act shall take effect immediately and be retroactive to January 1, 2005.

Approved July 2, 2005.

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## CHAPTER 131

AN ACT concerning the new home warranty security fund, supplementing P.L.1977, c.467 (C.46:3B-1 et seq.).

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

1. Notwithstanding the provisions of section 7 of P.L.1977, c.467 (C.46:3B-7), the provisions of subsection b. of that section concerning suspension of the obligation of participating builders to contribute to the new home warranty security fund in certain circumstances, the authority of the Joint Budget Oversight Committee or its successor under subsection b. of that section, and the requirements and liability of the State under subsection f. of that section, shall not apply with regard to actions taken or not taken during the State fiscal year commencing July 1, 2005.

2. This act shall take effect immediately and shall be retroactive to July 1, 2005 if enacted thereafter.

Approved July 2, 2005.

**CHAPTER 132**

AN ACT making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 2006 and regulating the disbursement thereof.

**ANTICIPATED RESOURCES  
FOR THE FISCAL YEAR 2005 - 2006  
GENERAL FUND**

Undesignated Fund Balance, July 1, 2005 .....	<u>\$349,055,000</u>
<i>Major Taxes</i>	
Sales .....	\$6,850,000,000
Corporation Business .....	2,402,000,000
Cigarette .....	626,000,000
Motor Fuels .....	575,000,000
Transfer Inheritance .....	500,000,000
Insurance Premium .....	473,000,000
Realty Transfer .....	430,000,000
Motor Vehicle Fees .....	294,320,000
Petroleum Products Gross Receipts .....	255,000,000
Alcoholic Beverage Excise .....	91,000,000
Corporation Banks and Financial Institutions .....	100,000,000
Tobacco Products Wholesale Sales .....	12,000,000
Public Utility Excise (Reform) .....	<u>9,000,000</u>
Total -- Major Taxes .....	<u>\$12,617,320,000</u>

*Miscellaneous Taxes, Fees, Revenues*

Executive Branch --	
Department of Agriculture:	
Fertilizer Inspection Fees .....	\$366,000
Miscellaneous Revenue .....	<u>4,000</u>
Subtotal, Department of Agriculture .....	<u>\$370,000</u>
Department of Banking and Insurance:	
Actuarial Services .....	\$54,000
Bank Assessments .....	3,700,000
Banking -- Examination Fees .....	2,300,000
Banking -- Licenses and Other Fees .....	7,200,000
FAIR Act Administration .....	15,000,000
Fraud Fines .....	2,000,000
Insurance -- Special Purpose Assessment .....	16,500,000
Insurance -- Examination Billings .....	2,300,000
Insurance Fraud Prevention .....	34,000,000
Insurance Licenses and Other Fees .....	12,530,000

**Matter within summary of appropriations is not enacted as part of the law and is intended to be for the purpose of displaying summaries of the items of appropriations set forth elsewhere.**



Real Estate Commission .....	<u>6,500,000</u>
Subtotal, Department of Banking and Insurance .....	<u>\$102,084,000</u>
Department of Community Affairs:	
Affordable Housing and Neighborhood Preservation -- Fair Housing .....	\$20,003,000
Construction Fees .....	12,766,000
Divorce Filing Fees .....	1,276,000
Fire Safety .....	15,039,000
Housing Inspection Fees .....	7,806,000
Planned Real Estate Development Fees .....	<u>828,000</u>
Subtotal, Department of Community Affairs .....	<u>\$57,718,000</u>
Department of Education:	
Audit Recoveries .....	\$775,000
Audit of Enrollments .....	1,000,000
Local School District Loan Recoveries -- New Jersey Economic Development Authority .....	8,380,000
Nonpublic Schools Textbook Recoveries .....	1,000,000
School Construction Inspection Fees .....	3,246,000
State Board of Examiners .....	<u>3,125,000</u>
Subtotal, Department of Education .....	<u>\$17,526,000</u>
Department of Environmental Protection:	
Air Pollution Fees -- Minor Sources .....	\$4,000,000
Air Pollution Fees -- Title V Operating Permits .....	13,100,000
Air Pollution Fines .....	3,500,000
Clean Water Enforcement Act .....	2,300,000
Coastal Area Development Review Act .....	2,119,000
Endangered Species Tax Check-off .....	235,000
Environmental Infrastructure Financing Program -- Administrative Fee .....	5,000,000
Excess Diversion .....	283,000
Freshwater Wetlands Fees .....	3,225,000
Freshwater Wetlands Fines .....	300,000
Hazardous Waste Fees .....	2,580,000
Hazardous Waste Fines .....	400,000
Highlands Permitting .....	2,166,000
Hunters' and Anglers' Licenses .....	12,500,000
Industrial Site Recovery Act .....	1,000,000
Laboratory Certification Fees .....	780,000
Laboratory Certification Fines .....	20,000
Marina Rentals .....	885,000
Marine Lands -- Preparation and Filing Fees .....	170,000
Medical Waste .....	4,150,000
Miscellaneous Revenue .....	11,000
New Jersey Pollutant Discharge Elimination System .....	12,100,000
Parks Management Fees and Permits .....	4,300,000
Parks Management Fines .....	160,000

Pesticide Control Fees	4,200,000
Pesticide Control Fines	50,000
Radiation Protection Fees	3,700,000
Radiation Protection Fines	88,000
Radon Testers Certification	240,000
Shellfish and Marine Fisheries	7,000
Solid Waste -- Utility Regulation Assessments	3,100,000
Solid Waste Fines -- DEP	700,000
Solid Waste Management Fees -- DEP	8,212,000
Spring Meadow Golf Course	300,000
Stormwater Permits	4,800,000
Stream Encroachment	2,160,000
Toxic Catastrophe Prevention Fees	1,550,000
Toxic Catastrophe Prevention Fines	40,000
Treatment Works Approval	2,073,000
Underground Storage Tanks Fees	1,000,000
Water Allocation	2,050,000
Water Supply Management Regulations	1,390,000
Water/Wastewater Operators Licenses	215,000
Waterfront Development Fees	2,200,000
Waterfront Development Fines	10,000
Well Permits/Well Drillers/Pump Installers Licenses	1,080,000
Wetlands	83,000
Worker Community Right to Know -- Fines	40,000
Subtotal, Department of Environmental Protection	<u>\$114,572,000</u>
Department of Health and Senior Services:	
Admission Charge Hospital Assessment	\$6,000,000
HMO Covered Lives	1,800,000
Health Care Reform	1,200,000
Licenses, Fines, Permits, Penalties, and Fees	790,000
Miscellaneous Revenue	400,000
Subtotal, Department of Health and Senior Services	<u>\$10,190,000</u>
Department of Human Services:	
Child Care Licensing/Adoption Law	\$350,000
Early Periodic Screening, Diagnosis and Treatment	4,000,000
Marriage License Fees	1,450,000
Medicaid Uncompensated Care -- Acute	286,955,000
Medicaid Uncompensated Care -- Mental Health	33,055,000
Medicaid Uncompensated Care -- Psychiatric	178,685,000
Medical Assistance -- Federal Match on PAAD/ Medicaid Dual Eligibles	1,400,000
Miscellaneous Revenue	5,500,000
Patients' and Residents' Cost Recoveries:	
Developmental Disability	16,221,000
Psychiatric Hospitals	59,600,000

School Based Medicaid . . . . .	7,126,000
Subtotal, Department of Human Services . . . . .	<u>\$594,342,000</u>
Department of Labor and Workforce Development:	
Miscellaneous Revenue . . . . .	\$200,000
Special Compensation Fund . . . . .	1,685,000
Workers' Compensation Assessment . . . . .	12,130,000
Workplace Standards -- Licenses, Permits and Fines . . . . .	<u>2,820,000</u>
Subtotal, Department of Labor and Workforce Development . . . . .	<u>\$16,835,000</u>
Department of Law and Public Safety:	
Authorities Recruit Class Reimbursement . . . . .	\$2,500,000
Beverage Licenses . . . . .	3,960,000
Charities Registration Section . . . . .	695,000
Controlled Dangerous Substances . . . . .	100,000
EDA School Construction Recoveries . . . . .	800,000
Legalized Games of Chance Control . . . . .	1,200,000
Miscellaneous Revenue . . . . .	400,000
New Jersey Cemetery Board . . . . .	120,000
Pleasure Boat Licenses . . . . .	3,000,000
Private Employment Agencies . . . . .	258,000
Securities Enforcement . . . . .	7,794,000
State Board of Architects . . . . .	450,000
State Board of Audiology and Speech -- Language Pathology Advisory . . . . .	270,000
State Board of Certified Psychoanalysts . . . . .	50,000
State Board of Certified Public Accountants . . . . .	1,425,000
State Board of Chiropractors . . . . .	675,000
State Board of Cosmetology and Hairstyling . . . . .	625,000
State Board of Dentistry . . . . .	1,415,000
State Board of Electrical Contractors . . . . .	1,200,000
State Board of Marriage Counselor Examiners . . . . .	150,000
State Board of Master Plumbers . . . . .	75,000
State Board of Medical Examiners . . . . .	2,125,000
State Board of Mortuary Science . . . . .	300,000
State Board of Nursing . . . . .	3,750,000
State Board of Occupational Therapists and Assistants . . . . .	375,000
State Board of Ophthalmic Dispensers and Ophthalmic . . . . .	270,000
State Board of Optometrists . . . . .	30,000
State Board of Orthotics and Prosthetics . . . . .	31,000
State Board of Pharmacy . . . . .	300,000
State Board of Physical Therapy . . . . .	600,000
State Board of Professional Engineers and Land Surveyors . . . . .	1,050,000
State Board of Professional Planners . . . . .	45,000
State Board of Psychological Examiners . . . . .	75,000
State Board of Real Estate Appraisers . . . . .	1,050,000
State Board of Respiratory Care . . . . .	150,000

State Board of Shorthand Reporting .....	75,000
State Board of Social Workers .....	300,000
State Board of Veterinary Medical Examiners .....	60,000
State Police -- Fingerprint Fees .....	2,694,000
State Police -- Other Licenses .....	230,000
State Police -- Private Detective Licenses .....	220,000
Violent Crime Compensation .....	3,930,000
Weights and Measures - General .....	<u>2,612,000</u>
Subtotal, Department of Law and Public Safety .....	<u>\$47,434,000</u>
Department of Military and Veterans' Affairs:	
Soldiers' Homes .....	<u>\$29,690,000</u>
Subtotal, Department of Military and Veterans' Affairs .....	<u>\$29,690,000</u>
Department of Transportation:	
Air Safety Fund .....	\$965,000
Applications and Highway Permits .....	1,300,000
Auto Body Repair Shop Licensing .....	18,000
Autonomous Transportation Authorities .....	2,500,000
Drunk Driving Fines .....	350,000
Good Driver .....	71,500,000
Graduated Driver's License .....	1,390,000
Heavy Duty Diesel Fines .....	450,000
Interest on Purchase of Right-of-Way .....	5,000
Logo Sign Program Fees .....	300,000
Motor Vehicle Database -- Automated .....	50,000,000
Motor Vehicle Inspection Fund .....	76,700,000
Outdoor Advertising .....	6,740,000
Parking Offenses .....	410,000
Salvage Title Program .....	1,100,000
Special Plate Fees .....	750,000
Uninsured Motorists Program .....	<u>3,400,000</u>
Subtotal, Department of Transportation .....	<u>\$217,878,000</u>
Department of the Treasury:	
Assessment on Houses Greater Than \$1 Million .....	\$60,000,000
Assessments -- Cable TV .....	4,341,000
Assessments -- Public Utility .....	28,958,000
Asset Sales .....	200,000,000
Bond Refinancing/Restructuring Proceeds .....	150,000,000
Coin Operated Telephones .....	3,400,000
Commercial Recording -- Expedited .....	2,853,000
Dormitory Safety Trust Fund -- Debt Service Recovery ..	5,796,000
Equipment Leasing Fund -- Debt Service Recovery .....	4,642,000
Enhanced Collections/Enforcement .....	113,000,000
Escrow Interest -- Construction Accounts .....	26,000
General Revenue -- Fees (Commercial Recording and UCC) .....	38,500,000

Higher Education Capital Improvement Fund --	
Debt Service Recovery .....	12,237,000
Hotel/Motel Occupancy Tax .....	67,000,000
Miscellaneous Revenue .....	870,000
NJ Economic Development Authority .....	1,973,000
NJ Public Records Preservation .....	41,200,000
Notary Commissions .....	1,200,000
Nuclear Emergency Response Assessment .....	4,139,000
Office of Dispute Settlement (ODS) Mediation Fees .....	158,000
Public Defender Client Receipts .....	4,900,000
Public Utility -- Customer Specific Tax .....	2,259,000
Public Utility Fines .....	3,000,000
Public Utility Gross Receipts and Franchise Taxes .....	75,000,000
Railroad Tax -- Class II .....	3,500,000
Railroad Tax -- Franchise .....	590,000
Rate Payer Advocate .....	6,297,000
Simplified Sales Tax Implementation/Amnesty .....	40,000,000
Surplus Property .....	950,000
Tax Referral Cost Recovery Fee .....	6,700,000
Telephone Assessment .....	119,000,000
Tire Clean-Up Surcharge .....	9,000,000
Transitional Energy Facilities Assessment .....	235,000,000
Subtotal, Department of the Treasury .....	<u>\$1,246,489,000</u>
Other Sources:	
Miscellaneous Revenue .....	<u>\$500,000</u>
Subtotal, Other Sources .....	<u>\$500,000</u>
Inter-Departmental Accounts:	
Administration and Investment of Pension and Health Benefit Funds - Recoveries .....	\$49,500,000
Employee Maintenance Deductions .....	300,000
Fringe Benefit Recoveries from Colleges and Universities .....	120,500,000
Fringe Benefit Recoveries from Federal and Other Funds .....	201,500,000
Fringe Benefit Recoveries from School Districts .....	36,950,000
Indirect Cost Recoveries -- DEP Other Funds .....	10,500,000
MTF Revenue Fund .....	79,500,000
Rent of State Building Space .....	1,900,000
Social Security Recoveries from Federal and Other Funds .....	56,000,000
Subtotal, Inter-Departmental Accounts .....	<u>\$556,650,000</u>
The Judiciary:	
Court Fees .....	<u>\$66,670,000</u>
Subtotal, Judicial Branch .....	<u>\$66,670,000</u>
Total -- Miscellaneous Taxes, Fees, Revenues .....	<u>\$3,078,948,000</u>

*Interfund Transfers*

Beaches and Harbor Fund	\$15,000
Clean Waters Fund	10,000
Correctional Facilities Construction Fund	8,000
Correctional Facilities Construction Fund -- 1987	9,000
Cultural Centers and Historic Preservation Fund	30,000
Dam, Lake, Stream and Flood Control Project Fund -- 2003	150,000
Developmental Disabilities Waiting List Reduction Fund	205,000
Dredging and Containment Facility Fund	338,000
Emergency Flood Control Fund	5,000
Energy Conservation Fund	15,000
Enterprise Zone Assistance Fund	3,975,000
Fund for the Support of Free Public Schools	1,680,000
Garden State Farmland Preservation Trust Fund	1,762,000
Garden State Green Acres Preservation Trust Fund	5,000,000
Garden State Historic Preservation Trust Fund	617,000
Hazardous Discharge Fund	3,000
Hazardous Discharge Site Cleanup Fund	14,638,000
Jobs, Education and Competitiveness	27,000
Judiciary Bail Fund	450,000
Judiciary Child Support and Paternity Fund	360,000
Judiciary Probation Fund	195,000
Judiciary Special Civil Fund	40,000
Judiciary Superior Court Miscellaneous Fund	85,000
Legal Services Fund	10,410,000
Mortgage Assistance Fund	711,000
Motor Vehicle Security Responsibility Fund	3,000
New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-Way Preservation Fund	85,000
Natural Resources Fund	28,000
New Jersey Green Acres Fund - 1983	250,000
New Jersey Spill Compensation Fund	15,037,000
New Jersey Workforce Development Partnership Fund	17,159,000
New Home Warranty Security Fund	20,000,000
Pollution Prevention Fund	1,803,000
Public Purpose Buildings Construction Fund	1,000
Public Purpose and Community-Based Facilities Construction Fund	71,000
Safe Drinking Water Fund	2,339,000
School Fund Investment Account	3,532,000
Second Injury Fund	5,000,000
Shore Protection Fund	223,000
Solid Waste Service Tax Fund	2,000
State Disability Benefit Fund	26,685,000
State Land Acquisition and Development Fund	5,000
State Lottery Fund	820,000,000
State Lottery Fund -- Administration	22,400,000

State Recreation and Conservation Land	
Acquisition and Development Fund	11,000
State of New Jersey Cash Management Fund	3,034,000
Supplemental Workforce Fund for Basic Skills	2,000,000
Tobacco Settlement Fund/Securitization	12,416,000
Transportation Rehabilitation and Improvement Fund	6,000
Unclaimed Insurance Payments on Deposits Trust Fund	27,000
Unclaimed Personal Property Trust Fund	269,075,000
Unclaimed Utility Deposits Trust Fund	23,000
Unemployment Compensation Auxiliary Fund	17,607,000
Universal Services Fund	72,468,000
Wage and Hour Trust Fund	75,000
Water Conservation Fund	17,000
Water Supply Fund	3,865,000
Worker and Community Right to Know Fund	3,543,000
Total -- Interfund Transfers	<u>\$1,359,528,000</u>
Total State Revenues, General Fund	<u>\$17,055,796,000</u>
Total Resources, General Fund	<u>\$17,404,851,000</u>

***Surplus Revenue Fund***

Undesignated Fund Balance, July 1, 2005	288,416,000
Total Resources, Surplus Revenue Fund	<u>\$288,416,000</u>

***Property Tax Relief Fund***

Undesignated Fund Balance, July 1, 2005	\$0
Gross Income Tax	10,275,000,000
Total Resources, Property Tax Relief Fund	<u>\$10,275,000,000</u>

***Casino Control Fund***

Undesignated Fund Balance, July 1, 2005	\$5,973,000
Investment Earnings	300,000
License Fees	63,012,000
Total Resources, Casino Control Fund	<u>\$69,285,000</u>

***Casino Revenue Fund***

Undesignated Fund Balance, July 1, 2005	\$0
Casino Simulcasting Fund	800,000
Gross Revenue Tax	395,760,000
Investment Earnings	512,000
Other Casino Taxes and Fees	\$84,239,000
Total Resources, Casino Revenue Fund	<u>\$481,311,000</u>

***Gubernatorial Elections Fund***

Undesignated Fund Balance, July 1, 2005	\$325,000
Taxpayers' Designations	700,000
Total Resources, Gubernatorial Elections Fund	<u>\$1,025,000</u>

Total Resources, All State Funds . . . . . \$28,519,888,000

***Federal Revenue***

Executive Branch --

Department of Agriculture:

Child Care Food . . . . . \$56,865,000  
 Child Nutrition -- School Breakfast . . . . . 40,000,000  
 Child Nutrition -- School Lunch . . . . . 158,050,000  
 Child Nutrition -- Special Milk . . . . . 1,500,000  
 Child Nutrition -- Summer Programs . . . . . 10,017,000  
 Child Nutrition -- Administration . . . . . 3,677,000  
 Cooperative Gypsy Moth Suppression . . . . . 75,000  
 Farm Risk Management Education Program . . . . . 301,000  
 Farmland Preservation . . . . . 12,301,000  
 Federal Organic Certification Cost Share Program . . . . . 30,000  
 Fish Inspection Services . . . . . 160,000  
 Jobs Bill -- Temporary Emergency Food  
 Assistance Program (TEFAP) . . . . . 1,278,000  
 Team Nutrition Training . . . . . 25,000  
 Various Federal Programs and Accruals . . . . . 2,133,000  
 Subtotal, Department of Agriculture . . . . . \$286,612,000

Department of Community Affairs:

Community Food and Nutrition Program . . . . . \$86,000  
 Community Services Block Grant . . . . . 17,699,000  
 Emergency Shelter Grants Program . . . . . 1,600,000  
 Fair Housing Initiatives Grant . . . . . 85,000  
 Lead-Based Paint Abatement in Low and Moderate  
 Income Housing . . . . . 3,000,000  
 Moderate Rehabilitation Housing Assistance . . . . . 12,595,000  
 National Affordable Housing -- HOME  
 Investment Partnerships . . . . . 9,073,000  
 National Fire Academy Training Program . . . . . 30,000  
 Section 8 Housing Voucher Program . . . . . 173,200,000  
 Shelter Plus Care Program . . . . . 4,500,000  
 Small Cities Block Grant Program . . . . . 9,746,000  
 Weatherization Assistance Program . . . . . 5,169,000  
 Various Federal Programs and Accruals . . . . . 35,000  
 Subtotal, Department of Community Affairs . . . \$236,818,000

Department of Corrections:

Body Alarms Justice Technology Grant . . . . . \$500,000  
 Crime Prevention Funding . . . . . 300,000  
 Digital Radio Technology and Ruggedized Personal . . . . . 1,100,000  
 National Institute of Justice Grant for Corrections Research . . . . . 100,000  
 Prison Rape Elimination Grant . . . . . 452,000  
 Project In-Side . . . . . 602,000  
 Serious and Violent Offender Reentry Initiative . . . . . 1,000,000  
 State Criminal Alien Assistance Program . . . . . 5,000,000



Various Federal Programs and Accruals	50,000
Subtotal, Department of Corrections	<u>\$9,104,000</u>
Department of Education:	
21st Century Schools	\$19,898,000
AIDS Prevention Education	243,000
Bilingual and Compensatory Education -- Homeless Children and Youth	1,290,000
Byrd Scholarship Program	1,200,000
Character Education Partnership	539,000
Drug-Free Schools and Communities -- Administration	2,092,000
Drug-Free Schools and Communities -- Discretionary	8,329,000
Educational Technology	9,756,000
Even Start Family Literacy Grant -- Discretionary	4,142,000
Grants Management	2,458,000
Improving America's Schools Act -- Consolidated	5,106,000
Individuals with Disabilities Education Act -- Basic State	334,650,000
Individuals with Disabilities Education Act -- Preschool	11,478,000
Language Acquisition State Grants	19,879,000
Mathematics and Science Partnerships Grants	3,013,000
Migrant Education -- Administration/Discretionary	2,117,000
Public Charter Schools	6,010,000
State Assessments	9,945,000
State Grants for Improving Teacher Quality	68,362,000
State Improvement Grant, Administration	1,273,000
Title I -- Comprehensive School Reform	4,360,000
Title I -- Grants to Local Educational Agencies	271,610,000
Title I -- Part D, Neglected and Delinquent	2,548,000
Title I -- Reading First State Grant	18,065,000
Title V -- Innovative Program Strategies	5,550,000
Vocational Education -- Basic Grants, Administration	24,735,000
Vocational Education Technical Preparation	2,263,000
Various Federal Programs and Accruals	949,000
Subtotal, Department of Education	<u>\$841,860,000</u>
Department of Environmental Protection:	
Air Pollution Maintenance Program	\$5,218,000
Americorps	300,000
Artificial Reef Program -- PSE&G/NJPDES Permit Fees	825,000
Asian Longhorned Beetle Project	2,300,000
Atlantic Coastal Cooperative Program	200,000
Boat Access (Fish and Wildlife)	1,000,000
Brownfields	2,000,000
Cape May Peninsula Project (Sandritter Property)	1,000,000
Cheesequake Marshland Acquisition	1,000,000
Clean Lakes Program	500,000
Clean Vessels	1,000,000
Coastal Estuarine Land Program	6,000,000

Coastal Zone Management Implementation	2,722,000
Community Assistance Program	200,000
Consolidated Forest Management	1,070,000
Construction Grants Program	57,600,000
Defensible Space	400,000
Delaware Bay and Great Egg Harbor Corridor Project (SV Farming) Federal Share	1,000,000
Domestic Preparedness DEP -- Supplemental Training	80,000
Endangered Species	205,000
Endangered and Nongame Species Program State Wildlife Grants	1,500,000
Environmental Justice	100,000
Firewise in the Pines	200,000
Fish and Wildlife Health	100,000
Forest Legacy	10,040,000
Forest Resource Management -- Cooperative Forest Fire Control	1,725,000
Grassland Habitat Project	200,000
Hazardous Waste -- Resource Conservation Recovery Act	4,281,000
Historic Preservation Survey & Planning	950,000
Hunters' and Anglers' License Fund	5,925,000
Intermodal Surface Transportation Efficiency Act	11,980,000
Investigation and Management of NJ's Nongame Freshwater Fisheries Resources	150,000
Land and Water Conservation Fund	5,000,000
Lower Cohansey Watershed	1,000,000
Marine Fisheries Investigation and Management	1,150,000
Multi-Media	750,000
Multi-Media Enforcement Grant	1,000,000
NJ Field Office Bog Turtle Cooperative Agreement	50,000
NJ Landowners Incentive	1,450,000
National Coastal Wetlands Conservation	2,215,000
National Dam Safety Program (FEMA)	90,000
National Geologic Mapping Program	200,000
National Pollutant Discharge Elimination System Implementation Support Program	600,000
National Recreational Trails	1,500,000
Non-Point Source Implementation (319H)	3,851,000
Particulate Monitoring Grant	1,499,000
Pesticide Recording Program	20,000
Pesticide Technology	670,000
Pinelands Grant -- Acquisition	6,000,000
Preliminary Assessments/Site Inspections	3,000,000
Radon Program	500,000
Safe Drinking Water Act	22,200,000
Shortnose Sturgeon Research	150,000

Southern New Jersey Drinking Water Sampling Project . . . .	50,000
Southern Pine Beetle . . . . .	100,000
State Wetlands Conservation Plan . . . . .	492,000
State Wildlife Grant Projects . . . . .	1,500,000
State/EPA Data Management Grant . . . . .	2,300,000
Superfund Grants . . . . .	30,450,000
Telemetry Study of Red Knots and Atlantic Brant . . . . .	65,000
US Army Corps of Engineers Beachnesters . . . . .	80,000
Underground Storage Tanks . . . . .	2,055,000
Water Monitoring and Planning . . . . .	547,000
Water Pollution Control Program . . . . .	4,025,000
Wildland/Urban Interface II . . . . .	500,000
Wildlife Education . . . . .	285,000
Wildlife Management Area Planning . . . . .	300,000
Various Federal Programs and Accruals . . . . .	<u>3,270,000</u>
Subtotal, Department of Environmental Protection . . . . .	<u>\$220,685,000</u>
Department of Health and Senior Services:	
Abstinence Education -- Family Health Services (FHS) . .	\$1,122,000
Asthma Surveillance and Coalition Building . . . . .	356,000
Asthma and Hazardous Substances Applied Research . . . .	108,000
Behavioral Risk Factor Surveillance Survey . . . . .	261,000
Bioterrorism Hospital Emergency Preparedness . . . . .	16,000,000
Birth Defects Surveillance Program . . . . .	250,000
Center for Birth Defects Research and Prevention . . . . .	1,600,000
Childhood Lead Poisoning . . . . .	1,400,000
Chronic Disease Prevention and Health Promotion -- Family Health Services . . . . .	1,011,000
Chronic Disease Prevention and Health Promotion -- Public Health . . . . .	1,525,000
Clinical Laboratory Improvement Amendments Program . .	526,000
Comprehensive AIDS Resources Grant . . . . .	50,400,000
Core Injury Prevention & Control Program . . . . .	200,000
Demonstration Program to Conduct Health Assessments . .	634,000
EMSC Partnership Grants . . . . .	100,000
Early Hearing Detection and Intervention (EHDI) Tracking, Research . . . . .	334,000
Early Intervention for Infants and Toddlers with Disabilities (Part H) . . . . .	13,000,000
Eliminating Disparities in Perinatal Health . . . . .	3,430,000
Emergency Preparedness for Bioterrorism . . . . .	29,970,000
Evaluation of Lead Dust Study . . . . .	254,000
Exposure -- Tremolite Asbestos -- Vermiculite .. . . .	220,000
Family Planning Program -- Title X . . . . .	8,640,000
Federal Lead Abatement Program . . . . .	461,000
Federal Medicare Reimbursement . . . . .	994,000
Federal Medicare Relief . . . . .	90,000,000

Food Inspection	387,000
HIV/AIDS Prevention and Education Grant	18,000,000
HIV/AIDS Surveillance Grant	4,812,000
Housing Opportunities for Persons with AIDS	3,263,000
Immunization Project	8,810,000
Lead Training and Certification (Enforcement) Program	85,000
Maternal and Child Health (MCH) Early Childhood Comprehensive System	100,000
Maternal and Child Health Block Grant	13,000,000
Medicare/Medicaid Inspections of Nursing Facilities	16,660,000
Memorandum of Agreement with Emory University -- National Down Syndrome Study	150,000
Minority AIDS Demo	150,000
Morbidity & Mortality Review Program	150,000
Morbidity & Risk Behavior Surveillance	750,000
NJ Ease for Caregivers -- Building Support Systems	250,000
National Cancer Prevention and Control -- Public Health	6,574,000
National Family Caregiver Program	4,800,000
National Violent Death Reporting System	208,000
Nurse Aide Certification Program	1,000,000
Nursing Facilities Transition Grant	600,000
Older Americans Act -- Title III	33,450,000
Pediatric AIDS Health Care Demonstration Project	2,850,000
Planning Capacity for Rape Prevention	92,000
Pregnancy Risk Assessment Monitoring System	750,000
Preventative Health and Health Services Block Grant	3,975,000
Public Health Laboratory Biomonitoring Planning	210,000
Rape Prevention and Education Program	1,237,000
Research on Ecology of Lyme Disease in US	325,000
Senior Farmers Market Nutrition Program	1,000,000
State Pharmacy Assistance Program Payments -- Federally Funded Grant	11,366,000
Supplemental Food Program -- Women, Infants, and Children	94,000,000
Surveillance, Epidemiology and End Results (SEER)	1,800,000
Traumatic Brain Injury Surveillance	105,000
Tuberculosis Control Program	6,000,000
United States Department of Agriculture (USDA) Older Americans Act -- Title III	3,900,000
Universal Newborn Hearing Screening	250,000
Venereal Disease Project	3,882,000
Violence Related Injury Prevention	160,000
Vital Statistics Component	850,000
WIC Farmer's Market Nutrition Program	2,000,000
West Nile Virus -- Laboratory	242,000
West Nile Virus -- Public Health	2,258,000

Various Federal Programs and Accruals	4,614,000
Subtotal, Department of Health and Senior Services	<u>\$477,861,000</u>
Department of Human Services:	
Access to Recovery	\$4,049,000
Block Grant Mental Health Services	12,227,000
Child Care Block Grant	109,778,000
Child Support Enforcement Program	173,677,000
Community Based Residential Program Grant	1,000,000
Developmental Disabilities Council	1,598,000
Federal Independent Living	1,153,000
Food Stamp Program	99,022,000
Foster Grandparents Program	1,080,000
Low Income Energy Assistance Block Grant	84,514,000
Projects for Assistance in Transition from Homelessness (PATH)	1,745,000
Refugee Resettlement Program	5,705,000
Restricted Federal Grants	10,107,000
Social Service Block Grant	51,529,000
Substance Abuse Block Grant	53,606,000
Temporary Assistance to Needy Families Block Grant	441,485,000
Title IV-B Child Welfare Services	5,500,000
Title IV-E Foster Care	150,612,000
Title XIX Child Residential	77,983,000
Title XIX Community Care Waiver	238,655,000
Title XIX ICF/MR	278,905,000
Title XIX Medical Assistance	3,599,800,000
Title XXI Children's Health Insurance Program	205,019,000
Vocational Rehabilitation Act -- Section 120	10,961,000
Various Federal Programs and Accruals	5,140,000
Subtotal, Department of Human Services	<u>\$5,624,850,000</u>
Department of Labor and Workforce Development:	
Adult and Continuing Education -- Workforce Investment Act	\$18,343,000
Comprehensive Services for Independent Living	1,012,000
Current Employment Statistics	2,764,000
Disability Determination Services	48,000,000
Disabled Veterans' Outreach Program	2,500,000
Employment Services	22,930,000
Employment Services -- One Stop Shopping	325,000
Employment Services Cost Reimbursable Grants -- Migrant Housing	50,000
Employment Services Grants -- Alien Labor Certification	2,321,000
Employment Services Reemployment Services	1,100,000
Federal Public Employees Occupational Safety and Health Act	1,900,000
Local Veterans' Employment Representatives	1,700,000

National Council on Aging - Senior Community	
Services Employment Project	3,000,000
Occupational Informational Coordinating Program	159,000
Occupational Safety Health Act , On-Site Consultation	2,002,000
Occupational Safety and Health Administration Data	
Collection Survey	74,000
Old Age & Survivor Insurance Disability	
Determination Services	1,000,000
One Stop Labor Market Information	940,000
Redesigned Occupational Safety and Health (ROSH)	233,000
Rehabilitation of Supplemental Security	
Income Beneficiaries	2,000,000
Supported Employment	1,200,000
Technical Assistance Training	1,700,000
Technology Related Assistance Project	350,000
Trade Adjustment Assistance Project	4,000,000
Unemployment Insurance	135,500,000
Vocational Rehabilitation Act of 1973	45,325,000
Work Incentive -- Project Access	700,000
Work Opportunity Tax Credit	750,000
Workforce Investment Act	57,947,000
Workforce Investment Act -- Title IIID	
Discretionary Funding	4,000,000
Workforce Investment Act -- Title III	
Dislocated Workers	22,000,000
Various Federal Programs and Accruals	<u>245,000</u>
Subtotal, Department of Labor and	
Workforce Development	<u>\$386,070,000</u>
Department of Law and Public Safety:	
Anti Trafficking Task Force	\$600,000
Buffer Zone Protection	1,400,000
Bulletproof Vest Partnership	800,000
Casework DNA Backlog Reduction Program	1,300,000
Challenge Grant	300,000
Child Passenger Protection Education	500,000
Combating Underage Drinking	360,000
Community Emergency Response Team Program	550,000
Convicted Offender In-House (DNA)	1,500,000
Domestic Marijuana Eradication Suppression Program	200,000
Emergency Management Performance	
Grant -- Non-Terrorism	4,500,000
Equal Employment Opportunity Commission	600,000
FEMA Pre-Disaster Mitigation Grant	300,000
Financial Investigations & Money Laundering Initiative	5,000,000
Flood Mitigation Assistance	946,000
Forensic Crime Laboratory Improvement Program	2,000,000
Forensic DNA Testing Program	1,000,000

Grants to Encourage Arrest Policies and Enforcement of Protection .....	500,000
Hazardous Materials Transportation .....	350,000
Help America Vote Act .....	2,210,000
High Intensity Drug Trafficking Area (HIDTA) .....	50,000
Highway Safety Data Improvement Grant .....	1,500,000
Highway Safety Programs .....	6,375,000
Housing and Urban Development .....	115,000
Incident Command .....	750,000
Innovative Seat Belt Use .....	3,000,000
Internet Crimes Against Children .....	300,000
Justice Assistance Grant (JAG) .....	10,500,000
Juvenile Accountability Incentive Block Grant .....	1,200,000
Juvenile Justice Delinquency Prevention .....	2,476,000
Local Law Enforcement Block Grant .....	1,400,000
Medicaid Fraud Unit .....	3,315,000
National Criminal History Program -- OAG .....	2,000,000
National Forensic Sciences Improvement Act Program ...	400,000
New Jersey Anti-Money Laundering Initiative .....	750,000
Northeast Hazardous Waste Project -- RCRA .....	250,000
Occupant Protection Grant .....	1,965,000
Protecting Our Urban Areas .....	25,000,000
Recreational Boating Safety .....	2,000,000
Residential Treatment for Substance Abuse .....	1,600,000
Safety Incentive Grants .....	5,000,000
Section 163 Prevent Operations of Motor Vehicles by Intoxicated Persons .....	3,000,000
State Homeland Security Grant Program .....	36,600,000
Title V Funding .....	1,500,000
Victim Assistance Grants .....	12,000,000
Victim Compensation Award .....	7,000,000
Violence Against Women Act .....	4,000,000
Various Federal Programs and Accruals .....	100,000
Subtotal, Department of Law and Public Safety .	<u>\$159,062,000</u>
Department of Military and Veterans' Affairs:	
ARNG Sustainable Range Program .....	\$200,000
Armory Renovations and Improvements .....	1,800,000
Army Facilities Service Contracts .....	1,400,000
Army National Guard Statewide Security Agreement .....	500,000
Army National Guard Transportation .....	125,000
Army Training and Technology Lab .....	500,000
Atlantic City Air Base -- Service Contracts .....	2,200,000
Atlantic City Environmental .....	50,000
Atlantic City Operations and Maintenance .....	65,000
Brigadier General Doyle Memorial Cemetery Building Project .....	8,500,000
Combined Logistics Facility .....	26,000,000

Dining Facility Operations .....	700,000
Facilities Support Contract .....	6,000,000
Federal Distance Learning Program .....	200,000
Fire Fighter/Crash Rescue Service	
Cooperative Funding Agreement .....	1,500,000
Hazardous Waste Environmental Protection Program .....	500,000
McGuire Air Force Base Environmental .....	50,000
McGuire Air Force Base -- Service Contracts .....	2,095,000
McGuire Operations and Maintenance .....	70,000
Medicare Part A Receipts for Resident Care and	
Operational Costs .....	5,042,000
National Guard Communications Agreement .....	750,000
New Jersey National Guard Challenge Youth Program ...	2,000,000
New Jersey National Guard Counter Drug Program	
Interservice State - Federal .....	12,000
Training and Equipment -- Pool Sites .....	250,000
Transitional Housing .....	360,000
Veterans' Education Monitoring .....	565,000
Warren Grove/Coyle Field .....	80,000
Various Federal Programs and Accruals .....	55,000
Subtotal, Department of Military and	
Veterans' Affairs .....	<u>\$61,569,000</u>
Department of State:	
Americorps Grant .....	\$5,552,000
Leveraging Educational Assistance Partnership .....	2,148,000
NJ GEAR UP .....	3,500,000
National Endowment for the Arts Partnership .....	750,000
National Endowment for the Humanities Grant .....	715,000
National Health Service Corps -- Student Loan	
Repayment Program .....	240,000
National Telecommunications Information Agency .....	625,000
Student Loan Administrative Cost	
Deduction and Allowance .....	22,056,000
Subtotal, Department of State .....	<u>\$35,586,000</u>
Department of Transportation:	
Airport Fund .....	\$10,000,000
Homeland Security .....	10,000,000
Highway Planning and Research .....	17,800,000
Metropolitan Planning Funds .....	12,039,000
Motor Carrier Safety Assistance Program .....	9,808,000
National Boating Infrastructure Grant .....	1,600,000
New Jersey Transportation Planning Assistance .....	8,700,000
Supportive Services Highway Construction	
Training Program .....	500,000
Subtotal, Department of Transportation .....	<u>\$70,447,000</u>
Department of the Treasury:	
Diamond Shamrock Oil Overcharge Settlement .....	\$717,000



Division of Gas Expansion .....	600,000
State Energy Conservation Program .....	2,602,000
Various Federal Programs and Accruals .....	700,000
Subtotal, Department of the Treasury .....	<u>\$4,619,000</u>
The Judiciary	
Various Federal Programs and Accruals .....	<u>\$835,000</u>
Subtotal, The Judiciary .....	<u>\$835,000</u>
Special Transportation Fund	
Department of Transportation:	
Federal Transit Administration .....	\$492,792,000
Federal Highway Administration .....	890,292,570
Subtotal, Special Transportation Fund -- Federal	<u>1,383,084,570</u>
Total -- Federal Revenue .....	<u>\$9,799,062,570</u>
Grand Total Resources, All Funds .....	<u>\$38,318,950,570</u>

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

1. The appropriations herein or so much thereof as may be necessary are hereby appropriated out of the General Fund, or such other sources of funds specifically indicated or as may be applicable, for the respective public officers and spending agencies and for the several purposes herein specified for the fiscal year ending on June 30, 2006. Unless otherwise provided, the appropriations herein made shall be available during said fiscal year and for a period of one month thereafter for expenditures applicable to said fiscal year. Unless otherwise provided, at the expiration of said one-month period, all unexpended balances shall lapse into the State Treasury or to the credit of trust, dedicated or non-State funds as applicable, except those balances held by encumbrances on file as of June 30, 2006 with the Director of the Division of Budget and Accounting or held by pre-encumbrances on file as of June 30, 2006 as determined by the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with a listing of all pre-encumbrances outstanding as of July 31, 2006 together with an explanation of their status. Nothing contained in this section or in this act shall be construed to prohibit the payment due upon any encumbrance or pre-encumbrance made under any appropriation contained in any appropriation act of the previous year or years. Furthermore, balances held by pre-encumbrances as of June 30, 2005 are available for payments applicable to fiscal year 2005 as determined by the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with a listing of all pre-encumbrances outstanding as of July 31, 2005 together with an explanation of their status. On or before December 1, 2005, the State Treasurer, in accordance with the provisions of section 37 of article 3 of P.L.1944, c.112 (C.52:27B-46), shall transmit to the Legislature the Annual Financial Report of the State of New Jersey for the fiscal year ending June 30, 2005, depicting the financial condition of the State and the results of operation for the fiscal year ending June 30, 2005.

**New Jersey State Library**

**01 LEGISLATURE**  
**70 Government Direction, Management and Control**  
**71 Legislative Activities**  
**0001 Senate**

**DIRECT STATE SERVICES**

01-0001 Senate .....	<u>\$11,644,000</u>
Total Direct State Services Appropriation, Senate .....	<u>\$11,644,000</u>
Direct State Services:	
Personal Services:	
Senators (40) .....	(\$1,990,000)
Salaries and Wages .....	(4,454,000)
Members' Staff Services .....	(4,400,000)
Materials and Supplies .....	(150,000)
Services Other Than Personal .....	(540,000)
Maintenance and Fixed Charges .....	(80,000)
Additions, Improvements and Equipment ..	(30,000)

The unexpended balance at the end of the preceding fiscal year in this account is appropriated.

**0002 General Assembly**  
**DIRECT STATE SERVICES**

01-0002 General Assembly .....	<u>\$18,192,000</u>
Total Direct State Services Appropriation, General Assembly .....	<u>\$18,192,000</u>
Direct State Services:	
Personal Services:	
Assemblypersons (80) .....	(\$3,937,000)
Salaries and Wages .....	(4,590,000)
Members' Staff Services .....	(8,800,000)
Materials and Supplies .....	(120,000)
Services Other Than Personal .....	(640,000)
Maintenance and Fixed Charges .....	(100,000)
Additions, Improvements and Equipment ..	(5,000)

The unexpended balance at the end of the preceding fiscal year in this account is appropriated.

**0003 Office of Legislative Services**  
**DIRECT STATE SERVICES**

01-0003 Legislative Support Services .....	<u>\$29,068,000</u>
Total Direct State Services Appropriation, Office of Legislative Services .....	<u>\$29,068,000</u>
Direct State Services:	
Personal Services:	
Salaries and Wages .....	(\$20,261,000)
Materials and Supplies .....	(1,065,000)
Services Other Than Personal .....	(2,527,000)
Maintenance and Fixed Charges .....	(3,681,000)

Special Purpose:

- 03 Affirmative Action and Equal Employment Opportunity . . . . . (29,000)
- 03 Continuation and Expansion of Data Processing Systems . . . . . (657,000)
- 03 Senator Wynona Lipman Chair in Women's Political Leadership at the Eagleton Institute . . . . . (100,000)
- 03 State House Express Civics Education Program . . . . . (30,000)
- 03 Henry J. Raimondo New Jersey Legislative Fellows Program . . . . . (69,000)

Additions, Improvements and Equipment . . (649,000)

Such sums as may be required for the cost of information system audits performed by the State Auditor are funded from the departmental data processing accounts of the department in which the audits are performed.

Such sums as are required, as determined by the Technology Executive Group of the Legislative Information Systems Committee of the Legislative Services Commission, for the continuation and expansion of existing and emerging computer and information technologies for the Legislature including but not limited to interactive video conferencing, telecommunications capabilities, electronic copying and facsimile transmissions, training and such other technologies in order to sustain a coordinated and comprehensive legislative technology infrastructure that the Legislature deems necessary are appropriated. No amounts so determined shall be obligated, expended or otherwise made available without the written prior authorization of the Senate President and the Speaker of the General Assembly.

Receipts derived from fees and charges for public access to legislative information systems and the unexpended balance at the end of the preceding fiscal year of such receipts are appropriated and shall be credited to a non-lapsing revolving fund established in and administered by the Office of Legislative Services for the purpose of continuing to modernize, maintain, and expand the dissemination and availability of legislative information.

Such sums as are required for Master Lease payments, subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer, are appropriated.

The unexpended balance at the end of the preceding fiscal year in this account is appropriated.

**77 Legislative Commissions and Committees**

**DIRECT STATE SERVICES**

09-0010 Intergovernmental Relations Commission . . . . .	\$436,000
09-0014 Joint Committee on Public Schools . . . . .	335,000
09-0018 State Commission of Investigation . . . . .	4,922,000
09-0026 Commission on Business Efficiency in the Public Schools . . . . .	110,000
09-0053 New Jersey Law Revision Commission . . . . .	321,000

09-0058 State Capitol Joint Management Commission . . . .	9,001,000
09-0061 Clean Ocean and Shore Trust Committee . . . . .	<u>144,000</u>
Total Direct State Services Appropriation, Legislative Commissions and Committees . . . . .	<u>\$15,269,000</u>

***Direct State Services:***

Intergovernmental Relations Commission	
09 Expenses of Commission . . . . .	(\$36,000)
09 The Council of State Governments . . . . .	(155,000)
09 National Conference of State Legislatures . . . . .	(184,000)
09 Eastern Trade Council - The Council of State Governments . . . . .	(36,000)
09 Northeast States Association for Agriculture Stewardship-The Council of State Governments . . . . .	(25,000)
Joint Committee on Public Schools	
09 Expenses of Commission . . . . .	(335,000)
State Commission of Investigation . . . . .	
09 Expenses of Commission . . . . .	(4,922,000)
Commission on Business Efficiency in the Public Schools	
09 Expenses of Commission . . . . .	(110,000)
New Jersey Law Revision Commission	
09 Expenses of Commission . . . . .	(321,000)
State Capitol Joint Management Commission	
09 Expenses of Commission . . . . .	(9,001,000)
Clean Ocean and Shore Trust Committee	
09 Expenses of Commission . . . . .	(144,000)

The unexpended balances at the end of the preceding fiscal year in these accounts are appropriated.

Receipts from the rental of the Cafeteria and the Welcome Center and any other facility under the jurisdiction of the State Capitol Joint Management Commission are appropriated to defray custodial, security, maintenance and other related costs of these facilities.

The Legislature, Total State Appropriation . . . . .	<u>\$74,173,000</u>
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***Summary of Legislature Appropriations  
(For Display Purposes Only)***

<i>Appropriations by Category:</i>	
Direct State Services . . . . .	\$74,173,000
<i>Appropriations by Fund:</i>	
General Fund . . . . .	\$74,173,000

**06 OFFICE OF THE CHIEF EXECUTIVE  
70 Government Direction, Management and Control  
76 Management and Administration  
DIRECT STATE SERVICES**

01-0300 Executive Management .....	<u>\$4,972,000</u>
Total Direct State Services Appropriation, The Office of the Chief Executive .....	<u>\$4,972,000</u>
<b>Direct State Services:</b>	
Personal Services:	
Salaries and Wages .....	(\$4,044,000)
Materials and Supplies .....	(89,000)
Services Other Than Personal .....	(284,000)
Maintenance and Fixed Charges .....	(85,000)
Special Purpose:	
01 National Governors' Association ...	(158,000)
01 Coalition of Northeastern Governors .....	(37,000)
01 Education Commission of the States .	(108,000)
01 National Conference of Commissioners On Uniform State Laws .....	(42,000)
01 Brian Stack Intern Program .....	(10,000)
Allowance to the Governor of Funds Not Otherwise Appropriated, For Official Reception on Behalf of the State, Operation of an Official Residence and Other Expenses .....	
Additions, Improvements and Equipment ..	(20,000)
The unexpended balance at the end of the preceding fiscal year in this account is appropriated.	

Office of the Chief Executive, Total State Appropriation .....	<u>\$4,972,000</u>
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**Summary of The Office of the Chief Executive Appropriations  
(For Display Purposes Only)**

<i>Appropriations by Category:</i>	
Direct State Services .....	\$4,972,000
<i>Appropriations by Fund:</i>	
General Fund .....	\$4,972,000

**10 DEPARTMENT OF AGRICULTURE  
40 Community Development and Environmental Management  
49 Agricultural Resources, Planning and Regulation  
DIRECT STATE SERVICES**

01-3310 Animal Disease Control .....	\$1,254,000
02-3320 Plant Pest and Disease Control .....	2,124,000
03-3330 Agriculture and Natural Resources .....	879,000
05-3350 Food and Nutrition Services .....	338,000
06-3360 Marketing and Development Services .....	2,401,000
08-3380 Farmland Preservation .....	1,740,000

99-3370 Administration and Support Services .....	<u>679,000</u>
Total Direct State Services Appropriation, Agricultural Resources, Planning and Regulation .....	<u>\$9,415,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages .....	(\$5,524,000)
Materials and Supplies .....	(189,000)
Services Other Than Personal .....	(296,000)
Maintenance and Fixed Charges .....	(195,000)

## Special Purpose:

02 Asian Longhorned Beetle Monitoring .....	(200,000)
05 Temporary Emergency Food Assistance Program .....	(338,000)
06 Promotion/Market Development ...	(826,000)
08 Agricultural Right-to-Farm Program .	(90,000)
08 Open Space Administrative Costs .	(1,650,000)
99 Expenses of State Board of Agriculture .....	(18,000)
99 Affirmative Action and Equal Employment Opportunity .....	(28,000)
Additions, Improvements and Equipment ..	(61,000)

Receipts from laboratory test fees are appropriated to support the Animal Health Laboratory program. The unexpended balance at the end of the preceding fiscal year in the Animal Health Laboratory receipt account is appropriated for the same purpose.

Receipts from the seed laboratory testing and certification programs are appropriated for program costs. The unexpended balance at the end of the preceding fiscal year in the seed laboratory testing and certification receipt account is appropriated for the same purpose.

Receipts from Nursery Inspection fees are appropriated for Nursery Inspection program costs. The unexpended balance at the end of the preceding fiscal year in the Nursery Inspection program is appropriated for the same purpose.

Receipts from the sale or studies of beneficial insects are appropriated to support the Beneficial Insect Laboratory. The unexpended balance at the end of the preceding fiscal year in the Sale of Insects account is appropriated for the same purpose.

Receipts from Stormwater Discharge Permit program fees are appropriated for program costs. The unexpended balance at the end of the preceding fiscal year in the Stormwater Discharge Permit Fees account is appropriated for the same purpose.

Receipts from dairy licenses and inspections are appropriated for program costs. Receipts in excess of the amount anticipated from feed, fertilizer, and liming material registrations and inspections are appropriated for program costs.

Receipts from agriculture chemistry fees not to exceed \$75,000 shall be available to support the organic certification program.

Receipts from inspection fees derived from fruit, vegetable, fish, red meat, and poultry inspections are appropriated for the cost of conducting fruit, vegetable, fish, and poultry inspections.

An amount equal to receipts generated at the rate of \$.47 per gallon of wine, vermouth and sparkling wine sold by plenary winery and farm winery licensees issued pursuant to R.S.33:1-10, and certified by the Director of the Division of Taxation, are appropriated to the Department of Agriculture from the alcoholic beverage excise tax for expenses of the Wine Promotion Program.

Receipts derived from the distribution of commodities, sale of containers, and salvage of commodities, in accordance with applicable federal regulations, are appropriated for Commodity Distribution expenses.

Notwithstanding any other law to the contrary, an amount not to exceed \$1,650,000 shall be transferred from the Garden State Farmland Preservation Trust Fund to the General Fund and is appropriated to the State Agriculture Development Committee for Open Space Administrative Costs.

The unexpended balance at the end of the preceding fiscal year in the Promotion/Market Development Account is appropriated for the same purpose.

Notwithstanding any other law to the contrary, an amount not to exceed \$200,000 shall be transferred from the appropriate funds established in the Open Space Preservation Bond Act of 1989, P.L.1989, c.183, to the State Transfer of Development Bank account and is appropriated to the State Agriculture Development Committee for Transfer of Development Rights administrative costs.

Receipts derived from the surcharge on vehicle rentals pursuant to section 54 of P.L.2002, c.34 (C.App.A:9-78), not to exceed \$278,000, are appropriated to support the Agro-Terrorism program within the Department of Agriculture.

**GRANTS-IN-AID**

03-3330 Agriculture and Natural Resources . . . . .	\$1,200,000
06-3360 Marketing and Development Services . . . . .	75,000
08-3380 Farmland Preservation . . . . .	<u>300,000</u>
Total Grants-in-Aid Appropriation, Agricultural	
Resources, Planning and Regulation . . . . .	<u>\$1,575,000</u>

**Grants-in-Aid:**

- 03 Conservation Assistance Program (\$1,200,000)
- 06 Promotion/Market Development . . . . (75,000)
- 08 Soil and Water Conservation Grants . (300,000)

The expenditure of funds for the Conservation Cost Share program shall be based upon an expenditure plan subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, \$540,000 shall be transferred from the Department of Environmental Protection's Water Resources Monitoring and Planning-Constitutional Dedication special purpose account to support the Conservation Cost Share program in the Department of Agriculture on or before September 1, 2005. Further additional sums may be transferred pursuant to a Memorandum of Understanding between the Department of Environmental Protection and the Department of Agriculture, from the Department of Environmental Protection's Water Resources Monitoring and Planning-Constitutional

Dedication account to support non-point source pollution control programs in the Department of Agriculture, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance of this program at the end of the preceding fiscal year is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove appropriated for Farmland Preservation-Soil and Water Conservation Grants, an amount not to exceed \$700,000 shall be transferred from the 1992 Farmland Preservation Fund (P.L.1992, c.88) and the 1995 Farmland Preservation Fund (P.L.1995, c.204) to provide matching grants for Soil and Water Conservation projects on farms enrolled in the Farmland Preservation program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, the State Agriculture Development Committee, in determining eligibility for funding from the amount hereinabove appropriated for Soil and Water Conservation projects, shall give consideration to applications pursuant to the following priority: a. lands from which a development easement has been permanently conveyed pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 39 of P.L.1999, c.152 (C.13:8C-39), section 40 of P.L.1999, c.152 (C.13:8C-40) or section 1 of P.L.1999, c.180 (C.4:1C-43.1); b. lands certified by the State Agriculture Development Committee to be within a municipally approved program or other farmland preservation program on or before January 1, 2005 pursuant to P.L.1983, c.32; c. lands certified by the State Agriculture Development Committee to be within a municipally approved program or other farmland preservation program subsequent to January 1, 2005 pursuant to P.L.1983, c.32.

Of the amounts hereinabove appropriated for the Conservation Assistance Program, an amount not to exceed \$750,000 is allocated for the administrative expenses of the Conservation Assistance Program, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances at the end of the preceding fiscal year in the Conservation Assistance Program are appropriated for the same purpose.

**STATE AID**

05-3350 Food and Nutrition Services .....	\$11,677,000
08-3380 Farmland Preservation .....	<u>50,000</u>
Total State Aid Appropriation, Agricultural Resources, Planning and Regulation .....	<u>\$11,727,000</u>

**State Aid:**

05 School Breakfast Program - State Aid Grants .....	(\$3,854,000)
05 Non-Public Nutrition Aid - State Aid Grants .....	(439,000)
05 School Lunch Aid - State Aid Grants .....	(7,384,000)
08 Payments in Lieu of Taxes .....	(50,000)

The unexpended balances at the end of the preceding fiscal year in the School Breakfast-State Aid Grants Account are appropriated for the same purpose.



Of the amount hereinabove appropriated for the Department of Agriculture, such sums as the Director of the Division of Budget and Accounting shall determine from the amount listed under School Nutrition in the Department of Agriculture schedule included in the Governor's Budget Recommendation Document dated March 1, 2005, first shall be charged to the State Lottery Fund.  
 The unexpended balances at the end of the preceding fiscal year in the School Lunch Aid-State Aid Grants Account are appropriated for the same purpose.

**Less:**

*Savings from Administrative Efficiencies* . . . . . \$200,000

Department of Agriculture, Total State Appropriation . . . . . \$22,517,000

**Summary of Department of Agriculture Appropriations  
 (For Display Purposes Only)**

*Appropriations by Category:*

Direct State Services . . . . . \$9,215,000  
 Grants-in-Aid . . . . . 1,575,000  
 State Aid . . . . . 11,727,000

*Appropriations by Fund:*

General Fund . . . . . \$22,517,000

**14 DEPARTMENT OF BANKING AND INSURANCE  
 50 Economic Planning, Development and Security  
 52 Economic Regulation  
 DIRECT STATE SERVICES**

01-3110 Consumer Protection Services  
 and Solvency Regulation . . . . . \$16,547,000  
 02-3120 Actuarial Services . . . . . 6,035,000  
 03-3130 Regulation of the Real Estate Industry . . . . . 3,151,000  
 04-3110 Public Affairs, Legislative and  
 Regulatory Services . . . . . 1,923,000  
 06-3110 Insurance Fraud Prevention . . . . . 31,976,000  
 07-3170 Supervision and Examination of  
 Financial Institutions . . . . . 3,747,000  
 99-3150 Administration and Support Services . . . . . 4,458,000  
 Total Direct State Services Appropriation,  
 Economic Regulation . . . . . \$67,837,000

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . . (\$30,666,000)  
 Materials and Supplies . . . . . (330,000)  
 Services Other Than Personal . . . . . (5,412,000)  
 Maintenance and Fixed Charges . . . . . (211,000)

Special Purpose:

01 Ombudsman Program . . . . . (711,000)  
 02 Actuarial Services . . . . . (600,000)

- 06 Insurance Fraud  
     Prosecution Services . . . . . (29,877,000)
- 99 Affirmative Action and Equal  
     Employment Opportunity . . . . . (30,000)
- Receipts derived from extraordinary financial condition examinations or actuarial certifications of loss reserves are appropriated for the conduct of those examinations or certifications, subject to the approval of the Director of the Division of Budget and Accounting.
- The unexpended balance at the end of the preceding fiscal year in the Public Adjusters' Licensing account, together with receipts derived from the "Public Adjusters' Licensing Act," P.L.1993, c.66 (C.17:22B-1 et seq.), are appropriated for the administration of the act, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts from the investigation of out-of-State land sales are appropriated for the conduct of those investigations.
- There are appropriated from the Real Estate Guaranty Fund those sums as may be necessary to pay claims.
- There are appropriated from the assessments imposed by the New Jersey Individual Health Coverage Program Board, created pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.), and by the New Jersey Small Employer Health Benefits Program Board, created pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), those sums as may be necessary to carry out the provisions of those acts, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts in excess of anticipated revenues from examination and licensing fees, bank assessments, fines and penalties, and the unexpended balances at the end of the preceding fiscal year, not to exceed \$400,000, are appropriated to the Division of Banking, subject to the approval of the Director of the Division of Budget and Accounting.
- Proceeds from the sale of credits by the Pinelands Development Credit Bank pursuant to P.L.1985, c.310 (C.13:18A-30 et. seq.) shall be appropriated to the Pinelands Development Credit Bank for the same purpose.
- The unexpended balance at the end of the preceding fiscal year in the Pinelands Development Credit Bank account is appropriated for the same purpose.
- In addition to the sum hereinabove, such other sums as the Director of the Division of Budget and Accounting shall determine, are appropriated from the assessments of the insurance industry pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.).
- The amount hereinabove for the Division of Insurance accounts is payable from receipts received from the Special Purpose Assessment of insurance companies pursuant to section 2 of P.L.1995, c.156 (C.17:1C-20). If the Special Purpose Assessment cap calculation is less than the amount herein appropriated for this purpose for the Division of Insurance, the appropriation shall be reduced to the level of funding supported by the Special Purpose Assessment cap calculation.
- All monies deposited in the Division of Motor Vehicles Surcharge Fund are appropriated to the Market Transition Facility Revenue Fund in accordance with the provisions of P.L.1994, c.57 (C.34:1B-21.1 et seq.).
- The amount hereinabove appropriated for FAIR Act Administration shall be funded from the additional taxes on the taxable premiums of insurers for the payment of

Department of Banking and Insurance administrative costs related to its statutory duties, pursuant to P.L.1990, c.8 (C.17:33B-1 et al.).

There is appropriated such sums as are necessary to fund the administrative costs of the New Jersey Hospital Care Payment Commission pursuant to P.L.2003, c.112 (C.17B:30-41 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provision of any other law to the contrary, such sums as the Director of the Division of Budget and Accounting determines are necessary for the administrative costs associated with the "New Jersey Medical Care Access and Responsibility and Patients First Act," P.L.2004, c.17 (C.2A:53A-37 et al.), are appropriated from the Medical Malpractice Liability Insurance Premium Assistance Fund. Such other sums as the Director of the Division of Budget and Accounting shall determine as necessary on behalf of State employees are appropriated to the Inter-Departmental Accounts, Unemployment Insurance Liability account for deposit in the Medical Malpractice Liability Insurance Premium Assistance Fund. If annual receipts deposited in the Medical Malpractice Liability Insurance Premium Assistance Fund are higher or lower than the amounts projected for specific spending categories in the "New Jersey Medical Care Access and Responsibility and Patients First Act," the difference shall be pro-rated among those categories in the same proportion as established in section 27 of P.L.2004, c.17 (C.17:30D-29).

**Less:**

*Savings from Administrative Efficiencies* ..... **\$800,000**

Department of Banking and Insurance,  
 Total State Appropriation ..... **\$67,037,000**

***Summary of Department of Banking and Insurance Appropriations  
 (For Display Purposes Only)***

*Appropriations by Category:*

Direct State Services ..... \$67,037,000

*Appropriations by Fund:*

General Fund ..... \$67,037,000

**22 DEPARTMENT OF COMMUNITY AFFAIRS**

***40 Community Development and Environmental Management***

***41 Community Development Management***

**DIRECT STATE SERVICES**

01-8010 Housing Code Enforcement ..... \$5,817,000

02-8020 Housing Services ..... 4,586,000

06-8015 Uniform Construction Code ..... 6,969,000

13-8027 Codes and Standards ..... 280,000

18-8017 Uniform Fire Code ..... 6,177,000

Total Direct State Services Appropriation,  
 Community Development Management ..... **\$23,829,000**

***Direct State Services:***

Personal Services:

Salaries and Wages . . . . .	(\$17,454,000)
Materials and Supplies . . . . .	(86,000)
Services Other Than Personal . . . . .	(872,000)
Maintenance and Fixed Charges . . . . .	(626,000)
Special Purpose:	
02 Prevention of Homelessness . . . . .	(243,000)
02 Neighborhood Preservation - Fair Housing (P.L.1985, c.222) . . . . .	(1,950,000)
02 Council on Affordable Housing . . . . .	(2,128,000)
18 New Jersey Fire and EMS Crisis Intervention Services Telephone Hotline . . . . .	(95,000)
18 Local Fire Fighters' Training . . . . .	(375,000)

The amount hereinabove appropriated for the Housing Code Enforcement program classification is payable out of the fees and penalties derived from bureau activities. If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance at the end of the preceding fiscal year in the Housing Code Enforcement program classification, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year, in the several Uniform Construction Code program classification fee accounts, together with any receipts in excess of the amounts anticipated, is appropriated for expenses of code enforcement activities, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Planned Real Estate Development Full Disclosure Act fees account, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts received by the Uniform Construction Code Revolving Fund attributable to that portion of the surcharge fee in excess of \$0.0006, and to surcharges on other construction, shall be dedicated to the general support of the Uniform Construction Code Program and, notwithstanding the provisions of section 2 of P.L.1979, c.121 (C.52:27D-124.1), shall be available for training and non-training purposes, except that the amounts attributable to \$0.00075 per cubic foot of new construction and \$0.39 per \$1000 of other construction shall be dedicated to the Smart Future Planning Grant-in-Aid program. Notwithstanding the provision of law to the contrary, unexpended balances at the end of the preceding fiscal year in the Uniform Construction Code Revolving Fund are appropriated.

Such sums as may be required for the registration of builders and reviewing and paying claims under the "New Home Warranty and Builders' Registration Act," P.L.1977, c.467 (C.46:3B-1 et seq.), are appropriated from the New Home Warranty Security Fund in accordance with section 7 of P.L.1977, c.467 (C.46:3B-7), subject to the approval of the Director of the Division of Budget and Accounting.

- The unexpended balance at the end of the preceding fiscal year in the Uniform Fire Code program classification, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- The amounts hereinabove appropriated for the Uniform Fire Code program classification are payable out of the fees and penalties derived from code enforcement activities. If these receipts are less than anticipated, the appropriations shall be reduced proportionately.
- Notwithstanding the provisions of any law to the contrary, receipts derived from fees associated with the Fire Protection Contractor's Certification program pursuant to P.L.2001, c.289 (C.52:27D-25n et seq.) are appropriated to the Department of Community Affairs Division of Fire Safety, necessary to operate the program subject to the approval of the Director of the Division of Budget and Accounting.
- The amount appropriated hereinabove for the Council on Affordable Housing and Neighborhood Preservation-Fair Housing accounts shall be payable from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8) and from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). Any receipts in excess of the amount anticipated, and any unexpended balance at the end of the preceding fiscal year are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts from the New Jersey Housing and Mortgage Finance Agency charges for Housing Affordability Service to municipalities and the unexpended balance at the end of the preceding fiscal year are appropriated for the operation of the Housing Affordability Service within the Division of Housing.
- Pursuant to section 15 of P.L.1983, c.530 (C.55:14K-15), the Commissioner of the Department of Community Affairs shall determine, at least annually, the eligibility of each boarding house resident for rental assistance payments; and notwithstanding any provision of P.L.1983, c.530 (C.55:14K-1 et seq.) to the contrary, moneys held in the Boarding House Rental Assistance Fund that were originally appropriated from the General Fund may be used by the Commissioner for the purpose of providing life safety improvement loans, and any moneys held in the Boarding House Rental Assistance Fund may be used for the purpose of providing rental assistance for repayment of such loans. Notwithstanding any provision of P.L.1983, c.530 (C.55:14K-1 et seq.), the Commissioner shall have authority to disburse funds from the Boarding House Rental Assistance Fund established pursuant to section 14 of P.L.1983, c.530 (C.55:14K-14) for the purpose of repaying, through rental assistance or otherwise, loans made to the boarding house owners for the purpose of rehabilitating boarding houses.
- Any receipts from the sale of truth in renting statements, including fees, fines, and penalties, are appropriated.
- There is appropriated from the Petroleum Overcharge Reimbursement Fund the sum of \$300,000 for the expenses of the Green Homes Office in the Division of Housing and Community Resources, subject to the approval of the Director of the Division of Budget and Accounting.

Any receipts from the Boarding Home Regulation and Assistance program, including fees, fines, and penalties, are appropriated.

There is appropriated from the Urban and Rural Centers Unsafe Demolition Revolving Loan Fund established under P.L.1997, c.125 the sum of \$5,336,721, to be used for building demolition and disposal projects in the following municipalities in the amount set forth: Bayonne: \$973,021; Brick Township: \$120,000; Camden City: \$2,000,000; Hillside: \$1,034,000; Plainfield: \$125,000; Pleasantville: \$84,700; Trenton: \$1,000,000.

Amounts from the New Home Warranty Security Fund transferred to the General Fund shall be applied for the State Rental Assistance Program and the Prevention of Homelessness accounts.

**GRANTS-IN-AID**

01-8010 Housing Code Enforcement .....	\$919,000
02-8020 Housing Services .....	21,660,000
18-8017 Uniform Fire Code .....	<u>9,571,000</u>
Total Grants-in-Aid Appropriation, Community Development Management .....	<u>\$32,150,000</u>

**Grants-in-Aid:**

01 Cooperative Housing Inspection ..	(\$919,000)
02 Shelter Assistance .....	(2,300,000)
02 Prevention of Homelessness .....	(4,360,000)
02 State Rental Assistance Program .	(15,000,000)
18 Automated External Defibrillator Grant Program .....	(1,000,000)
18 Uniform Fire Code - Local Enforcement Agency Rebates ...	(8,425,000)
18 Uniform Fire Code - Continuing Education .....	(146,000)

The amount hereinabove for the Housing Code Enforcement program classification is payable out of the fees and penalties derived from bureau activities. If these receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance at the end of the preceding fiscal year, in the Housing Code Enforcement program classification, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Uniform Fire Code program classification is payable out of the fees and penalties derived from inspection and enforcement activities. If these receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance at the end of the preceding fiscal year in the Uniform Fire Code program classification together with any receipts in excess of the amount anticipated is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for Shelter Assistance is payable from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49

- (C.46:15-8) and from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). If the receipts are less than anticipated, the appropriation shall be reduced proportionately.
- The unexpended balance at the end of the preceding fiscal year in the Shelter Assistance account is appropriated.
- Upon determination by the Commissioner that all eligible shelter assistance projects have received funding from the amount appropriated for Shelter Assistance from receipts of the portions of the realty transfer tax dedicated to the Neighborhood Preservation Nonlapsing Revolving Fund, any available balance in the Shelter Assistance account may be transferred to the Neighborhood Preservation-Fair Housing account, subject to the approval of the Director of the Division of Budget and Accounting.
- There is appropriated to the Revolving Housing Development and Demonstration Grant Fund an amount not to exceed 50% of the penalties derived from bureau activities in the Housing Code Enforcement program classification, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts from repayment of loans from the Downtown Business Improvement Loan Fund, together with the unexpended balance at the end of the preceding fiscal year of such loan fund and any interest thereon, are appropriated for the purposes of P.L.1998, c.115 (C.40:56-71.1 et seq.).
- Notwithstanding the provisions of section 35 of P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981, c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368 (C.13:1E-176), or any rules and regulations adopted pursuant thereto, or any order issued by the Board of Public Utilities to the contrary, an amount equal to \$3,205,000 shall be withdrawn from the escrow accounts by the New Jersey Meadowlands Commission and paid to the State Treasurer for deposit in the General Fund and the amount so deposited shall be appropriated to the New Jersey Meadowlands Commission for operational costs. Of the amount so deposited and appropriated to the New Jersey Meadowlands Commission, \$110,000 shall be made available to the Hackensack Meadowlands Municipal Committee for operational costs.
- Notwithstanding the provisions of section 35 of P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981, c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368 (C.13:1E-176), or any rules and regulations adopted pursuant thereto, or any order issued by the Board of Public Utilities to the contrary, an amount equal to \$279,313 shall be withdrawn from the escrow accounts by the commission and paid to the State Treasurer for deposit in the General Fund, and the amount so deposited is appropriated for payment to the New Jersey Meadowlands Tax Sharing Stabilization Fund and paid to the commission in accordance with the certification of the fund's requirements, for distribution by the commission to municipalities entitled to payments from the fund for 2005.
- Notwithstanding any law to the contrary, Revolving Housing Development and Demonstration Grant funds may be used to support loans and grants to non-profit entities for the purpose of economic development and historic preservation.

Notwithstanding any law to the contrary, an amount equal to 5% of the Homelessness Prevention Program Grants-In-Aid appropriation shall be available for program administrative expenses, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 35 of P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981, c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368 (C.13:1E-176), or any rules and regulations adopted pursuant thereto, subject to any terms or conditions prescribed by order of the Department of Environmental Protection, upon issuance of acceptable post-closure security to the Department of Environmental Protection, the balance in Escrow Account No. 42-43-201-2018833 established for the post-closure of the Kingsland Park Sanitary Landfill shall be withdrawn by the New Jersey Meadowlands Commission and paid to the State Treasurer for deposit in the General Fund and the amount so deposited shall be appropriated to the New Jersey Meadowlands Commission for Meadowlands Area Grants for National and Economic Transformation (Magnet) Program.

#### STATE AID

02-8020 Housing Services . . . . .	<u>\$16,925,000</u>
Total State Aid Appropriation, Community	
Development Management . . . . .	<u>\$16,925,000</u>

**State Aid:**

02 Relocation Assistance . . . . .	(\$250,000)
02 Neighborhood Preservation	
(P.L.1975, c.248 and c.249) . . . .	(2,750,000)
02 Neighborhood Preservation -	
Fair Housing (P.L.1985, c.222) . .	(13,925,000)

In addition to the sum hereinabove for Relocation Assistance, such amounts as may be required to fund relocation costs of boarding home residents are appropriated from the Boarding Home Rental Assistance Fund.

Of the sum hereinabove for Neighborhood Preservation-Fair Housing, a sum not to exceed \$300,000 may be used for matching on a 50/50 basis for the administrative costs of the Federal Small Cities Block Grant.

Any receipts in excess of the amount anticipated in the Neighborhood Preservation-Fair Housing account are appropriated.

The amount hereinabove for Neighborhood Preservation-Fair Housing is payable from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8), and from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

Of the amount hereinabove appropriated for Neighborhood Preservation-Fair Housing, an amount not to exceed \$5,500,000 may be used to provide technical assistance grants to non-profit housing organizations and authorities for creating and supporting affordable housing and community development opportunities.



The unexpended balance at the end of the preceding fiscal year in the Neighborhood Preservation-Fair Housing account is appropriated.  
 Notwithstanding any law to the contrary, funds appropriated for Neighborhood Preservation-Fair Housing may be provided directly to the housing project being assisted; provided however, that any such project have the support by resolution of the governing body of the municipality in which it is located.

**50 Economic Planning, Development and Security**

**51 Economic Planning and Development**

**8049 Office of Smart Growth**

**DIRECT STATE SERVICES**

49-8049 Office of Smart Growth .....	<u>\$2,510,000</u>
Total Direct State Services Appropriation,	
Office of Smart Growth .....	<u>\$2,510,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages .....	(\$1,601,000)
Materials and Supplies .....	(55,000)
Services Other Than Personal .....	(245,000)
Maintenance and Fixed Charges .....	(6,000)

Special Purpose:

49 Governor's Smart Growth	
Policy Council .....	(25,000)
49 Historic Trust/Open Space	
Administrative Costs .....	(578,000)

The Office of Smart Growth is authorized to collect reasonable fees for the distribution of its publications, and receipts derived from such fees are appropriated for the Office of Smart Growth.

The amount hereinabove for the New Jersey Historic Trust Program is appropriated for all administrative costs and expenses pursuant to the "New Jersey Cultural Trust Act," P.L.2000, c.76 (C.52:16A-72 et seq.); the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.); the "Historic Preservation Revolving Loan Fund," P.L.1991, c.41 (C.13:1B-15.115a et seq.); the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88; and the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, an amount not to exceed \$578,000 shall be transferred from the Garden State Historic Preservation Trust Fund to the General Fund and is appropriated to the Department of Community Affairs for Historic Trust/Open Space Administrative Costs.

**GRANTS-IN-AID**

49-8049 Office of Smart Growth .....	<u>\$2,295,000</u>
Total Grants-in-Aid Appropriation,	
Office of Smart Growth .....	<u>\$2,295,000</u>

**Grants-in-Aid:**

49 Smart Future Planning Grants . . . (\$2,295,000)

**55 Social Services Programs**  
**DIRECT STATE SERVICES**

05-8050 Community Resources . . . . . \$505,000  
 15-8051 Women's Programs . . . . . 1,171,000  
 Total Direct State Services Appropriation, Social  
 Services Programs . . . . . \$1,676,000

**Direct State Services:**

## Personal Services:

Salaries and Wages . . . . . (\$859,000)  
 Materials and Supplies . . . . . (62,000)  
 Services Other Than Personal . . . . . (174,000)  
 Maintenance and Fixed Charges . . . . . (6,000)

## Special Purpose:

05 Center for Hispanic Policy, Research  
 and Development . . . . . (75,000)  
 15 Address Confidentiality Program . . . . (93,000)  
 15 Expenses of the New Jersey  
 Commission on Women . . . . . (7,000)  
 15 Office on the Prevention of  
 Violence Against Women . . . . . (400,000)

Notwithstanding the provision of any law to the contrary, receipts derived from the increases in divorce filing fees enacted in the amendment to N.J.S.22A:2-12 by section 41 of P.L.2003, c.117 are appropriated for transfer to the General Fund as general State revenue, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated from the Petroleum Overcharge Reimbursement Fund such amount as may be required to provide the State 25% cost share for the Low-Income Weatherization Assistance Program, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

05-8050 Community Resources . . . . . \$18,150,000  
 15-8051 Women's Programs . . . . . 3,115,000  
 Total Grants-in-Aid Appropriation,  
 Social Services Programs . . . . . \$21,265,000

**Grants-in-Aid:**

05 Center for Hispanic Policy,  
 Research and Development . . . (\$3,000,000)  
 05 Recreation for the Handicapped . . . . (650,000)  
 05 Special Olympics . . . . . (450,000)  
 05 Grant to ASPIRA . . . . . (500,000)  
 05 Lead Hazard Control Assistance  
 Fund Administration . . . . . (10,000,000)  
 05 Boys and Girls Clubs of New Jersey (1,500,000)

05 Big Brothers/Big Sisters .....	(750,000)
05 Alcyon Lake Dredging .....	(300,000)
05 Larc School - Bellmawr .....	(1,000,000)
15 Grants to Hispanic Women's Resource Centers .....	(500,000)
15 Women's Referral Central .....	(25,000)
15 Rape Prevention .....	(1,000,000)
15 Job Training Center for Urban Women Act .....	(315,000)
15 Grants to Women's Shelters .....	(25,000)
15 Grants to Displaced Homemaker Centers .....	(1,250,000)

Notwithstanding the provisions of P.L.2003, c.311 (C.52:27D-437.1 et seq.) or any other law or regulation to the contrary, the amount hereinabove appropriated for the Lead Hazard Control Assistance Fund is payable from receipts of the portion of the sales tax directed to be credited to the Lead Hazard Control Assistance Fund pursuant to section 11 of P.L.2003, c.311 (C.52:27D-437.11), and there may be further appropriated from such receipts an amount not to exceed \$4,000,000 after program expenditures reach \$7,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 2 of P.L.1979, c.396 (C.2C:43-3.1) or any other law to the contrary, of the amount appropriated hereinabove for Rape Prevention, \$400,000 shall be provided from the Victims of Crime Compensation Board, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Women's Micro-Business Pilot Program account is appropriated.

### **70 Government Direction, Management and Control**

#### **75 State Subsidies and Financial Aid**

##### **DIRECT STATE SERVICES**

04-8030 Local Government Services .....	<u>\$4,472,000</u>
Total Direct State Services Appropriation, State Subsidies and Financial Aid .....	<u>\$4,472,000</u>

##### **Direct State Services:**

###### Personal Services:

Local Finance Board Members .....	(\$84,000)
Salaries and Wages .....	(2,604,000)
Materials and Supplies .....	(50,000)
Services Other Than Personal .....	(320,000)
Maintenance and Fixed Charges .....	(18,000)

###### Special Purpose:

04 Special Municipal Aid Act - Administration .....	(988,000)
04 Municipal Rehabilitation/ Recovery Act .....	(408,000)

Receipts from the Division of Local Government Services are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

**STATE AID**

04-8030 Local Government Services .....	<u>\$1,017,590,000</u>
<i>(From General Fund .....</i>	<i>\$90,521,000)</i>
<i>(From Property Tax Relief Fund ...</i>	<i>927,069,000)</i>
Total State Aid Appropriation, State	
Subsidies and Financial Aid .....	<u>\$1,017,590,000</u>
<i>(From General Fund .....</i>	<i>\$90,521,000)</i>
<i>(From Property Tax Relief Fund ...</i>	<i>927,069,000)</i>

**State Aid:**

04 Extraordinary Aid	
(C.52:27D-118.35) .....	(\$43,000,000)
04 Consolidated Municipal Property	
Tax Relief Aid (PTRF) .....	(835,447,000)
04 County Prosecutors Salary	
Increase (P.L.1996, c.99) .....	(821,000)
04 County Prosecutor Funding	
Initiative Pilot Program .....	(8,000,000)
04 Municipal Homeland Security	
Assistance Aid .....	(32,000,000)
04 Legislative Initiative Municipal	
Block Grant Program (PTRF) .	(34,825,000)
04 Domestic Violence Training Cost	
Reimbursement - Local Law	
Enforcement Agencies .....	(250,000)
04 Lambertville Municipal Assistance .	(250,000)
04 West New York Parking Authority	(2,000,000)
04 Trenton Capitol City Aid (PTRF) .	(16,500,000)
04 Regional Efficiency Development	
Incentive Grant Program .....	(4,200,000)
04 Regional Efficiency Aid Program	
(PTRF) .....	(10,992,000)
04 Special Municipal Aid	
Act (PTRF) .....	(29,305,000)

The amount hereinabove appropriated for Extraordinary Aid shall be charged first to receipts of the supplemental fee established pursuant to section 2 of P.L.2003, c.113 (C.46:15-7.1), credited to the Extraordinary Aid account. Notwithstanding any provisions of that law to the contrary, the amount appropriated for municipal aid from receipts deposited in the Extraordinary Aid account shall not exceed the amount appropriated hereinabove.

Notwithstanding the provisions of any other law to the contrary, the amount hereinabove appropriated for Extraordinary Aid shall be distributed subject to the determination of the Director of the Division of Local Government Services.

- In addition to the amount hereinabove for the County Prosecutors Salary Increase, there is appropriated an amount not to exceed \$40,000, subject to the approval of the Director of the Division of Budget and Accounting.
- Loan repayments received in the Regional Efficiency Development Incentive Grant Program account, established pursuant to P.L.2003, c.122, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding any provisions of the "Local Budget Law," N.J.S.40A:4-1 et seq., to the contrary, the Director of the Division of Local Government Services may require any municipality which is determined to be experiencing fiscal distress pursuant to the provisions of the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), to anticipate and include in its annual budget any additional item or amount of revenue as the director deems to be appropriate and fiscally prudent.
- Notwithstanding any provision of law to the contrary, municipal appropriations for "Reserve for Tax Appeals" may be made in exception to spending limitations pursuant to section 3 of P.L.1976, c.68 (C.40A:4-45.3).
- Notwithstanding any provision of law to the contrary, any qualified municipality as defined in section 1 of P.L.1978, c.14 (C.52:27D-178) for fiscal year 2005 shall continue to be a qualified municipality thereunder for fiscal year 2006.
- The unexpended balance at the end of the preceding fiscal year in the Regional Efficiency Development Incentive Grant Program account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- The amount hereinabove appropriated for Consolidated Municipal Property Tax Relief Aid shall be distributed on the following schedule: on or before August 1, 45% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due.
- Notwithstanding any law to the contrary, from the amount received from the Consolidated Municipal Property Tax Relief Aid program, each municipality shall be required to distribute to each fire district within its boundaries the amount received by the fire district from the Supplementary Aid for Fire Services program pursuant to the provisions of the fiscal year 1995 annual appropriations act, P.L.1994, c.67.
- Notwithstanding any law to the contrary, the amount hereinabove appropriated for Consolidated Municipal Property Tax Relief Aid shall be distributed in the same amounts, and to the same municipalities which received funding pursuant to the fiscal year 2005 annual appropriations act, P.L.2004, c.71, provided further, however, that from the amount hereinabove there is transferred to the Energy Tax Receipts Property Tax Relief Fund account such sums as were determined for fiscal year 2003 and fiscal year 2006 pursuant to subsection e. of section 2 of P.L.1997, c.167 (C.52:27D-439) as amended by P.L.1999, c.168, and except that the amount received by the city of Newark shall be further reduced by an amount certified by the Division of Taxation and appropriated to the Division of Taxation for any aspect of the revaluation of real property in Newark, subject to the approval of the Director of the Division of Budget and Accounting. The Director of the Division of Local Government Services shall further take such actions as may be necessary to ensure that the Consolidated Municipal Property Tax Relief

Aid appropriated to offset losses from business personal property tax that would have otherwise been used for the support of public schools will be used to reduce the school property tax levy for those affected school districts with the remaining State Aid used as municipal property tax relief. The chief financial officer of the municipality shall pay to the school districts such amounts as may be due by December 31, 2005.

The amount appropriated hereinabove for the Legislative Initiative Municipal Block Grant Program (PTRF) shall be distributed to the same municipalities and in the same proportions as the distributions received therefrom during fiscal year 2005.

Notwithstanding the provisions of P.L.1999, c.61 (C.54:4-8.76 et seq.) to the contrary, the amount appropriated hereinabove for the Regional Efficiency Aid Program (REAP) shall be distributed to the same municipalities and in the same proportion as was distributed in fiscal year 2005.

Municipalities that received Municipal Revitalization Program aid in fiscal year 1995 pursuant to the provisions of P.L.1994, c.67 shall continue to be subject to the provisions of the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), and the Director of the Division of Local Government Services may withhold aid payments or portions thereof from any municipality that fails to comply with those provisions, until such time as the director determines the municipality to be in compliance.

Notwithstanding any law to the contrary, whenever funds appropriated as State aid and payable to any municipality, which municipality requests and receives the approval of the Local Finance Board, such funds may be pledged as a guarantee for payment of principal and interest on any bond anticipation notes issued pursuant to section 11 of P.L.2003, c.15 (C.40A:2-8.1) and any tax anticipation notes issued pursuant to N.J.S.40A:4-64 by such municipality. Such funds, if so pledged, shall be made available by the State Treasurer upon receipt of a written notification by the Director of the Division of Local Government Services that the municipality does not have sufficient funds available for prompt payment of principal and interest on such notes, and shall be paid by the State Treasurer directly to the holders of such notes at such time and in such amounts as specified by the director, notwithstanding that payment of such funds does not coincide with any date for payment otherwise fixed by law.

The State Treasurer, in consultation with the Commissioner of the Department of Community Affairs, is empowered to direct the Director of the Division of Budget and Accounting to transfer from any State department to any other State department sums as may be necessary to provide a loan for a term not to exceed 30 days to a municipality faced with a fiscal crisis, including but not limited to a potential default on tax anticipation notes. Extension of a loan shall be conditioned on the municipality being an "eligible municipality" pursuant to P.L.1987, c.75 (C.52:27D-118.24 et seq.).

### ***76 Management and Administration***

#### **DIRECT STATE SERVICES**

99-8070 Administration and Support Services . . . . .	<u>\$4,099,000</u>
Total Direct State Services Appropriation, Management and Administrative Services . . . . .	<u>\$4,099,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . . (\$2,951,000)  
 Materials and Supplies . . . . . (10,000)  
 Services Other Than Personal . . . . . (281,000)  
 Maintenance and Fixed Charges . . . . . (26,000)

Special Purpose:

99 Government Records Council . . . . . (771,000)  
 99 Affirmative Action and Equal  
     Employment Opportunity . . . . . (60,000)

Notwithstanding any provision of law to the contrary, from the amount appropriated hereinabove for the Government Records Council, the Council shall expend such amount as is necessary to employ staff legal counsel other than counsel provided by the Office of the Attorney General.

**Less:**

**Savings from Administrative Efficiencies . . . . . \$1,000,000**

Department of Community Affairs,  
 Total State Appropriation . . . . . \$1,125,811,000

Notwithstanding the provisions of any prior law to the contrary, deposits of any funds into the Revolving Housing Development and Demonstration Grant Fund are subject to prior approval of the Director of the Division of Budget and Accounting.

**Summary of Department of Community Affairs Appropriations  
 (For Display Purposes Only)**

*Appropriations by Category:*

Direct State Services . . . . . \$35,586,000  
 Grants-in-Aid . . . . . 55,710,000  
 State Aid . . . . . 1,034,515,000

*Appropriations by Fund:*

General Fund . . . . . \$198,742,000  
 Property Tax Relief Fund . . . . . 927,069,000

**26 DEPARTMENT OF CORRECTIONS**

**10 Public Safety and Criminal Justice**

**16 Detention and Rehabilitation**

**DIRECT STATE SERVICES**

07-7025 Institutional Control and Supervision . . . . . \$450,695,000  
 08-7025 Institutional Care and Treatment . . . . . 219,100,000  
 99-7025 Administration and Support Services . . . . . 83,711,000  
 Total Direct State Services Appropriation,  
 System-Wide Program Support . . . . . \$753,506,000

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . . (\$492,424,000)

Food in Lieu of Cash . . . . . (2,010,000)  
 Materials and Supplies . . . . . (75,860,000)  
 Services Other Than Personal . . . . . (133,137,000)  
 Maintenance and Fixed Charges . . . . . (12,471,000)

Special Purpose:

07 Stabilization and Reintegration  
     Unit at Albert C. Wagner . . . . . (3,416,000)  
 07 Jones Farm - Repopulation . . . . . (1,536,000)  
 07 Southern State Correctional Facility -  
     New Unit Expansion . . . . . (6,843,000)  
 07 Gang Management Unit . . . . . (757,000)  
 07 Civilly Committed Sexual  
     Offender Facility . . . . . (8,338,000)  
 07 Civilly Committed Sexual  
     Offender Facility - Annex . . . . . (12,985,000)  
 08 Byrne Grant -Therapeutic  
     Community Program . . . . . (82,000)  
 08 State Match - Residential Substance  
     Abuse Treatment Grant . . . . . (268,000)  
 08 State Match - Social Services  
     Block Grant . . . . . (33,000)  
 99 Sewage Hauling and Disposal Costs . . . . . (145,000)

Additions, Improvements and Equipment (3,201,000)

In order to permit flexibility and ensure the appropriate levels of services to the civilly committed, amounts may be transferred between the Civilly Committed Sexual Offender Facility and the Civilly Committed Sexual Offender Facility - Annex accounts, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the Upholstery Program at the Albert C. Wagner Youth Correctional Facility, and any unexpended balance at the end of the preceding fiscal year are appropriated for the operation of the program with surplus funds being credited to the institution's Inmate Welfare Fund, subject to the approval of the Director of the Division of Budget and Accounting.

**7025 System-Wide Program Support**

**DIRECT STATE SERVICES**

07-7025 Institutional Control and Supervision . . . . . \$20,524,000  
 13-7025 Institutional Program Support . . . . . 60,324,000  
 Total Direct State Services Appropriation,  
     System-Wide Program Support . . . . . \$80,848,000

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . . (\$33,841,000)  
 Materials and Supplies . . . . . (203,000)  
 Services Other Than Personal . . . . . (7,128,000)

Special Purpose:

07 Central Office Transportation Unit . . . . . (273,000)



- 07 Special Operations Group . . . . . (75,000)
  - 13 Integrated Information Systems . . . (8,076,000)
  - 13 Augment Medical Testing . . . . . (862,000)
  - 13 State Match - Gang Prevention and Awareness Program . . . . . (49,000)
  - 13 State Match - Discharge Planning Unit (27,000)
  - 13 Drug Interdiction Unit - State Match . (44,000)
  - 13 Prison Rape Elimination Grant - State Match . . . . . (200,000)
  - 13 Inmate Work Details Program . . . (1,590,000)
  - 13 Return of Escapees and Absconders . (223,000)
  - 13 Mutual Agreement Program . . . . . (1,141,000)
  - 13 Recruit Screening Program . . . . . (180,000)
  - 13 Bulletproof Vests . . . . . (340,000)
  - 13 DOC/DOT Work Details . . . . . (537,000)
  - 13 Video Conferencing . . . . . (300,000)
  - 13 Additional Mental Health Treatment Services . . . . . (25,638,000)
  - Additions, Improvements and Equipment . (121,000)
- The unexpended balance at the end of the preceding fiscal year in the Integrated Information Systems account is appropriated to provide funding for the cost of replacing the Department of Corrections S/36 Correctional Management Information System, subject to the approval of the Director of the Division of Budget and Accounting, the expenditures of which shall directly improve the department's ability to collect fines, restitutions, penalties, surcharges or other debts owed by inmates.
- Of the sums appropriated hereinabove for Video Conferencing, an amount shall be transferred to the Judiciary and the Office of the Public Defender for telephone line charges, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

- 13-7025 Institutional Program Support . . . . . \$81,105,000
- Total Grants-in-Aid Appropriation, System-Wide
- Program Support . . . . . \$81,105,000

**Grants-in-Aid:**

- 13 Purchase of Service for Inmates Incarcerated In County Penal Facilities . . . . . (\$18,010,000)
- 13 Purchase of Service for Inmates Incarcerated In Out-of-State Facilities . . . . . (100,000)
- 13 Purchase of Community Services (61,495,000)
- 13 Life Skills Academy . . . . . (1,500,000)

A portion of the total amount appropriated in the Purchase of Service for Inmates Incarcerated in County Penal Facilities account is available for operational costs of additional State facilities for inmate housing, which become ready for

occupancy and other programs which reduce the number of State inmates in county facilities, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Purchase of Service for Inmates Incarcerated in County Penal Facilities account is appropriated for the same purpose.

Any change by the Department of Corrections in the per diem rates paid for Inmates Incarcerated in County Penal Facilities and for Community Services shall first be approved by the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Purchase of Community Services account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

**10 Public Safety and Criminal Justice**

**17 Parole**

**DIRECT STATE SERVICES**

03-7010 Parole .....	\$43,405,000
05-7280 State Parole Board .....	13,267,000
99-7280 Administration and Support Services .....	<u>3,630,000</u>
Total Direct State Services Appropriation, Parole .....	<u>\$60,302,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages .....	(\$38,386,000)
Materials and Supplies .....	(962,000)
Services Other Than Personal .....	(2,740,000)
Maintenance and Fixed Charges .....	(1,110,000)

Special Purpose:

03 Payments to Inmates Discharged	
From Facilities .....	(120,000)
03 Parolee Electronic	
Monitoring Program .....	(5,777,000)
03 Intensive Supervision/	
Surveillance Program .....	(3,356,000)
03 Parolee Drug Treatment .....	(2,305,000)
03 Mutual Agreement	
Program (MAP) .....	(437,000)
03 Sex Offender Management Unit ...	(4,842,000)
03 Ballistic Vest Replacement	
Initiative .....	(239,000)
Additions, Improvements and Equipment ..	(28,000)

From the appropriations hereinabove, the Executive Director shall make payment to the Interstate Commission for Adult Offender Supervision in the amount required for the New Jersey state assessment in fiscal year 2006.

**GRANTS-IN-AID**

03-7010 Parole .....	<u>\$35,549,000</u>
Total Grants-in-Aid Appropriation, Parole .....	<u>\$35,549,000</u>

**Grants-in-Aid:**

- 03 Re-Entry Substance Abuse Program . . . . . (\$3,997,000)
- 03 Re-Entry Case Management Services . . . . . (400,000)
- 03 Halfway Back Program . . . . . (16,289,000)
- 03 Mutual Agreement Program (MAP) . . . . . (2,690,000)
- 03 Day Reporting Program . . . . . (12,173,000)

Any change by the Division of Parole in the per diem rates affecting Special Caseload accounts shall first be approved by the Director of the Division of Budget and Accounting.

Notwithstanding the provision of any law to the contrary, the New Jersey State Parole Board is authorized to expend the amounts appropriated for Re-Entry Substance Abuse Program, Halfway Back Program and Day Reporting Program to provide services to ex-offenders under juvenile or adult parole supervision who are age 18 or older, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts appropriated hereinabove for Re-entry Case Management Services shall be expended consistent with the recommendations in the final report of the Governor's Task Force on Mental Health.

**10 Public Safety and Criminal Justice**  
**19 Central Planning, Direction and Management**  
**DIRECT STATE SERVICES**

- 99-7000 Administration and Support Services . . . . . \$19,284,000
- Total Direct State Services Appropriation, Central Planning, Direction and Management . . . . . \$19,284,000

**Direct State Services:**

Personal Services:

- Salaries and Wages . . . . . (\$15,024,000)
- Materials and Supplies . . . . . (662,000)
- Services Other Than Personal . . . . . (2,132,000)
- Maintenance and Fixed Charges . . . . . (715,000)

Special Purpose:

- 99 Affirmative Action and Equal Employment Opportunity . . . . . (655,000)
- Additions, Improvements and Equipment . . . (96,000)

Receipts derived from the Culinary Arts Vocational Program, and any unexpended balance at the end of the preceding fiscal year, are appropriated for the operation of the program, subject to the approval of the Director of the Division of Budget and Accounting.

No employee of the Department of Corrections shall reside in departmental housing without payment of fair market rental rate.

**CAPITAL CONSTRUCTION**

- 99 Administration and Support Services . . . . . \$5,000,000

Total Capital Construction Appropriation, Central  
 Planning, Direction and Management ..... \$5,000,000

**Capital Projects:**

99 Locking System Upgrade ..... (\$1,000,000)  
 99 Replace Modular Units ..... (4,000,000)

**Less:**

*Savings from Administrative Efficiencies* ..... **\$6,000,000**

Department of Corrections,  
 Total State Appropriation ..... \$1,029,594,000

The unexpended balance at the end of the preceding fiscal year of funds held for the benefit of inmates in the several institutions, and such funds as may be received, are appropriated for the use of such inmates.

Payments received by the State from employers of prisoners on their behalf, as part of any work release program, are appropriated for the purposes provided under P.L.1969, c.22 (C.30:4-91.4 et seq.).

Of the Savings from Administrative Efficiencies, \$1,000,000 shall be allocated to the State Parole Board.

**Summary of Department of Corrections Appropriations  
 (For Display Purposes Only)**

*Appropriations by Category:*

Direct State Services ..... \$907,940,000  
 Grants-in-Aid ..... 116,654,000  
 Capital Construction ..... 5,000,000

*Appropriations by Fund:*

General Fund ..... \$1,029,594,000

**34 DEPARTMENT OF EDUCATION  
 30 Educational, Cultural and Intellectual Development  
 31 Direct Educational Services and Assistance  
 DIRECT STATE SERVICES**

04-5062 Adult and Continuing Education ..... \$1,538,000  
 05-5064 Bilingual Education ..... 218,000  
 07-5065 Special Education ..... 53,000  
 Total Direct State Services Appropriation, Direct  
 Educational Services and Assistance ..... \$1,809,000

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$251,000)  
 Materials and Supplies ..... (21,000)  
 Services Other Than Personal ..... (62,000)  
 Maintenance and Fixed Charges ..... (1,000)

Special Purpose:

04 General Education Development -  
 GED ..... (1,474,000)

## STATE AID

01-5120 General Formula Aid	\$5,758,110,000
<i>(From General Fund</i>	<i>\$143,947,000)</i>
<i>(From Property Tax Relief Fund</i>	<i>5,614,163,000)</i>
02-5120 Nonpublic School Aid	102,749,000
03-5120 Miscellaneous Grants-In-Aid	73,901,000
<i>(From General Fund</i>	<i>13,430,000)</i>
<i>(From Property Tax Relief Fund</i>	<i>60,471,000)</i>
04-5062 Adult and Continuing Education	211,000
05-5120 Bilingual Education	65,578,000
<i>(From Property Tax Relief Fund</i>	<i>65,578,000)</i>
06-5064 Programs for Disadvantaged Youths	199,512,000
<i>(From Property Tax Relief Fund</i>	<i>199,512,000)</i>
07-5120 Special Education	<u>948,420,000</u>
<i>(From General Fund</i>	<i>52,000,000)</i>
<i>(From Property Tax Relief Fund</i>	<i>896,420,000)</i>
Total State Aid Appropriation, Direct	
Educational Services and Assistance	<u>\$7,148,481,000</u>
<i>(Total From General Fund</i>	<i>\$312,337,000)</i>
<i>(Total From Property Tax</i>	<i>Relief Fund</i>
	<i>6,836,144,000)</i>
<b>Less:</b>	
<i>Stabilization Growth Limitations</i>	<i>\$73,576,000</i>
<i>Growth Savings – Payment Changes</i>	<i>2,450,000</i>
<i>Total Deductions</i>	<i>\$76,026,000</i>
Total State Appropriation, Direct Educational	
Services and Assistance	<u>\$7,072,455,000</u>
<i>(Total From General Fund</i>	<i>\$312,337,000)</i>
<i>(Total From Property Tax</i>	<i>Relief Fund</i>
	<i>6,760,118,000)</i>
<b>State Aid:</b>	
01 Core Curriculum	
Standards Aid	(\$497,089,000)
01 Core Curriculum Standards	
Aid (PTRF)	(2,583,229,000)
01 Supplemental Core Curriculum	
Standards Aid (PTRF)	(251,768,000)
01 Additional Formula Aid (PTRF)	(90,000,000)
01 Early Childhood Aid (PTRF)	(330,630,000)
01 Instructional Supplement (PTRF)	15,621,000)
01 Stabilization Aid (PTRF)	(111,626,000)
01 Large Efficient District	
Aid (PTRF)	(5,250,000)
01 Aid for Districts with High Senior	
Citizen Populations (PTRF)	(1,231,000)
01 Stabilization Aid 2 (PTRF)	(2,491,000)
01 Stabilization Aid 3 (PTRF)	(11,402,000)

01 Regionalization Incentive	
Aid (PTRF) . . . . .	(18,295,000)
01 Consolidated Aid (PTRF) . . . . .	(130,127,000)
01 Education Opportunity	
Aid (PTRF) . . . . .	(1,449,495,000)
01 Abbott Preschool Expansion	
Aid (PTRF) . . . . .	(192,400,000)
01 Early Launch to Learning	
Initiative (PTRF) . . . . .	(4,000,000)
01 Aid for Enrollment Adjustments	
(PTRF) . . . . .	(16,456,000)
01 High Expectations for Learning	
Proficiency . . . . .	(15,000,000)
01 Above Average Enrollment	
Growth (PTRF) . . . . .	(12,000,000)
01 Abbott-Bordered District Aid . . . . .	(20,000,000)
02 Nonpublic Textbook Aid . . . . .	(12,271,000)
02 Nonpublic Handicapped Aid . . . . .	(29,322,000)
02 Nonpublic Auxiliary	
Services Aid . . . . .	(34,224,000)
02 Nonpublic Auxiliary/Handicapped	
Transportation Aid . . . . .	(4,396,000)
02 Nonpublic Nursing Services Aid . . . . .	(14,636,000)
02 Nonpublic Technology Initiative . . . . .	(7,900,000)
03 School District of Trenton --	
Security . . . . .	(1,500,000)
03 Edison School District . . . . .	(1,000,000)
03 Emergency Fund . . . . .	(200,000)
03 Educational Information and	
Resource Center . . . . .	(450,000)
03 Montclair Board of Education --	
Minority Student Achievement	
Network . . . . .	(1,000,000)
03 Montclair Board of Education --	
Desegregation Aid . . . . .	(500,000)
03 Englewood Implementation Aid . . . . .	(4,000,000)
03 Wallington School District . . . . .	(750,000)
03 Ewing School District . . . . .	(2,200,000)
03 Collingswood School District . . . . .	(1,000,000)
03 Lawrence Township (Mercer)	
School District Extraordinary Aid . . . . .	(750,000)
03 Bridge Loan Interest and Approved	
Borrowing Cost . . . . .	(50,000)
03 Payments for Institutionalized	
Children - Unknown District of	
Residence (PTRF) . . . . .	(24,500,000)

03	Community Relations Committee of the United Jewish Federation of Metrowest . . . . .	(30,000)
03	Character Education (PTRF) . . . . .	(4,750,000)
03	Adult and Postsecondary Education Grants (PTRF) . . . . .	(28,721,000)
04	Evening School for the Foreign Born . . . . .	(211,000)
05	Bilingual Education Aid (PTRF) . . . . .	(65,578,000)
05	Teacher Quality Mentoring (PTRF) . . . . .	(2,500,000)
06	Demonstrably Effective Program Aid (PTRF) . . . . .	(199,512,000)
07	Special Education Aid (PTRF) . . . . .	(896,420,000)
07	Extraordinary Special Education Costs Aid . . . . .	(52,000,000)

**Less:**

**Deductions . . . . . 76,026,000**

Receipts from nonpublic schools handicapped and auxiliary recoveries are appropriated for the payment of additional aid in accordance with section 17 of P.L.1977, c.192 (C.18A:46A-14) and section 14 of P.L.1977, c.193 (C.18A:46-19.8).

Notwithstanding the provisions of section 14 of P.L.1977, c.193 (C.18A:46-19.8) for the purpose of computing Nonpublic Handicapped Aid for pupils requiring the following services, the per pupil amounts for the 2005-2006 school year shall be: \$1,225.00 for an initial evaluation or reevaluation for examination and classification; \$380.00 for an annual review for examination and classification; \$930.00 for speech correction; and \$826.00 for supplementary instruction services.

Notwithstanding the provisions of section 9 of P.L.1977, c.192 (C.18A:46A-9), the per pupil amount for compensatory education for the 2005-2006 school year for the purposes of computing Nonpublic Auxiliary Services Aid shall equal \$856.25.

Notwithstanding the provisions of section 9 of P.L.1991, c.226 (C.18A:40-31), the amount appropriated hereinabove for Nonpublic Nursing Services Aid shall be made available to local school districts based upon the number of pupils enrolled in each nonpublic school on the last day prior to October 16, 2004 and the rate per pupil shall be \$74.25.

Nonpublic Technology Initiative aid shall be paid to school districts and allocated for nonpublic school pupils at the rate of \$40.00 per pupil in a manner that is consistent with the provisions of the federal and State constitutions.

The amount hereinabove appropriated for Extraordinary Special Education Costs Aid shall be charged first to receipts of the supplemental fee established pursuant to section 2 of P.L.2003, c.113 (C.46:15-7.1) credited to the Extraordinary Aid Account. Notwithstanding any provisions of that law to the contrary, the amount appropriated for Extraordinary Special Education Costs Aid from receipts deposited in the Extraordinary Aid account shall not exceed the amount appropriated hereinabove.

The unexpended balance in the Nonpublic Projects Capital Aid account at the end of the preceding fiscal year is appropriated and shall be distributed by the

Commissioner of Education as grants to nonpublic high schools for capital projects, including capital projects completed after September 2003. Grants shall be awarded in accordance with criteria established by the commissioner which shall include but not be limited to a requirement that the capital project be used for a secular purpose. A grant shall be awarded upon submission of an application by the nonpublic school to the commissioner and the commissioner's approval of that application. The amount of a grant shall not exceed \$500,000. Of the amount hereinabove for High Expectations for Learning Proficiency Aid, \$14,900,927 shall be distributed to a school district, other than an "Abbott district" or a district receiving Abbott Bordered District Aid, that is not a non-operating district as determined by the commissioner, and that is either (a) in district factor group A or B and has an equalized valuation per pupil less than \$380,000; (b) in district factor group A, B, CD or DE, and has a concentration of low-income pupils that is equal to or greater than 14 percent and has an equalized valuation per pupil that is less than \$1,100,000, and either has a general fund tax levy per pupil that exceeds \$9,000 or a concentration of low-income pupils that exceeds 30 percent; (c) contiguous to an "Abbott district" and has at least one school with a concentration of low-income pupils equal to or greater than 20 percent; or (d) a county vocational school district in which 51 percent or more of its resident enrollment is comprised of students who reside in an "Abbott district." Each such school district shall receive the same proportion of \$11,700,000 as its October 2004 resident enrollment bears to the total October 2004 resident enrollment of all such districts; in addition such school district shall receive such additional amount as may be required to increase the amount of High Expectations for Learning Proficiency Aid that the district receives in the 2005-2006 school year to the amount of High Expectations for Learning Proficiency Aid the district received in the 2004-2005 school year. As used hereinabove, "district factor group" shall be determined by the commissioner using 2000 federal decennial census data; "equalized valuation per pupil" and "general fund tax levy per pupil" shall be as determined by the commissioner for the school year 2004-05; and "concentration of low-income pupils" shall be as defined in section 3 of P.L.1996, c.138 (C.18A:7F-3), except that ASSA data shall be as of October 2004. Any amount remaining in this account after its distribution is made pursuant to these criteria shall be distributed by the commissioner to school districts meeting substantially similar circumstances.

Notwithstanding any other law or regulation to the contrary, the amount provided to each district from the amounts hereinabove appropriated for Consolidated Aid and Additional Formula Aid shall be included in the calculation of the spending growth limitation pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5).

The Commissioner of Education shall not authorize the disbursement of funds to any "Abbott district" until the commissioner is satisfied that all educational expenditures in the district will be spent effectively and efficiently in order to enable those students to achieve the core curriculum content standards. The commissioner shall be authorized to take any necessary action to fulfill this responsibility, including but not limited to, the adoption of regulations related to the receipt and/or expenditure of State aid by the "Abbott districts" and the programs, services and positions supported thereby. Notwithstanding any provision of



P.L.1968, c.410 (C.52:14B-1 et seq.), any such regulations adopted by the commissioner shall be deemed adopted immediately upon filing with the Office of Administrative Law. In order to expeditiously fulfill the responsibilities of the commissioner under *Abbott v. Burke*, determinations by the commissioner hereunder shall be considered to be final agency action and appeal of that action shall be directly to the Appellate Division of the Superior Court.

Of the amount hereinabove appropriated for Education Opportunity Aid, an amount not to exceed \$14,686,000, shall be transferred to the Department of Education's operating budget, subject to the approval of the Director of the Division of Budget and Accounting, for the purpose of managing and supervising implementation of Abbott remedies. In addition, the unexpended balance at the end of the preceding fiscal year, in the Education Opportunity Aid account is appropriated for the same purpose and may also be transferred to the Department of Education's operating budget, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for Education Opportunity Aid shall provide resources to equalize spending between "I" and "J" districts and "Abbott districts," and provide aid to fund additional needs of "Abbott districts." Notwithstanding any other law to the contrary, Education Opportunity Aid shall be provided to each "Abbott district" whose per pupil regular education expenditure for 2005-2006 under P.L.1996, c.138 is below the estimated per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2005-2006. The minimum amount of aid shall be determined as follows: funds shall be allocated in the amount of the difference between each "Abbott district's" per pupil regular education expenditure for 2005-2006 and the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2004-2005 indexed by the actual percentage increase in the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2004-2005 over the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2003-2004. In calculating the per pupil regular education expenditure of each "Abbott district" for 2005-2006, regular education expenditure shall equal the sum of the general fund tax levy for 2004-2005, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P.L.1996, c.138 (C.18A:7F-10); enrollments shall initially be those resident enrollments for preschool through grade 12 contained on the Application for State School Aid for 2005-2006 indexed by the district's enrollment growth rate used to determine the estimated enrollments of October 2005; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half of full-day kindergarten enrollments. State aid shall be adjusted upon receipt of resident enrollment for the "Abbott districts" as of October 14, 2005 as reflected on the Application for State School Aid for 2006-2007. State aid shall also be adjusted based on the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2005-2006. In calculating the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2005-2006, regular education expenditure shall equal the sum of the general fund tax levy for 2005-2006, Core Curriculum Standards Aid,

Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P.L.1996, c.138 (C.18A:7F-10); enrollments shall be the resident enrollment for preschool through grade 12 as of October 14, 2005 as reflected on the Application for State School Aid for 2006-2007; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half of full-day kindergarten enrollments in districts receiving Early Childhood Program Aid.

Of the amount hereinabove appropriated for Education Opportunity Aid, each "Abbott district's" initial allocation shall be the greater of the amount calculated in accordance with the provisions hereinabove for equalized spending or the district's 2004-2005 Education Opportunity Aid allocation, including any supplemental award.

The amount hereinabove appropriated for Education Opportunity Aid shall also be used for the following purposes: ensuring that every "Abbott district" is at parity; the incremental cost of opening new facilities as approved by the Commissioner of Education; and other education priorities as established by the commissioner, to be distributed in the form of grants. Awards for new facilities and approved grants are considered restricted and must be spent for the approved purpose and accounted for in a special revenue fund. Any "Abbott district" that fails to submit the required documentation or fails to submit its annual audit by November 15, 2005 may have its State aid withheld upon the commissioner's request to the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, as a condition of receiving Education Opportunity Aid, an "Abbott district" shall examine all available group options for every insurance policy held by the district, including any self-insurance plan administered by the New Jersey School Boards Association Insurance Group on behalf of districts, and shall participate in the most cost effective plans. As a further condition, all "Abbott districts" shall take steps to maximize the district's participation in the federal Universal Service Program (E-rate) and the ACT telecommunications program offered through the New Jersey Association of School Business Administrators, shall participate in the ACES energy program offered through the New Jersey School Boards Association unless a district can demonstrate that it receives the goods or services at a cost less than or equal to the cost achieved by participants, and shall take appropriate steps to maximize the district's participation in the Special Education Medicaid Initiative (SEMI) program, with maximum participation defined by the Commissioner of Education and shall refinance all outstanding debt for which a three percent net present value savings threshold is achievable. An "Abbott district" that fails to meet any of these requirements may have payment of Education Opportunity Aid withheld until such time as these requirements are met. The commissioner is authorized to establish any additional condition on the disbursement of Education Opportunity Aid that the commissioner deems appropriate to ensure effective and efficient spending in the "Abbott districts."

Notwithstanding any other law to the contrary, as a condition of receiving Education Opportunity Aid, an "Abbott district" shall raise a general fund tax levy which shall be no less than the general fund tax levy of the prior year.

The amount appropriated hereinabove as Abbott Preschool Expansion Aid is for the purpose of funding the increase in the approved budgeted costs from 2001-2002 to 2005-2006 for the projected expansion of preschool programs in "Abbott districts" with "Abbott" status in 2001-2002. For any district receiving "Abbott" status after 2001-2002, the increase in approved budgeted costs for the purpose of funding will be based on the year "Abbott" status was obtained. Payments of Abbott Preschool Expansion Aid shall be based on documented expansion of the preschool program. Upon the Commissioner of Education's request, "Abbott districts" will be required to provide such supporting documentation as deemed necessary to verify that the actual expansion in the preschool program has occurred in the 2005-2006 fiscal year. Such documentation may include expenditure, enrollment and attendance data that may be subject to an audit. Appropriate adjustments to a district's Abbott Preschool Expansion Aid amount may be made by the commissioner based on actual need.

From the amount appropriated hereinabove for the Early Launch to Learning Initiative, an amount not to exceed \$325,000 shall be transferred to the Office of Early Childhood Education in direct state services for the support of two staff persons and related operational costs to administer the program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the New Jersey Character Education Partnership Initiative shall be made available to school districts according to a formula to be administered by the Commissioner of Education which will assure that each district that elects to participate shall receive funding for at least one school. Of the amount appropriated hereinabove, up to \$100,000 may be used to fund the costs of operating this program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, the amount of State aid made available to the Department of Human Services pursuant to "The State Facilities Education Act of 1979," P.L. 1979, c.207 (C.18A:7B-1 et al.), to defray the costs of educating eligible children in approved private schools under contract with the Department of Human Services shall not exceed the actual costs of the education of those children in such private schools.

Notwithstanding any other law to the contrary, Special Education Aid for pupils classified as severe cognitive impairment shall be paid directly to the resident school district; provided however, that for pupils under contract for service in a regional day school operated by or under contract with the Department of Human Services, tuition shall be withheld and paid to the Department of Human Services.

Notwithstanding the provisions of section 3 of P.L. 1971, c.271, (C.18A:46-31), a portion of the district tuition amounts payable to a county special services school district operating an extended school year program may be transferred to the county special services school district prior to the first of September in the event the board shall file a written request with the Commissioner of Education stating the needs for the funds. The commissioner shall review the board's request and determine whether to grant the request after an assessment of whether the district needs to spend the funds prior to September and after considering the availability of district surplus. The commissioner shall transfer the payment for the portion of the tuition payable for which need has been demonstrated.

Notwithstanding any law to the contrary, the allocation of the amount hereinabove appropriated for Education Opportunity Aid to an "Abbott district" shall be reduced by the amount of proceeds received by the district from the sale of district surplus property, which shall be appropriated by the district for regular education operations. Surplus property means that property which is not being replaced by other property under a grant agreement with the New Jersey Schools Construction Corporation.

Of the amount hereinabove appropriated for Education Opportunity Aid, an amount not to exceed \$1,000,000 shall be allocated to the New Jersey Symphony to provide educational services to students in the "Abbott districts" to meet core curriculum content standards as established by law, as shall be determined by the Director of the Division of Budget and Accounting.

The amount of aid hereinabove for Above Average Enrollment Growth Aid shall be distributed to non-Abbott school districts whose resident enrollment for the 2004-05 school year was equal to or greater than 100 pupils and whose projected resident enrollment for the 2005-06 school year exceeds its resident enrollment for the 2004-05 school year by at least 2.5 percent, as determined by the commissioner. Each such school district shall receive an amount equal to \$800 multiplied by its projected increase in resident enrollment if its projected increase is less than 7 percent, an amount equal to \$1,600 multiplied by its projected increase in resident enrollment if its projected increase is equal to or greater than 7 percent and less than 10 percent, and an amount equal to \$2,400 multiplied by its projected increase in resident enrollment if its projected increase is equal to or greater than 10 percent. Any amount remaining in this account after distributions made pursuant to these criteria shall be distributed by the commissioner to school districts meeting substantially similar circumstances.

### *32 Operation and Support of Educational Institutions*

#### **DIRECT STATE SERVICES**

12-5011 Marie H. Katzenbach School for the Deaf . . . . .	\$12,399,000
<i>(From General Fund . . . . .</i>	<i>\$2,899,000)</i>
<i>(From All Other Funds . . . . .</i>	<i>9,500,000)</i>
13-5011 Positive Learning Understanding Support Program	<u>1,090,000</u>
<i>(From All Other Funds . . . . .</i>	<i>1,090,000)</i>
Total Appropriation, State and All Other Funds . . . . .	<u>\$13,489,000</u>
<i>(From General Fund . . . . .</i>	<i>\$2,899,000)</i>
<i>(From All Other Funds . . . . .</i>	<i>10,590,000)</i>
<b>Less:</b>	
<i>All Other Funds . . . . .</i>	<i>\$10,590,000</i>
<b>Total Deductions . . . . .</b>	<b><u>\$10,590,000</u></b>
Total Direct State Services Appropriation, Operation and Support of Educational Institutions . . . . .	<u>\$2,899,000</u>

#### **Direct State Services:**

##### Personal Services:

Salaries and Wages . . . . .	(\$10,565,000)
Materials and Supplies . . . . .	(1,440,000)
Services Other Than Personal . . . . .	(344,000)

Maintenance and Fixed Charges . . . . . (742,000)  
 Special Purpose:  
     12 Transportation Expenses for Students . (40,000)  
 Additions, Improvements and Equipment . (358,000)

**Less:**

*All Other Funds* . . . . . **10,590,000**

Notwithstanding the provisions of N.J.S.18A:61-1 and N.J.S.18A:46-13, or any other statute, in addition to the amount appropriated hereinabove to the Marie H. Katzenbach School for the Deaf for the 2005-2006 academic year, payments from local boards of education to the school at an annual rate and payment schedule adopted by the Commissioner of Education and the Director of the Division of Budget and Accounting are appropriated.

Any income from the rental of vacant space at the Marie H. Katzenbach School for the Deaf is appropriated for the operation and maintenance cost of the facility and for capital costs at the school, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year, in the receipt account of the Marie H. Katzenbach School for the Deaf is appropriated for expenses of operating the school.

The unexpended balance at the end of the preceding fiscal year, in the receipt account of the Positive Learning Understanding Support (PLUS) program is appropriated for the expenses of operating the Marie H. Katzenbach School for the Deaf.

**CAPITAL CONSTRUCTION**

Notwithstanding any law to the contrary, accumulated and current year interest earnings in the State Facilities for Handicapped Fund established pursuant to section 12 of P.L.1973, c.149 are appropriated for capital improvements and maintenance of facilities for the eleven regional day schools throughout the State and the Marie H. Katzenbach School for the Deaf as authorized in the State Facilities for the Handicapped Bond Act, P.L.1973, c.149, subject to the approval of the Director of the Division of Budget and Accounting.

**33 Supplemental Education and Training Programs**

**DIRECT STATE SERVICES**

20-5062 General Vocational Education . . . . . \$250,000  
 Total Direct State Services Appropriation,  
     Supplemental Education and Training Programs . . . \$250,000

**Direct State Services:**

Personal Services:  
     Salaries and Wages . . . . . (\$199,000)  
 Materials and Supplies . . . . . (26,000)  
 Services Other Than Personal . . . . . (25,000)

**STATE AID**

20-5062 General Vocational Education . . . . . \$43,808,000  
 (*From General Fund* . . . . . **\$4,860,000**)

**(From Property Tax Relief Fund . . . 38,948,000)**

Total State Aid Appropriation, Supplemental  
Education and Training Programs . . . . . \$43,808,000

**(From General Fund . . . . . \$4,860,000)**

**(Total From Property  
Tax Relief Fund . . . . . 38,948,000)**

**State Aid:**

20 Vocational Education . . . . . (\$4,860,000)

20 County Vocational Program  
Aid (PTRF) . . . . . (38,948,000)

**34 Educational Support Services**

**DIRECT STATE SERVICES**

29-5029 Educational Technology . . . . . \$247,000  
30-5063 Educational Programs and Assessment . . . . . 25,317,000  
31-5060 Grants Management . . . . . 627,000  
32-5061 Professional Development and Licensure . . . . . 2,714,000  
33-5067 Service to Local Districts . . . . . 6,294,000  
34-5068 Office of School Choice . . . . . 617,000  
35-5069 Early Childhood Education . . . . . 123,000  
36-5120 Pupil Transportation . . . . . 425,000  
38-5120 Facilities Planning and School Building Aid . . . . . 3,246,000  
40-5064 Health, Safety and Community Services . . . . . 1,348,000  
Total Direct State Services Appropriation,  
Educational Support Services . . . . . \$40,958,000

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . . (\$15,605,000)

Materials and Supplies . . . . . (425,000)

Services Other Than Personal . . . . . (1,335,000)

Maintenance and Fixed Charges . . . . . (52,000)

Special Purpose:

30 Statewide Assessment Program . . (16,225,000)

30 Professional Development -  
Recruitment . . . . . (135,000)

30 Continuing Education . . . . . (152,000)

30 Governor's Literacy Initiative . . . . (6,650,000)

40 New Jersey Commission on  
Holocaust Education . . . . . (244,000)

40 Commission on Italian American  
Heritage Cultural and Educational  
Programs . . . . . (135,000)

From the amount appropriated hereinabove for the Governor's Literacy Initiative, the sum of \$900,000 may be transferred to the Commission for the Blind and Visually Impaired for increased Braille lessons for blind children, subject to the approval of the Director of the Division of Budget and Accounting.

From the amount appropriated hereinabove for the Governor's Literacy Initiative, such additional sums as are necessary to fund grant agreements with eligible school districts for the continuation of reading coach services may be transferred to the Governor's Literacy Initiative account in grants-in-aid, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from the State Board of Examiners' fees in excess of those anticipated, not to exceed \$1,400,000, and the unexpended program balances of such receipts at the end of the preceding fiscal year, are appropriated for the operation of the Professional Development and Licensure programs.

The unexpended balance at the end of the preceding fiscal year, in the inspection of school construction account and receipts in excess of the amount anticipated, are appropriated for the operation of the school construction inspection program.

From the amount hereinabove appropriated for the Governor's Literacy Initiative, there is allocated \$300,000 for a grant for the Learning Through Listening program at the New Jersey Unit of the Recording for the Blind and Dyslexic.

From the amount hereinabove appropriated for the Governor's Literacy Initiative, there is allocated \$150,000 for a grant for Literacy Volunteers.

**GRANTS-IN-AID**

30-5063 Educational Programs and Assessment . . . . .	\$10,629,000
40-5064 Health, Safety, and Community Services . . . . .	<u>7,500,000</u>
Total Grants-in-Aid Appropriation, Educational Support Services . . . . .	<u>\$18,129,000</u>

**Grants-in-Aid:**

30 Social Promotion Initiative . . . . .	(\$1,500,000)
30 Governor's School . . . . .	(1,929,000)
30 Liberty Science Center - Educational Services . . . . .	(6,100,000)
30 Governor's Literacy Initiative . . . . .	(750,000)
30 Teacher Preparation . . . . .	(350,000)
40 New Jersey After 3 . . . . .	(7,500,000)

The amount appropriated hereinabove for the Governor's School is payable to the seven Governor's Schools: The College of New Jersey - Governor's School of the Arts, The Richard Stockton College of New Jersey - Governor's School on the Environment, Monmouth University - Governor's School of Public Issues, Drew University - Governor's School in the Sciences, Ramapo College of New Jersey - Governor's School of International Studies, Rutgers, The State University, Camden - Governor's School for Business Education, and Rutgers, The State University - Governor's School of Engineering and Technology.

The amount hereinabove appropriated for the Liberty Science Center -- Educational Services shall be used to provide educational services to students in the "Abbott districts" in the science education component of the core curriculum content standards as established by law.

The sums provided hereinabove for New Jersey After 3 shall be conditioned upon the State Treasurer and the grant recipient entering into a grant agreement; shall be available for grants and reasonable administrative costs of New Jersey After 3, Inc.; and shall be available for funding programs, activities, functions and

facilities consistent with recommendations and proposals of the New Jersey After 3 Advisory Committee.

The amount hereinabove appropriated for the Social Promotion Initiative shall be distributed by the Commissioner of Education to the districts selected to participate in the pilot of the initiative. The amounts shall be distributed to the participating districts based on approved budgets for the program. Of the amount hereinabove appropriated, up to \$75,000 may be used for professional development costs of teachers involved in providing the program.

**STATE AID**

34-5068 Office of School Choice	\$30,027,000
<i>(From Property Tax Relief Fund . . . \$30,027,000)</i>	
36-5120 Pupil Transportation	307,287,000
<i>(From Property Tax Relief Fund . . . 307,287,000)</i>	
38-5120 Facilities Planning and School Building Aid	379,723,000
<i>(From General Fund . . . . . 378,948,000)</i>	
<i>(From Property Tax Relief Fund . . . . . 775,000)</i>	
39-5095 Teachers' Pension and Annuity Assistance	<u>1,522,642,000</u>
<i>(From General Fund . . . . . 277,774,000)</i>	
<i>(From Property Tax Relief Fund . . 1,244,868,000)</i>	
Total State Aid Appropriation, Educational Support Services	<u>\$2,239,679,000</u>
<i>(Total From General Fund . . . . . \$656,722,000)</i>	
<i>(Total From Property Tax Relief Fund . . . . . 1,582,957,000)</i>	

**State Aid:**

34 School Choice (PTRF)	(9,969,000)
34 Charter School Aid (PTRF)	(11,758,000)
34 Charter Schools - Council on Local Mandates Decision Offset Aid (PTRF)	(8,300,000)
36 Transportation Aid (PTRF)	(307,187,000)
36 School Bus Crossing Arms (PTRF)	(100,000)
38 School Building Aid Debt Service (PTRF)	(775,000)
38 School Building Aid	(119,679,000)
38 School Construction & Renovation Fund	(259,269,000)
39 Teachers' Pension and Annuity Fund - Post Retirement Medical (PTRF)	(589,118,000)
39 Teachers' Pension and Annuity Fund	(94,516,000)
39 Social Security Tax (PTRF)	(655,750,000)
39 Minimum Pension for Pre - 1955 Retirees	(1,000)



39 Post Retirement Medical Other Than TPAF . . . . .	(96,317,000)
39 Debt Service on Pension Obligation Bonds . . . . .	(86,940,000)

Of the amount appropriated hereinabove for School Building Aid, the calculation of each eligible district's allocation shall include the amount based on school bond and lease purchase agreement payments for interest and principal payable during the 2005-2006 school year pursuant to section 10 of P.L.2000, c.72 (C.18A:7G-10) and the adjustments required based on the difference between the amounts calculated using actual 2003-2004 principal and interest amounts and the amounts allocated and paid in 2003-2004.

Notwithstanding the provisions of section 9 of P.L.2000, c.72 (C.18A:7G-9), for the purpose of calculating a district's State debt service aid, "DAP x 1.15" shall not be less than 40%. Notwithstanding the provisions of section 10 of P.L.2000, c.72 (C.18A:7G-10), for the purposes of calculating aid, CCSAID will be equal to the district's core curriculum standards aid calculated pursuant to section 15 of P.L.1996, c.138 (C.18A:7F-15) for fiscal 2002 and TEBUD shall be equal to the district's T&E budget calculated pursuant to subsection d. of section 13 of P.L.1996, c.138 (C.18A:7F-13) for fiscal 2002.

Of the amount hereinabove appropriated for the School Construction and Renovation Fund, an amount equal to the total earnings of investments of the School Fund shall first be charged to such fund.

In addition to the sum hereinabove appropriated to make payments under the contracts authorized pursuant to section 18 of P.L. 2000, c.72 (C.18A:7G-18), there are hereby appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

The unexpended balance at the end of the preceding fiscal year in the School Construction and Renovation Fund account is appropriated for the same purpose.

Notwithstanding any provision of law to the contrary, in addition to the amount hereinabove appropriated for the Teachers' Pension and Annuity Fund, there is hereby appropriated an amount as determined by the State Treasurer to fund the pension cost contribution by the State to the Teachers' Pension and Annuity Fund, payment for which shall be credited against amounts on deposit in the benefit enhancement fund created pursuant to N.J.S.18A:66-16.

Such additional sums as may be required for Post Retirement Medical Other Than TPAF are appropriated, as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding any law to the contrary, amounts appropriated hereinabove for Charter School aid shall be used to distribute aid to any charter school which operates a full-day kindergarten program and which is located in an "Abbott district" in accordance with the formula contained in section 1 of P.L.1999, c.385, except that "KPP" which is defined therein as the amount paid by the district to the charter school for each kindergarten pupil pursuant to section 12 of P.L.1995, c.426 (C.18A:36A-12), shall be the sum of the amount paid by the district and the State to the charter school for each kindergarten pupil; when a charter school is located in an "Abbott district," to distribute an amount equal to the difference

between the per pupil T&E amount for a given grade level and the program budget of an "Abbott district" when that "Abbott district's" program budget is below the T&E amount; to distribute \$40 for each student enrolled in the charter school; and to distribute aid to charter schools pursuant to the provisions of subsection d. of section 12 of P.L.1995, c.426 (C.18A:36A-12).

Notwithstanding the provisions of section 12 of P.L.1995, c.426 (C.18A:36A-12) and any other provision to the contrary, if necessary, the State shall pay on behalf of a resident district an amount not to exceed the difference between the district's 2005-2006 total actual charter school payment and the estimated appropriations used in completing the school district's 2004-2005 budget as stated in the 2004-2005 Potential Charter School Aid notification letter.

Notwithstanding the provisions of section 1 of P.L.1997, c.53 (C.18A:39-11.1) districts shall not be reimbursed for administrative fees paid to Cooperative Transportation Service Agencies.

For any school district receiving amounts from the amount appropriated hereinabove for Pupil Transportation, and notwithstanding the provisions of N.J.S.18A:39-1 to the contrary, if the school district is located in a county of the third class or a county of the second class with a population of less than 235,000, according to the 1990 federal decennial census, transportation shall be provided to school pupils residing in this school district in going to and from any remote school other than a public school, not operated for profit in whole or in part, located within the State not more than 30 miles from the residence of the pupil.

Notwithstanding the provisions of section 2 of P.L.1996, c.96 (C.39:3B-1.2) and section 3 of P.L.1996, c.96 (C.39:3B-1.3) or any other law or regulation to the contrary, the amount appropriated hereinabove for School Bus Crossing Arms shall be provided to the owners of newly manufactured vehicles equipped with a crossing control arm with a manufacture date of 2004 or later, as noted on the vehicle registration, upon submission to the Department of Education of a complete application for reimbursement within one year of the vehicle purchase date.

Such additional sums as may be required for Teachers' Pension and Annuity Fund – Post Retirement Medical are appropriated, as the Director of the Division of Budget and Accounting shall determine.

In addition to the amounts hereinabove for Social Security Tax, there are appropriated such sums as are required for payment of Social Security Tax on behalf of members of the Teachers' Pension and Annuity Fund.

### ***35 Education Administration and Management***

#### **DIRECT STATE SERVICES**

42-5120 School Finance . . . . .	\$3,239,000
43-5092 Compliance and Auditing . . . . .	1,623,000
99-5095 Administration and Support Services . . . . .	<u>11,346,000</u>
Total Direct State Services Appropriation, Education Administration and Management . . . . .	<u>\$16,208,000</u>

#### ***Direct State Services:***

##### **Personal Services:**

Salaries and Wages . . . . .	(\$13,131,000)
Materials and Supplies . . . . .	(300,000)

Services Other Than Personal . . . . . (1,092,000)  
 Maintenance and Fixed Charges . . . . . (67,000)

Special Purpose:

99 State Board of Education Expenses . . . (50,000)  
 99 Student Registration and  
     Record System . . . . . (1,500,000)  
 99 Affirmative Action and Equal  
     Employment Opportunity Program . (68,000)

Receipts derived from fees for school district personnel background checks and unexpended balances at the end of the preceding fiscal year of such receipts are appropriated for the cost of operation.

In addition to the amount appropriated, such sums as may be necessary for the Department of Education to conduct comprehensive compliance investigations are appropriated, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting.

Additional sums as may be necessary for the Department of Education in preparation for implementation of P.L.1987, c.399 (C.18A:7A-34 et seq.) are appropriated, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee or its successor.

Additional sums as may be necessary for the Department of Education for the cost of the internal audit function in a State-operated school district pursuant to section 8 of P.L.1987, c.399 (C.18A:7A-41) are appropriated, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Student Registration and Record System account are appropriated for the same purpose.

**CAPITAL CONSTRUCTION**

99-5095 Administration and Support Services . . . . . \$1,050,000  
 Total Capital Construction Appropriation, Education  
     Administration and Management . . . . . \$1,050,000

**Capital Projects:**

99 Health and Life Safety Projects . . . (\$450,000)  
 99 Fire Sprinkler Systems, Various  
     Regional Day Schools . . . . . (600,000)

**Less:**

*Savings from Administrative Efficiencies* . . . . . \$2,000,000

Department of Education, Total State Appropriation . \$9,435,245,000

Of the amount appropriated hereinabove from the General Fund for the Department of Education, or otherwise available from federal sources, there are appropriated funds to establish a School Security Planning and Assurance Unit within the Department of Education, staffed to plan, coordinate, and conduct an on-going comprehensive security assessment and vulnerability reduction program for

- school sites Statewide, in collaboration with schools and law enforcement, subject to the approval of the Director of the Division of Budget and Accounting.
- Of the amount hereinabove appropriated for the Department of Education, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Recommendation Document dated March 1, 2005 first shall be charged to the State Lottery Fund.
- Notwithstanding any other provision of law or this act to the contrary, monies directed to be paid to the Department of Education as a result of settlement of litigation by the Board of Public Utilities or to be paid to the Department of Education in connection with a stipulation of settlement in a merger approved by the Board of Public Utilities are appropriated for the purposes specified in the settlement agreement or stipulation, subject to the approval of the Director of the Division of Budget and Accounting.
- The unexpended balances at the end of the preceding fiscal year in the State Aid accounts, not to exceed \$650,000, are appropriated to the State Aid Supplemental Funding account.
- In the event that sufficient funds are not appropriated to fully fund any State Aid item, the Commissioner of Education shall apportion such appropriation among the districts in proportion to the State Aid each district would have been apportioned had the full amount of State Aid been appropriated.
- Notwithstanding any law to the contrary, should appropriations in the Property Tax Relief Fund exceed available revenues, the Director of the Division of Budget and Accounting is authorized to transfer General Fund revenues into the Property Tax Relief Fund, providing unrestricted balances are available from the General Fund, as determined by the Director of the Division of Budget and Accounting.
- Notwithstanding any other law or regulation to the contrary, each district shall receive no less of a total State aid amount payable for the 2005-2006 school year than the sum of the district's total State aid amount payable for the 2004-2005 school year for the following aid categories: Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Early Childhood Program Aid, Instructional Supplement Aid, Demonstrably Effective Program Aid, Stabilization Aid, Stabilization Aid 2, Stabilization Aid 3, Large Efficient District Aid, Aid for Districts with High Senior Citizen Populations, Regionalization Incentive Aid, Adult and Postsecondary Education Grants, Bilingual Education Aid, Special Education Aid, County Vocational Program Aid, Transportation Aid, School Choice, Consolidated Aid, Additional Formula Aid and Aid for Enrollment Adjustments, taking into consideration the June 2005 payment made in July 2005.
- The Director of the Division of Budget and Accounting may transfer from one State Aid appropriations account for the Department of Education in the General Fund to another appropriations account in the same department in the Property Tax Relief Fund such funds as are necessary to effect the intent of the provisions of the appropriations act governing the allocation of State Aid to local school districts and to effect the intent of legislation enacted subsequent to the enactment of the appropriations act, provided that sufficient funds are available in the appropriations for that department.
- Notwithstanding the provisions of section 8 of P.L.1996, c.138 (C.18A:7F-8), five percent of the total payments to local districts for Education Opportunity Aid, Core

Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Special Education, Transportation, Early Childhood programs, Demonstrably Effective programs, Instructional Supplement, Bilingual, County Vocational Educational program, other aid pursuant to P.L.1996, c.138, School Choice, Consolidated Aid and Additional Formula Aid, as provided by the Department of Education to the local school districts for the 2005-2006 school year in the 2005-06 General Fund and Special Revenue Fund State Aid Payments Schedule, shall be paid on the 8th and 22nd of each month from September through June, with the last school aid payment being subject to the approval of the State Treasurer.

From the amounts hereinabove, such sums as are required to satisfy delayed June 2005 school aid payments are appropriated and the State Treasurer is hereby authorized to make such payment in July 2005.

Notwithstanding any other law to the contrary, any school district receiving a final judgment or order against the State to assume the fiscal responsibility for the residential placement of a special education student shall have the amount of the judgment or order deducted from the State aid to be allocated to that district.

Notwithstanding any provision of law to the contrary, the Commissioner of Education may reduce the total State Aid amount payable for the 2005-2006 school year for a district in which an independent audit of the 2004-2005 school year conducted pursuant to N.J.S.18A:23-1 identifies any deviation from the Uniform Minimum Chart of Accounts after the recalculation of the district's actual "Total Administrative Costs" pursuant to N.J.A.C.6:23A-2.4.

Notwithstanding any other law to the contrary, the Commissioner of Education may reduce State aid payments to any district by any amounts found to be in violation of restrictions placed on travel expenditures in accordance with regulations adopted by the commissioner.

Notwithstanding any other law to the contrary, the Commissioner of Education may withhold State aid payments to a school district that has not submitted in final form the data elements requested for inclusion in a Statewide data warehouse within 60 days of the department's initial request or its request for additional information, whichever is later.

The Director of the Division of Budget and Accounting may transfer from one appropriations account for the Department of Education in the Property Tax Relief Fund to another account in the same department and fund such funds as are necessary to effect the intent of the provisions of the appropriations act governing the allocation of State Aid to local school districts, provided that sufficient funds are available in the appropriations for that department.

***Summary of Department of Education Appropriations  
(For Display Purposes Only)***

*Appropriations by Category:*

Direct State Services	.....	\$60,124,000
Grants-in-Aid	.....	18,129,000
State Aid	.....	9,355,942,000
Capital Construction	.....	1,050,000

*Appropriations by Fund:*

General Fund	.....	\$1,053,222,000
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Property Tax Relief Fund . . . . . 8,382,023,000

**42 DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**40 Community Development and Environmental Management**

**42 Natural Resource Management**

**DIRECT STATE SERVICES**

11-4870 Forest Resource Management . . . . . \$6,921,000  
 12-4875 Parks Management . . . . . 37,822,000  
 13-4880 Hunters' and Anglers' License Fund . . . . . 16,700,000  
 14-4885 Shellfish and Marine Fisheries Management . . . . . 1,416,000  
 20-4880 Wildlife Management . . . . . 314,000  
 21-4895 Natural Resources Engineering . . . . . 1,597,000  
 24-4876 Palisades Interstate Park Commission . . . . . 2,414,000  
 Total Direct State Services Appropriation, Natural  
 Resource Management . . . . . \$67,184,000

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . . (\$44,281,000)  
 Employee Benefits . . . . . (3,276,000)  
 Materials and Supplies . . . . . (5,556,000)  
 Services Other Than Personal . . . . . (2,260,000)  
 Maintenance and Fixed Charges . . . . . (3,556,000)

Special Purpose:

11 Fire Fighting Costs . . . . . (1,759,000)  
 12 Green Acres/Open Space  
 Administration . . . . . (4,683,000)  
 12 Liberty State Park Commission . . . . . (11,000)  
 12 Natural Lands Trust . . . . . (114,000)  
 12 Natural Areas Council . . . . . (3,000)  
 20 Wildlife Monitoring - West  
 Nile Virus . . . . . (79,000)  
 20 Endangered Species Tax Check -  
 Off Donations . . . . . (235,000)  
 21 Dam Safety . . . . . (1,319,000)  
 Additions, Improvements and Equipment . . . . . (52,000)

In addition to the amount hereinabove appropriated for Forest Resource Management, an amount not to exceed \$500,000 shall be made available from the Water Resources Monitoring and Planning-Constitutional Dedication special purpose account, to support nonpoint source pollution and watershed management programs in the Bureau of Forestry.

Notwithstanding any other law to the contrary, the amount hereinabove for the Green Acres/Open Space Administration account is transferred from the Garden State Preservation Trust to the General Fund, together with an amount not to exceed \$205,000, and is appropriated to the Department of Environmental Protection for Green Acres/Open Space Administration subject to the approval of the Director of the Division of Budget and Accounting.

- Receipts in excess of the amount anticipated from fees and permit receipts from the use of State park and marina facilities, and the unexpended balance at the end of the preceding fiscal year of such receipts, are appropriated for Parks Management, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts from police court, stands, concessions and self-sustaining activities operated or supervised by the Palisades Interstate Park Commission, and the unexpended balance at the end of the preceding fiscal year of such receipts, are appropriated.
- Of the amount hereinabove for the Hunters' and Anglers' License Fund the first \$12,500,000 is payable out of that fund and any amount remaining therein and the unexpended balance at the end of the preceding fiscal year of the receipts in the Hunters' and Anglers' License Fund, together with any receipts in excess of the amount anticipated, are appropriated. If receipts to that fund are less than anticipated, the appropriation from the fund shall be reduced proportionately.
- Pursuant to section 2 of P.L.1993, c.303 (C.23:3-1f), there are appropriated such sums as may be necessary to offset revenue losses associated with the issuance of free hunting and fishing licenses to active members of the New Jersey State National Guard and disabled veterans. The amount to be appropriated shall be certified by the Division of Fish and Wildlife and is subject to the approval of the Director of the Division of Budget and Accounting.
- The amount hereinabove for the Endangered Species Tax Check-Off Donations account is payable out of receipts, and the unexpended balances in the Endangered Species Tax Check-Off Donations account at the end of the preceding fiscal year, together with receipts in excess of the amount anticipated, are appropriated. If receipts are less than anticipated, the appropriation shall be reduced proportionately.
- An amount not to exceed \$2,376,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for costs attributable to planning, operation, and administration of the shore protection program, subject to the approval of the Director of the Division of Budget and Accounting.
- An amount not to exceed \$436,000 is allocated from the capital appropriation for HR-6 Flood Control for costs attributable to the operation and administration of the State Flood Control Program, subject to the approval of the Director of the Division of Budget and Accounting.
- An amount not to exceed \$397,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for the operation and maintenance of the Bayshore Flood Control facility.
- An amount not to exceed \$161,000 is allocated from the Dam, Lake, Stream Bond Fund-Flood Control account in accordance with the Dam, Lake, Stream and Wastewater Treatment Project Bond Act of 2003, P.L.2003, c.162, for costs attributable to flood control, subject to the approval of the Director of the Division of Budget and Accounting.
- An amount not to exceed \$390,000 is allocated from the Dam, Lake, Stream Bond Fund-Dam Safety account in accordance with the Dam, Lake, Stream and Wastewater Treatment Project Bond Act of 2003, P.L.2003, c.162, for costs attributable to dam safety, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

12-4875 Parks Management .....	<u>\$250,000</u>
Total Grants-in-Aid Appropriation, Natural Resource Management .....	<u>\$250,000</u>

**Grants-in-Aid:**

12 Waterloo Village .....

(\$250,000)

Loan repayments received from dam rehabilitation projects pursuant to P.L. 1999, c.347 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

**CAPITAL CONSTRUCTION**

21-4895 Natural Resources Engineering .....	<u>\$29,106,000</u>
Total Capital Construction Appropriation, Natural Resource Management .....	<u>\$29,106,000</u>

**Capital Projects:**

21 Shore Protection Fund Projects . (\$25,000,000)

21 HR-6 Flood Control .....

(4,106,000)

Notwithstanding the provisions of P.L. 1954, c.48 (C.52:34-6 et seq.), of the amounts appropriated for improvements in State parks, the Department of Environmental Protection may enter into a contract with the Waterloo Foundation for the Arts for improvements to existing State-owned structures or for the construction of new facilities at Waterloo Village.

The amount hereinabove appropriated for Shore Protection Fund Projects is payable from the receipts of the portion of the realty transfer tax directed to be credited to the Shore Protection Fund pursuant to section 1 of P.L. 1992, c.148 (C.13:19-16.1).

An amount not to exceed \$500,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for repairs to the Bayshore Flood Control facility.

**43 Science and Technical Programs****DIRECT STATE SERVICES**

05-4840 Water Supply .....	\$7,769,000
15-4890 Land Use Regulation .....	12,174,000
18-4810 Science, Research and Technology .....	3,097,000
29-4850 Environmental Remediation and Monitoring ...	<u>12,363,000</u>
Total Direct State Services Appropriation, Science and Technical Programs .....	<u>\$35,403,000</u>

**Direct State Services:****Personal Services:**

Salaries and Wages .....

(\$8,245,000)

Materials and Supplies .....

(47,000)

Services Other Than Personal .....

(1,410,000)

Maintenance and Fixed Charges .....

(50,000)

**Special Purpose:**

05 Administrative Costs Water

Supply Bond Act of 1981 -

Management .....

(1,348,000)



05	Administrative Costs Water Supply Bond Act of 1981 - Watershed and Aquifer . . . . .	(1,512,000)
05	Administrative Costs Water Supply Bond Act of 1981 - Planning and Standards . . . . .	(1,005,000)
05	Water/Wastewater Operators Licenses . . . . .	(43,000)
05	Office of the Rivermaster . . . . .	(58,000)
05	Safe Drinking Water Fund . . . . .	(2,339,000)
15	Tidelands Resource Council . . . . .	(12,000)
15	Tidelands Peak Demands . . . . .	(2,676,000)
15	Office of Permit Information and Assistance . . . . .	(632,000)
15	Highlands Permitting . . . . .	(2,166,000)
18	Environmental Indicators and Monitoring . . . . .	(604,000)
18	Greenhouse Gas Action Plan . . . . .	(577,000)
18	Hazardous Waste Research . . . . .	(250,000)
29	Water Resources Monitoring and Planning - Constitutional Dedication . . . . .	(12,363,000)

Additions, Improvements and Equipment . . (66,000)

The amounts hereinabove for the Administrative Costs Water Supply Bond Act of 1981-Water Supply Management, Watershed and Aquifer, and Planning and Standards accounts are appropriated from the "Water Supply Bond Act of 1981," P.L.1981, c.261, together with an amount not to exceed \$427,000, for costs attributable to administration of water supply programs, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated from the Safe Drinking Water Fund an amount not to exceed \$800,000 to administer the Private Well Testing Program.

The amount hereinabove for the Safe Drinking Water Fund account is appropriated from receipts received pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.) for administration of the Safe Drinking Water program, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the Hazardous Waste Research account is appropriated from interest earned by the New Jersey Spill Compensation Fund for research on the prevention and the effects of discharge of hazardous substances on the environment and organisms, on methods of pollution prevention and recycling of hazardous substances, and on the development of improved cleanup, removal and disposal operations, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Environmental Remediation and Monitoring program classification shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act

(1945),” P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance at the end of the preceding fiscal year in the Water Resources Monitoring and Planning-Constitutional Dedication special purpose account is appropriated to be used in a manner consistent with the requirements of the constitutional dedication. Notwithstanding any law to the contrary, funds shall be made available from the Water Resources Monitoring and Planning-Constitutional Dedication special purpose account to support nonpoint source pollution and watershed management programs, consistent with the constitutional dedication, within the Department of Environmental Protection in the amounts of \$1,536,000 for Water Monitoring and Standards, \$1,392,000 for New Jersey Geological Survey, \$157,000 for Watershed Management, \$500,000 for Forestry Management, and \$900,000 for Water Quality-Stormwater Management Grants, and \$540,000 transferred to support the Conservation Cost Share program in the Department of Agriculture on or before September 1, 2005.

Notwithstanding the provisions of the “Spill Compensation and Control Act,” P.L.1976, c.141 (C.58:10-23.11 et seq.) and the “Safe Drinking Water Act,” P.L.1977, c.224 (C.58:12A-1 et seq.), the Commissioner of the Department of Environmental Protection may utilize from the funds appropriated from those sources hereinabove such sums as the Commissioner may determine as necessary to broaden the department’s research efforts to address emerging environmental issues.

In addition to the federal funds amount hereinabove for the Water Supply program classification, such additional sums that may be received from the federal government for the Drinking Water State Revolving Fund program are appropriated.

Receipts in excess of those anticipated for Water Allocation Fees are appropriated to the Department of Environmental Protection for expansion of the Water Supply program, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

07-4875 Water Monitoring and Standards . . . . .	<u>\$500,000</u>
Total Grants-in-Aid Appropriation, Science and Technical Programs . . . . .	<u>\$500,000</u>

***Grants-in-Aid:***

07 Lake Hopatcong Commission . . . . (\$500,000)

The unexpended balance at the end of the preceding fiscal year in the Stormwater Management Grants account is appropriated.

Of the amount hereinabove for the Stormwater Management Grants program, such sums as are necessary or required may be transferred to the Water Resources Monitoring and Planning-Constitutional Dedication special purpose account, subject to the approval of the Director of the Division of Budget and Accounting.

**44 Site Remediation and Waste Management**

**DIRECT STATE SERVICES**

23-4910 Solid and Hazardous Waste Management . . . . .	\$8,064,000
27-4815 Remediation Management and Response . . . . .	30,489,000
29-4815 Environmental Remediation and Monitoring . . . . .	<u>6,680,000</u>

Total Direct State Services Appropriation, Site Remediation and Waste Management . . . . .	<u>\$45,233,000</u>
<b>Direct State Services:</b>	
Personal Services:	
Salaries and Wages . . . . .	(\$15,843,000)
Materials and Supplies . . . . .	(274,000)
Services Other Than Personal . . . . .	(3,613,000)
Maintenance and Fixed Charges . . . . .	(495,000)
Special Purpose:	
23 Office of Dredging and Sediment Technology . . . . .	(348,000)
27 Hazardous Discharge Site Cleanup Fund - Responsible Party . . . . .	(16,637,000)
27 Underground Storage Tanks . . . . .	(868,000)
29 Cleanup Projects Administrative Costs - Constitutional Dedication . . . . .	(6,680,000)
Additions, Improvements and Equipment . . . . .	(475,000)

The amount hereinabove for the Office of Dredging and Sediment Technology is appropriated from the "1996 Dredging and Containment Facility Fund," created pursuant to section 18 of P.L. 1996, c. 70, the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Bond Act of 1996," together with an amount not to exceed \$247,000 for the administration of the Dredging and Sediment Technology program, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated from the Sanitary Landfill Facility Contingency Fund such sums as may be required to carry out the provisions of the "Sanitary Landfill Facility Closure and Contingency Fund Act," P.L. 1981, c. 306 (C. 13: 1E-100 et seq.).

In addition to site specific charges, the amounts hereinabove for the Remediation Management and Response program classification, excluding the Hazardous Discharge Site Cleanup Fund-Responsible Party and the Underground Storage Tanks accounts, are appropriated from the New Jersey Spill Compensation Fund, in accordance with the provisions of P.L. 1976, c. 141 (C. 58: 10-23.11 et seq.), together with an amount not to exceed \$6,539,000, for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Hazardous Discharge Site Cleanup Fund-Responsible Party account is appropriated from responsible party cost recoveries deposited in the Hazardous Discharge Site Cleanup Fund, together with an amount not to exceed \$9,362,000, for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the federal funds amount for the Publicly-Funded Site Remediation program classification and the Remediation Management and Response program classification, such additional sums that may be received from the federal government for the Superfund Grants program are hereby appropriated.

The amount hereinabove for the Environmental Remediation and Monitoring program classification shall be provided from revenue received from the

Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance at the end of the preceding fiscal year in the Cleanup Projects Administrative Costs-Constitutional Dedication account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from Solid Waste Utility Regulation, and the unexpended balance at the end of the preceding fiscal year of such receipts, are appropriated to the Solid and Hazardous Waste Management program classification for costs incurred to develop an economic competition model, and to oversee the State's recycling efforts and other solid waste program activities.

There is appropriated from the Clean Communities Program Fund such sums as may be available to meet the following requirements: 1) 25% of the estimated annual balance up to \$4,000,000, as determined by the Director of the Division of Budget and Accounting, to the State Recycling Fund established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96); 2) \$300,000 of the estimated annual balance to the Department of Environmental Protection for an organization under contract with the department which meets the requirements pursuant to subsection d. of section 6 of P.L.2002, c.128 (C.13:1E-218); and 3) the balance, as determined by the Director of the Division of Budget and Accounting, of the Clean Communities Program Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217) for the purposes set forth in subsections a., b., c. and d. of that section.

Receipts derived from the sale of salvaged materials are appropriated to offset costs incurred in the cleanup and removal of hazardous substances.

Receipts deposited to the Resource Recovery Investment Tax Fund and the Solid Waste Services Tax Fund are appropriated.

There are appropriated from the New Jersey Spill Compensation Fund such sums as may be required for cleanup operations, adjusters and paying approved claims for damages in accordance with the provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Recycling Fund Account for Administration is appropriated for recycling incentive grants.

#### **CAPITAL CONSTRUCTION**

29-4815 Environmental Remediation and Monitoring . . .	<u>\$55,157,000</u>
Total Capital Construction Appropriation, Site	
Remediation and Waste Management . . . . .	<u>\$55,157,000</u>

***Capital Projects:***

29 Hazardous Substance Discharge	
Remediation - Constitutional	
Dedication . . . . .	(\$30,431,000)
29 Private Underground Tank	
Remediation - Constitutional	
Dedication . . . . .	(12,363,000)

29 Hazardous Substance Discharge  
 Remediation Loans and Grants -  
 Constitutional Dedication . . . . . (12,363,000)

The amounts hereinabove appropriated for Hazardous Substance Discharge Remediation-Constitutional Dedication, Private Underground Storage Tank Remediation-Constitutional Dedication, and Hazardous Substance Discharge Remediation Loans and Grants-Constitutional Dedication shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.

Of the amount hereinabove appropriated for Hazardous Substance Discharge Remediation-Constitutional Dedication, such sums as necessary, as determined by the Director of the Division of Budget and Accounting, shall be made available for site remediation costs associated with State-owned properties and State-owned underground storage tanks.

All natural resource damages recovered by the State shall be deposited in the Hazardous Discharge Site Cleanup Fund established pursuant to section 1 of P.L.1985, c.247 (C.58:10-23.34), and are appropriated for the direct and indirect costs of restoration and associated consulting and legal services.

Funds made available for the remediation of the discharges of hazardous substances pursuant to the amendments effective December 4, 2003, to Article VIII, Section II, paragraph 6 of the State Constitution and hereinabove appropriated, shall be allocated to the Economic Development Authority's Hazardous Discharge Site Remediation Fund and the Department of Treasury's Brownfield Site Reimbursement Fund, subject to the approval of the Director of the Division of Budget and Accounting.

**45 Environmental Regulation**  
**DIRECT STATE SERVICES**

01-4820 Radiation Protection . . . . .	\$6,840,000
02-4892 Air Pollution Control . . . . .	17,230,000
08-4891 Water Pollution Control . . . . .	7,974,000
09-4860 Public Wastewater Facilities . . . . .	<u>3,082,000</u>
Total Direct State Services Appropriation, Environmental Regulation . . . . .	<u>\$35,126,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . .	(\$20,530,000)
Materials and Supplies . . . . .	(218,000)
Services Other Than Personal . . . . .	(3,344,000)
Maintenance and Fixed Charges . . . . .	(250,000)

Special Purpose:

01 Nuclear Emergency Response . . . . .	(2,283,000)
01 Quality Assurance - Lab Certification Programs . . . . .	(1,641,000)
02 Pollution Prevention . . . . .	(1,803,000)
02 Toxic Catastrophe Prevention . . . . .	(1,128,000)

02 Worker and Community Right to Know Act . . . . .	(1,087,000)
02 Oil Spill Prevention . . . . .	(2,607,000)
Additions, Improvements and Equipment . .	(235,000)

The amount hereinabove for the Nuclear Emergency Response account is payable from receipts received pursuant to the assessments of electrical utility companies under P.L.1981, c.302 (C.26:2D-37 et seq.) and the unexpended balances at the end of the preceding fiscal year in the Nuclear Emergency Response account, together with receipts in excess of the amount anticipated, not to exceed \$1,094,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

There is allocated from the Commercial Vehicle Enforcement Fund, established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75), such sums as may be necessary to fund the costs of the regulation of the Diesel Exhaust Emissions program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Pollution Prevention account is appropriated from receipts received pursuant to the "Pollution Prevention Act," P.L.1991, c.235 (C.13:1D-35 et seq.), for administration of the Pollution Prevention program, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding the provisions of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove for the Worker and Community Right to Know Act account is payable out of the Worker and Community Right to Know Fund, and the receipts in excess of the amount anticipated, not to exceed \$245,000, are appropriated. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the Oil Spill Prevention account is payable out of the New Jersey Spill Compensation Fund, and the receipts in excess of those anticipated, not to exceed \$1,248,000, from the New Jersey Spill Compensation Fund for the Oil Spill Prevention program are appropriated, in accordance with the provisions of P.L.1990, c.76 (C.58:10-23.11f2 et seq.), P.L.1990, c.78 (C.58:10-23.11d1 et seq.), and P.L.1990, c.80 (C.58:10-23.11f1), subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from fees and permit receipts from the Title V Operating Permits are appropriated.

Any funds received by the New Jersey Environmental Infrastructure Trust from any State agency to offset the trust's annual operating expenses are appropriated.

In addition to the federal funds amount for the Public Wastewater Facilities program classification, such additional sums that may be received from the federal government for the Clean Water State Revolving Fund program are appropriated.

#### ***46 Environmental Planning and Administration***

##### **DIRECT STATE SERVICES**

26-4805 Regulatory and Governmental Affairs . . . . .	\$2,275,000
99-4800 Administration and Support Services . . . . .	<u>17,600,000</u>
Total Direct State Services Appropriation,	
Environmental Planning and Administration . . . . .	<u>\$19,875,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages . . . . . (\$16,867,000)  
 Materials and Supplies . . . . . (100,000)  
 Services Other Than Personal . . . . . (1,003,000)  
 Maintenance and Fixed Charges . . . . . (255,000)

## Special Purpose:

99 New Jersey Environmental  
 Management System . . . . . (1,500,000)  
 99 Affirmative Action and Equal  
 Employment Opportunity . . . . . (98,000)  
 Additions, Improvements and Equipment . . (52,000)

**STATE AID**

99-4800 Administration and Support Services . . . . . \$15,619,000

*(From General Fund . . . . . \$6,619,000)*

*(From Property Tax Relief Fund . . . . . 9,000,000)*

Total State Aid Appropriation, Environmental

Planning and Administration . . . . . \$15,619,000

*(From General Fund . . . . . \$6,619,000)*

*(From Property Tax Relief Fund . . . . . 9,000,000)*

**State Aid:**

99 Mosquito Control, Research,  
 Administration and Operations . (\$1,515,000)

99 Payment in Lieu of Taxes (PTRF) . (9,000,000)

99 Administration and Operations  
 of the Highlands Council . . . . . (2,000,000)

99 Administration, Planning and  
 Development Activities of the  
 Pinelands Commission . . . . . (3,104,000)

Receipts derived from permit fees issued by the Pinelands Commission on behalf of the Department of Environmental Protection, pursuant to a memorandum of agreement between the Pinelands Commission and the Department of Environmental Protection, are hereby appropriated to the Pinelands Commission.

The unexpended balance at the end of the preceding fiscal year in the Mosquito Control, Research, Administration and Operations aid account is appropriated subject to the approval of the Director of the Division of Budget and Accounting.

If the amount appropriated herein for Payment in Lieu of Taxes is insufficient to compensate municipalities for land owned by the State for conservation and recreation purposes, as determined according to the formula for payments in lieu of taxes in the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.), such additional sums as are necessary are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of subsection d. of section 29 of P.L.1999, c.152 (C.13:8C-29) or subsection d. of section 30 of P.L.1999, c.152 (C.13:8C-30), or any other law to the contrary, all payments to municipalities in lieu of taxes for lands acquired by the State for recreation and conservation purposes shall be

retained by the municipality and not apportioned in the same manner as the general tax rate of the municipality.

**47 Compliance and Enforcement**  
**DIRECT STATE SERVICES**

02-4855 Air Pollution Control .....	\$4,439,000
04-4835 Pesticide Control .....	2,357,000
08-4855 Water Pollution Control .....	5,824,000
15-4855 Land Use Regulation .....	1,972,000
23-4855 Solid and Hazardous Waste Management .....	<u>4,043,000</u>
Total Direct State Services Appropriation, Compliance and Enforcement .....	<u>\$18,635,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages .....	(\$15,724,000)
Materials and Supplies .....	(131,000)
Services Other Than Personal .....	(1,417,000)
Maintenance and Fixed Charges .....	(407,000)

Special Purpose:

15 Tidelands Peak Demands .....	(856,000)
Additions, Improvements and Equipment ..	(100,000)

Receipts deposited into the Coastal Protection Trust Fund pursuant to P.L.1993, c.168 (C.39:3-27.47 et seq.) are appropriated in an amount not to exceed \$600,000 for the cleanup or maintenance of beaches or shores, an amount not to exceed \$200,000 for the cost of providing monitoring, surveillance and enforcement activities for the Cooperative Coastal Monitoring Program, an amount not to exceed \$50,000 for the implementation of the "New Jersey Adopt a Beach Act," P.L.1992, c.213 (C.13:19-22 et seq.), and an amount not to exceed \$150,000 for a program of grants for the operation of a sewage pump-out boat and the construction of sewage pump-out devices for marine sanitation devices and portable toilet emptying receptacles at public and private marinas and boatyards in furtherance of the provisions of P.L.1988, c.117 (C.58:10A-56 et seq.). Receipts deposited to the Coastal Protection Trust Fund in excess of \$1,000,000 are appropriated to finance emergency shore protection projects and the cleanup of discharges into the ocean.

**STATE AID**

08-4855 Water Pollution Control .....	<u>\$3,453,000</u>
Total State Aid Appropriation, Compliance and Enforcement .....	<u>\$3,453,000</u>

**State Aid:**

    08 County Environmental Health Act (\$3,453,000)

**Less:**

*Savings from Administrative Efficiencies* .....

**\$3,500,000**

Department of Environmental Protection,

    Total State Appropriation .....

\$322,041,000



- The amounts hereinabove for the Tidelands Peak Demands account are appropriated from receipts derived from the sales, grants, leases, licensing, and rentals of State riparian lands, together with an amount not to exceed \$2,361,000, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.
- Notwithstanding any other law, the Commissioner of the Department of Environmental Protection shall obtain concurrence from the Director of the Division of Budget and Accounting before altering fee schedules or any other revenue-generating mechanism under the department's purview.
- Notwithstanding the provisions of the "Environmental Fee Accountability Act of 1991," P.L.1991, c.426 (C.52:27B-20.1 et seq.) and P.L.1991, c.427 (C.13:1D-9.1 et seq.), all revenues from fees and fines collected by the Department of Environmental Protection, unless otherwise dedicated herein, shall be deposited into the State General Fund without regard to their specific dedication.
- Notwithstanding any other provisions in this act, of the Federal Fund amounts appropriated for the programs included in the Performance Partnership Grant Agreement with the United States Environmental Protection Agency, the Department of Environmental Protection is authorized to reallocate the appropriations, in accordance with the Grant Agreement and subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) or any other law to the contrary, of the amounts appropriated for site remediation, the Department of Environmental Protection may enter into a contract with the United States Environmental Protection Agency (EPA) to provide the State's statutory matching share for EPA-led Superfund remedial actions pursuant to the State Superfund Contract (SSC).
- Notwithstanding any other law to the contrary, any grants awarded during the fiscal year ending June 30, 2005, or during any preceding fiscal year, by the Department of Environmental Protection, or its predecessors, from the proceeds of bonds issued pursuant to P.L.1969, c.127; P.L.1976, c.92; P.L.1980, c.70; P.L.1981, c.261; P.L.1985, c.329; P.L.1989, c.181 or P.L.1992, c.88, or other grants awarded pursuant to other grant programs administered by the department, shall not be considered to be impaired by a structured financing transaction undertaken by a governmental entity which is authorized by section 10 of P.L.1999, c.157 (C.52:31C-10) as amended by section 1 of P.L.2000, c.54, to undertake such transactions, nor shall any State interest created by the award of any such grant be determined to be so impaired by a structured financing transaction undertaken by any local governmental entity pursuant to section 10 of P.L.1999, c.157. Any such grant, and any provisions, covenants and conditions contained in the award thereof, shall not (i) limit, restrict or impair the rights of the local governmental entity to transfer or encumber its facilities or assets for purposes of entering into a structured financing transaction pursuant to that section, (ii) be violated by the completion of a structured financing transaction undertaken pursuant to that section and (iii) cause the Department of Environmental Protection to rescind or annul any grant, or undertake any other enforcement actions, including the revocation of any permit or license granted, in response to a structured financing transaction undertaken pursuant to that section.

Receipts in excess of the amount anticipated for Air Pollution, Clean Water Enforcement, Land Use, Solid Waste, and Hazardous Waste fines, not to exceed \$1,500,000, are appropriated for the expansion of compliance, enforcement and permitting efforts in the department, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of those anticipated for the Stormwater Management Program are appropriated to the Department of Environmental Protection for expansion of the Stormwater Management Program to meet new federal mandates relating to the regulation of municipal stormwater management, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) or any law to the contrary, of the amounts appropriated for water resource evaluation studies and monitoring, the Department of Environmental Protection may enter into contracts with the United States Geological Survey to provide the State's match to joint funding agreements for water resource evaluation studies and monitoring analyses.

Of the amount hereinabove appropriated for the Hazardous Substance Discharge Remediation Loans and Grants-Constitutional Dedication account, an amount not to exceed \$2,000,000 shall be allocated for costs associated with the State Underground Storage Tank Inspection Program, pursuant to the amendments effective December 4, 2003 to Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance at the end of the preceding fiscal year in the Underground Storage Tank Inspection Program-Constitutional Dedication account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

***Summary of Department of Environmental Protection Appropriations  
(For Display Purposes Only)***

*Appropriations by Category:*

Direct State Services .....	\$217,956,000
Grants-in-Aid .....	750,000
State Aid .....	19,072,000
Capital Construction .....	84,263,000

*Appropriations by Fund:*

General Fund .....	\$313,041,000
Property Tax Relief Fund .....	9,000,000

**46 DEPARTMENT OF HEALTH AND SENIOR SERVICES**

***20 Physical and Mental Health***

***21 Health Services***

**DIRECT STATE SERVICES**

01-4215 Vital Statistics .....	\$1,627,000
02-4220 Family Health Services .....	2,079,000
03-4230 Public Health Protection Services .....	30,395,000
08-4280 Laboratory Services .....	7,697,000
12-4245 AIDS Services .....	<u>1,890,000</u>
Total Direct State Services Appropriation, Health Services .....	<u>\$43,688,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages .....	(\$15,172,000)
Materials and Supplies .....	(2,229,000)
Services Other Than Personal .....	(964,000)
Maintenance and Fixed Charges .....	(153,000)

## Special Purpose:

02 WIC Farmers Market Program .....	(87,000)
02 Breast Cancer Public Awareness Campaign .....	(90,000)
02 Identification System for Children's Health and Disabilities .....	(300,000)
02 Public Awareness Campaign for Black Infant Mortality .....	(500,000)
03 New Jersey Domestic Security Preparedness .....	(1,450,000)
03 Medical Emergency Disaster Preparedness for Bioterrorism ..	(4,000,000)
03 Cancer Registry .....	(400,000)
03 Cancer Investigation and Education ..	(500,000)
03 Emergency Medical Services for Children .....	(50,000)
03 School Based Programs and Youth Anti-Smoking .....	(7,000,000)
03 Anti-Smoking Programs .....	(4,000,000)
03 New Jersey State Commission on Cancer Research .....	(1,000,000)
03 Medical Waste Management Program .....	(720,000)
03 Animal Welfare .....	(300,000)
03 Worker and Community Right to Know Program .....	(2,133,000)
03 New Jersey Coalition to Promote Cancer Prevention, Early Detection and Treatment .....	(200,000)
08 New Jersey Domestic Security Preparedness .....	1,800,000)
08 West Nile Virus - Laboratory .....	(640,000)

The unexpended balance at the end of the preceding fiscal year in the New Jersey Emergency Medical Service Helicopter Response Program account is appropriated. Notwithstanding the provisions of any other law to the contrary, there is appropriated from the "Emergency Medical Technician Training Fund" \$79,000 for Emergency Medical Services and \$125,000 for the First Response EMT Cardiac Training Program.

In addition to the amount appropriated above for Emergency Medical Services for Children, \$150,000 is appropriated from the hospital and other health care

initiatives account, established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62), for the same purpose.

The amount hereinabove appropriated for the New Jersey State Commission on Cancer Research is charged to the Cancer Research Fund pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1).

The unexpended balance at the end of the preceding fiscal year in the New Jersey State Commission on Cancer Research account is appropriated.

Amounts deposited in the "New Jersey Breast Cancer Research Fund" from the gross income tax check-offs pursuant to the provisions of P.L.1995, c.26 (C.54A:9-25.7 et al.) are appropriated to the New Jersey State Commission on Cancer Research for breast cancer research projects, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Medical Waste Management Program account, together with any receipts received by the Department of Health and Senior Services pursuant to the provisions of the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et al.), is appropriated.

Notwithstanding the provisions of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove for the Worker and Community Right to Know account is payable out of the "Worker and Community Right to Know Fund." If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Receipts derived from the agency surcharge on vehicle rentals pursuant to section 54 of P.L.2002, c.34 (C.App.A:9-78), not to exceed \$4,722,000, are appropriated for the Medical Emergency Disaster Preparedness for Bioterrorism program and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, the amounts hereinabove appropriated for the two anti-smoking programs (School Based Programs and Youth Anti-Smoking, and Anti-Smoking Programs) shall be charged to the proceeds of the increase in the cigarette tax, established pursuant to P.L.2002, c.33.

Notwithstanding the provisions of section 4 of P.L.1997, c.264 (C.26:2H-18.58g), \$11,000,000 is appropriated for anti-smoking programs (School Based Programs and Youth Anti-Smoking, and Anti-Smoking Programs).

In order to permit flexibility in the handling of the various appropriations for anti-tobacco initiative accounts hereinabove, funds may be transferred to and from the following items of appropriations: School Based Programs and Youth Anti-Smoking, and Anti-Smoking Programs. Such transfers are subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Of the amounts hereinabove appropriated for the two anti-smoking program accounts (School Based Programs and Youth Anti-Smoking Programs, and Anti-Smoking Programs), such amounts shall be used to maintain the smoking cessation programs at the same operational level as fiscal year 2005 and shall maintain the most effective programs while those without direct contact or impact may be reduced or eliminated.

The Director of the Division of Budget and Accounting is empowered to transfer or credit appropriations to the Department of Health and Senior Services for diagnostic laboratory services provided to any other agency or department; provided further, however, that funds have been appropriated or allocated to such agency or department for the purpose of purchasing these services.

Receipts from fees established by the Commissioner of Health and Senior Services for licensing of clinical laboratories, pursuant to P.L.1975, c.166 (C.45:9-42.26 et seq.), and blood banks, pursuant to P.L.1963, c.33 (C.26:2A-2 et seq.), are appropriated.

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services in Health Services, in excess of those anticipated, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

#### GRANTS-IN-AID

02-4220 Family Health Services .....	\$121,993,000
<i>(From General Fund .....</i>	<i>\$121,464,000)</i>
<i>(From Casino Revenue Fund .....</i>	<i>529,000)</i>
03-4230 Public Health Protection Services .....	67,926,000
12-4245 AIDS Services .....	<u>33,894,000</u>
Total Grants-in-Aid Appropriation,	
Health Services .....	<u>\$223,813,000</u>
<i>(From General Fund .....</i>	<i>\$223,284,000)</i>
<i>(From Casino Revenue Fund .....</i>	<i>529,000)</i>

#### *Grants-in-Aid:*

02 Family Planning Services .....	(\$4,767,000)
02 Hemophilia Services .....	(1,105,000)
02 Special Health Services for Handicapped Children .....	(2,252,000)
02 Chronic Renal Disease Services .....	(459,000)
02 Pharmaceutical Services for Adults with Cystic Fibrosis .....	(339,000)
02 Birth Defects Registry .....	(31,000)
02 Statewide Birth Defects Registry (CRF) .....	(529,000)
02 Maternal and Child Health Services .....	(5,448,000)
02 Celeste Foundation Early Intervention of Autism Research Project .....	(500,000)
02 Lead Testing Kits for Expectant Mothers .....	(1,000,000)
02 Lead Poisoning Program .....	(883,000)
02 Poison Control Center .....	(525,000)
02 Early Childhood Intervention Program .....	(59,965,000)
02 Cleft Palate Programs .....	(651,000)

02	Tourette Syndrome Association of New Jersey .....	(1,250,000)
02	Cancer Screening - Early Detection and Education Program .....	(5,400,000)
02	SIDS Assistance Act .....	(197,000)
02	Services to Victims of Huntington's Disease .....	(297,000)
02	St. Barnabas Medical Center .....	(250,000)
02	Stroke Centers .....	(3,000,000)
02	Postpartum Education Campaign ..	(2,500,000)
02	Postpartum Screening .....	(2,000,000)
02	New Jersey Council on Physical Fitness and Sports .....	(50,000)
02	Cost of Living Adjustment, Family Health Services .....	(2,095,000)
02	Camden Optometric Eye Center ....	(300,000)
02	Hemophilia Association of New Jersey .....	(200,000)
02	Federally Qualified Health Centers - Services to Family Care Clients	(26,000,000)
03	Tuberculosis Services .....	(1,536,000)
03	Implementation of Comprehensive Cancer Control Program .....	(1,500,000)
03	Immunization Services .....	(830,000)
03	AIDS Communicable Disease Control .....	(444,000)
03	Cost of Living Adjustment, Public Health Protection Services .....	(85,000)
03	Trinitas Hospital .....	(1,500,000)
03	Jersey City Medical Center .....	(2,500,000)
03	Cancer Research .....	(37,000,000)
03	Cancer Institute of New Jersey ...	(22,250,000)
03	Worker and Community Right to Know .....	(281,000)
12	Cost of Living Adjustment, AIDS Services .....	(498,000)
12	AIDS Grants .....	(18,696,000)
12	Rapid AIDS Testing .....	(5,700,000)
12	AIDS Drug Distribution Program .	(9,000,000)

In addition to the amount hereinabove, receipts from the federal Medicaid (Title XIX) program for handicapped infants are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed \$1,830,000 is appropriated to the Department of Health and Senior Services from the hospital and other health care initiatives account, established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62), to fund the Infant Mortality Reduction Program.

Of the amount hereinabove appropriated for Cancer Screening-Early Detection and Education Program, an amount may be transferred to Direct State Services in the Department of Health and Senior Services to cover administrative costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated \$570,000 from the Alcohol Education, Rehabilitation and Enforcement Fund to fund the Fetal Alcohol Syndrome Program.

Of the amount hereinabove appropriated for the Implementation of Comprehensive Cancer Control Program, an amount may be transferred to Direct State Services in the Department of Health and Senior Services to cover administrative costs of the program and to the corresponding program in Family Health Services in the Department of Health and Senior Services for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Coriell Institute for Medical Research-NJ Cord Blood Resource Center account is appropriated.

From the amount hereinabove appropriated for the Cancer Institute of New Jersey, \$250,000 shall be provided to the Ovarian Cancer Research Fund.

There are appropriated from the New Jersey Emergency Medical Service Helicopter Response Program Fund, established pursuant to section 2 of P.L.1992, c.87 (C.26:2K-36.1), such sums as are necessary to pay the reasonable and necessary expenses of the operation of the New Jersey Emergency Medical Service Helicopter Response Program, established pursuant to P.L.1986, c.106 (C.26:2K-35 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other laws or regulations to the contrary, in order to maximize prescription drug coverage under Part D of Title XVIII of the Federal Social Security Act, the AIDS Drug Distribution Program (ADDP) shall be designated the authorized representative for the purposes of coordinating benefits with the Medicare Drug Program, including enrollment and appeals of coverage determinations. ADDP is authorized to represent program beneficiaries in the pursuit of such coverage. ADDP representation shall not result in any additional financial liability on behalf of such program beneficiaries and shall include, but need not be limited to, the following actions: application for the premium and cost-sharing subsidies on behalf of eligible program beneficiaries; pursuit of appeals, grievances, or coverage determinations; facilitated enrollment in a prescription drug plan or MA-PD plan. If the beneficiary declines enrollment in any Part D plan, the beneficiary shall be barred from all benefits of the ADDP program.

Notwithstanding the provisions of any other law or regulation to the contrary, the appropriations hereinabove for the AIDS Drug Distribution Program (ADDP) account is conditioned upon the Department of Health and Senior Services coordinating the benefits of the ADDP program with the prescription drug benefits of the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" (MMA) as the primary payer due to the current federal prohibition against State automatic enrollment of ADDP recipients in the new federal program. The ADDP benefit and reimbursement shall only be available to cover the beneficiary cost share to in-network pharmacies and for

deductible and coverage gap costs (as determined by the Commissioner of the Department of Health and Senior Services) associated with enrollment in Medicare Part D for beneficiaries of the ADDP program, and for Medicare Part D premium costs for ADDP beneficiaries.

Notwithstanding the provisions of any other law or regulation to the contrary, effective January 1, 2006, no funds appropriated in the AIDS Drug Distribution Program (ADDP) account, shall be available as payment as a ADDP benefit to any pharmacy that is not enrolled as a participating pharmacy in a pharmacy network under federal Medicare Part D.

Commencing with the start of the fiscal year, and consistent with the requirements of the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" (MMA) and the current federal prohibition against State automatic enrollment of AIDS Drug Distribution Program (ADDP) recipients, no funds hereinabove appropriated from the ADDP account shall be expended for any individual enrolled in the ADDP program unless the individual provides all data that may be necessary to enroll the individual in the federal Medicare Part D drug program, including data required for the subsidy assistance, as outlined by the Centers for Medicare and Medicaid Services.

The unexpended balance at the end of the preceding fiscal year in the Tourette Syndrome Association of New Jersey account is appropriated.

In order to permit flexibility in the handling of appropriations, amounts may be transferred to and from the various items of appropriation within the AIDS Services program classification in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

The unexpended balance at the end of the preceding fiscal year in the Stroke Center account is appropriated.

From the amount appropriated hereinabove for cancer research, \$37,000,000 shall be allocated as follows: Cancer Institute of New Jersey, Newark, \$9,000,000; Cancer Institute of New Jersey, South Jersey, \$9,000,000; Robert Wood Johnson University Hospital, New Brunswick, \$9,000,000; The Cancer Center at Hackensack University Medical Center, \$9,000,000; Garden State Cancer Center, \$1,000,000.

**STATE AID**

03-4230 Public Health Protection Services . . . . .	<u>\$2,400,000</u>
Total State Aid Appropriation, Health Services . . . . .	<u>\$2,400,000</u>

**State Aid:**

03 Public Health Priority Funding . . (\$2,400,000)

The capitation is set not to exceed 40 cents for the year ending June 30, 2006 for the purposes prescribed in P.L.1966, c.36 (C.26:2F-1 et seq.).

Notwithstanding any provision of law to the contrary, the amount hereinabove appropriated for the Public Health Priority Funding shall not be allocated to county health departments.



**22 Health Planning and Evaluation**  
**DIRECT STATE SERVICES**

06-4260 Long Term Care Systems .....	\$3,749,000
07-4270 Health Care Systems Analysis .....	<u>1,125,000</u>
Total Direct State Services Appropriation, Health Planning and Evaluation .....	<u>\$4,874,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages .....	(\$2,787,000)
Materials and Supplies .....	(60,000)
Services Other Than Personal .....	(179,000)
Maintenance and Fixed Charges .....	(69,000)

Special Purpose:

06 Nursing Home Background Checks/Nursing Aide Certification Program .....	(1,179,000)
06 Implement Patient Safety Act .....	(600,000)

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services in Health Planning and Evaluation, in excess of those anticipated, are appropriated subject to a plan approved by the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove appropriated, \$1,000,000 is appropriated for the implementation of Statewide Health Information Network, from the hospital and other health care initiatives account, established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62) for establishing HIPAA compliance. Of this amount, \$250,000 shall be allocated to Thomas A. Edison State College.

Available funds are appropriated to the "Health Care Facilities Improvement Fund" to provide available resources in an emergency situation at a health care facility, as defined by the Commissioner of Health and Senior Services, or for closure of a health care facility, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from fees charged for processing Certificate of Need applications and the unexpended balances at the end of the preceding fiscal year of such receipts are appropriated for the cost of this program, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

07-4270 Health Care Systems Analysis .....	\$110,425,000
Total Grants-in-Aid Appropriation, Health Planning and Evaluation. ....	<u>\$110,425,000</u>

**Grants-in-Aid:**

07 Atlantic Health Care Patient ID System .....	(\$500,000)
07 Hospital Assistance Grants .....	(65,200,000)
07 Health Care Subsidy Fund Payments .....	(44,725,000)

There are appropriated such sums as are necessary to pay prior-year obligations of programs within the Health Care Subsidy Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, \$6,000,000 of the amount hereinabove for the Health Care Subsidy Fund Payments account is appropriated from the Admission Charge Hospital Assessment revenue item.

Notwithstanding the provisions of any law to the contrary, the amounts hereinabove appropriated for Health Care Subsidy Fund Payments shall be charged to the revenues derived from the \$0.35 increase in the cigarette tax rate imposed pursuant to P.L.2004, c.67.

Notwithstanding any law to the contrary, all revenues collected from the tax on cosmetic medical procedures enacted by P.L.2004, c.53 (C.54:32E-1) shall be deposited in the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58).

Notwithstanding any provision of law to the contrary, the appropriation for Health Care Subsidy Fund Payments shall be conditioned upon the following provision: in fiscal year 2006 Charity Care payments to hospitals shall be in the same amounts as in fiscal year 2005.

Amounts appropriated hereinabove for Hospital Assistance Grants shall be allocated as follows: St. Joseph's Hospital, Paterson, \$18,000,000; Cooper University Hospital, \$8,000,000; Jersey City Medical Center, \$8,000,000; Newark Beth Israel, \$8,000,000; Bergen Regional Medical Center, \$4,000,000; Our Lady of Lourdes Hospital, \$1,000,000; East Orange General Hospital, \$5,400,000; University Hospital Newark, \$8,000,000; St. Francis Hospital, Trenton, \$1,000,000; Cathedral Healthcare System, \$1,000,000; Capital Health System, \$800,000; and Solaris Hospital System, \$2,000,000.

### **25 Health Administration**

#### **DIRECT STATE SERVICES**

99-4210 Administration and Support Services . . . . .	\$6,013,000
Total Direct State Services Appropriation,	
Health Administration . . . . .	<u>\$6,013,000</u>

***Direct State Services:***

Personal Services:

Salaries and Wages . . . . .	(\$3,793,000)
Materials and Supplies . . . . .	(49,000)
Services Other Than Personal . . . . .	(587,000)

Special Purpose:

99 Office of Minority and Multicultural Health . . . . .	(1,500,000)
99 Affirmative Action and Equal Employment Opportunity . . . . .	(84,000)

### **26 Senior Services**

#### **DIRECT STATE SERVICES**

22-4275 Medical Services for the Aged . . . . .	\$5,793,000
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24-4275 Pharmaceutical Assistance to the Aged and Disabled .....	4,699,000
55-4275 Programs for the Aged .....	1,333,000
<i>(From General Fund .....</i>	<i>\$462,000)</i>
<i>(From Casino Revenue Fund .....</i>	<i>871,000)</i>
56-4275 Office of the Ombudsman .....	826,000
57-4275 Office of the Public Guardian .....	681,000
Total Direct State Services Appropriation, Senior Services .....	<u>\$13,332,000</u>
<i>(Total From General Fund .....</i>	<i>\$12,461,000)</i>
<i>(Total From Casino Revenue Fund ...</i>	<i>871,000)</i>

**Direct State Services:**

Personal Services:

Salaries and Wages .....	(\$5,621,000)
Salaries and Wages (CRF) .....	(658,000)
Employee Benefits (CRF) .....	(138,000)
<i>(Total From General Fund .....</i>	<i>\$5,621,000)</i>
<i>(Total From Casino Revenue Fund ....</i>	<i>796,000)</i>
Materials and Supplies .....	(170,000)
Materials and Supplies (CRF) .....	(14,000)
Services Other Than Personal .....	(1,178,000)
Services Other Than Personal (CRF) .....	(47,000)
Maintenance and Fixed Charges .....	(450,000)
Maintenance and Fixed Charges (CRF) .....	(2,000)
Special Purpose	
22 Fiscal Agent - Medical Services for the Aged .....	(737,000)
24 Payments to Fiscal Agent - PAA ..	(4,134,000)
55 Federal Programs for the Aging (State Share) .....	(143,000)
Additions, Improvements and Equipment ..	(28,000)
Additions, Improvements and Equipment (CRF) .....	(12,000)

When any action by a county welfare agency, whether alone or in combination with the Division of Medical Assistance and Health Services in the Department of Human Services or the Department of Health and Senior Services, results in a recovery of improperly granted medical assistance, the Division of Medical Assistance and Health Services or the Department of Health and Senior Services may reimburse the county welfare agency in the amount of 25% of the gross recovery.

Notwithstanding the provisions of any other State law to the contrary, any third party, as defined in subsection m. of section 3 of P.L.1968, c.413 (C.30:4D-3), writing health, casualty or malpractice insurance policies in the State or covering residents of this State, shall enter into an agreement with the Department of Health and Senior Services to permit and assist the matching of the Department of Health and Senior Services' program eligibility and/or adjudication claims files against that third party's eligibility and/or adjudicated claims files for the purpose

of the coordination of benefits, utilizing, if necessary, social security numbers as common identifiers.

The unexpended balance at the end of the preceding fiscal year in the Payments to Fiscal Agent-PAA account are appropriated.

Such sums as may be necessary, not to exceed \$1,628,000, may be credited from the Energy Assistance program account in the Board of Public Utilities to the Lifeline program account and shall be applied in accordance with a Memorandum of Understanding between the President of the Board of Public Utilities and the Commissioner of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from the Office of the Public Guardian for Elderly Adults are appropriated.

#### GRANTS-IN-AID

22-4275 Medical Services for the Aged	\$819,699,000
<i>(From General Fund</i>	<i>\$789,168,000)</i>
<i>(From Casino Revenue Fund</i>	<i>30,531,000)</i>
24-4275 Pharmaceutical Assistance to the Aged and Disabled	409,493,000
<i>(From General Fund</i>	<i>124,725,000)</i>
<i>(From Casino Revenue Fund</i>	<i>284,768,000)</i>
55-4275 Programs for the Aged	<u>29,058,000</u>
<i>(From General Fund</i>	<i>14,174,000)</i>
<i>(From Casino Revenue Fund</i>	<i>14,884,000)</i>
Total Grants-in-Aid Appropriation, Senior Services	<u>\$1,258,250,000</u>
<i>(Total From General Fund</i>	<i>\$928,067,000)</i>
<i>(Total From Casino Revenue Fund</i>	<i>330,183,000)</i>
<b>Grants-in-Aid:</b>	
22 Assisted Living Program	(\$23,540,000)
22 Community Care Alternatives (CRF)	(30,141,000)
22 Payments for Medical Assistance Recipients - Nursing Homes	(648,000,000)
22 Medical Day Care Services	(73,751,000)
22 Medicaid High Occupancy - Nursing Homes	(9,000,000)
22 ElderCare Initiatives	(19,877,000)
22 Home Care Expansion (CRF)	(190,000)
22 Hearing Aid Assistance for the Aged and Disabled (CRF)	(200,000)
22 Global Budget Long Term Care Initiative	(15,000,000)
24 Pharmaceutical Assistance to the Aged - Claims	(29,835,000)
24 Pharmaceutical Assistance to the Aged and Disabled - Claims	(70,868,000)

24	Pharmaceutical Assistance to the Aged and Disabled - Claims (CRF) .....	(284,768,000)
24	Senior Gold Prescription Assistance Program .....	(24,022,000)
55	Arthritis Quality of Life Initiative Act .....	(620,000)
55	Purchase of Social Services .....	(8,976,000)
55	ElderCare Advisory Commission Initiatives .....	(2,500,000)
55	Alzheimer's Disease Program .....	(802,000)
55	Demonstration Adult Day Care Center Program - Alzheimer's Disease (CRF) .....	(2,724,000)
55	Cost of Living Adjustment, Senior Services .....	(402,000)
55	Adult Protective Services .....	(874,000)
55	Adult Protective Services (CRF) ..	(1,842,000)
55	Senior Citizen Housing - Safe Housing and Transportation (CRF) .....	(1,726,000)
55	Respite Care for the Elderly (CRF)	(5,566,000)
55	Congregate Housing Support Services (CRF) .....	(2,006,000)
55	Home Delivered Meals Expansion (CRF) .....	(1,020,000)

The amounts hereinabove appropriated for Payments for Medical Assistance Recipients-Nursing Homes are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the General Medical Services program classification in the Division of Medical Assistance and Health Services in the Department of Human Services and the Medical Services for the Aged program classification in Senior Services in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

All funds recovered pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.) during the fiscal year ending June 30, 2006 are appropriated for payments to providers in the same program class from which the recovery originated.

Notwithstanding the provisions of any other law to the contrary, a sufficient portion of receipts generated or savings realized in the Medical Services for the Aged Grants-In-Aid accounts from initiatives included in the fiscal year 2006 annual appropriations act may be transferred to administration accounts to fund costs

incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

The Division of Medical Assistance and Health Services in the Department of Human Services and the Department of Health and Senior Services, subject to federal approval, shall implement policies that would limit the ability of persons who have the financial ability to provide for their own long-term care needs to manipulate current Medicaid rules to avoid payment for that care. The Division of Medical Assistance and Health Services and the Department of Health and Senior Services shall require, in the case of a married individual requiring long-term care services, that the portion of the couple's resources which are not protected for the needs of the community spouse be used solely for the purchase of long-term care services.

Such sums as may be necessary are appropriated from enhanced audit recoveries obtained by the Department of Health and Senior Services to fund the costs of enhanced audit recovery efforts of the department within the Medical Services for the Aged program classification, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, reimbursement for nursing facility services, which are funded hereinabove in the Payments for Medical Assistance Recipients-Nursing Homes account, shall be 50% of the per diem rate when a Medicaid beneficiary is hospitalized. These payments shall be limited to the first 10 days of the hospitalization. Medicaid reimbursement for nursing facility services shall be discontinued beyond the 10th day of the hospitalization.

The funds hereinabove appropriated for Payments for Medical Assistance Recipients-Medicaid High Occupancy-Nursing Homes shall be distributed for patient services among those nursing homes where the Medicaid patient day occupancy level is at or above 75%. Each such facility shall receive its distribution through a prospective per diem rate adjustment according to the following formula:  $E = A \text{ Medicaid days} / T \text{ Medicaid days} \times F$ ; where E is the entitlement for a specific nursing home resulting from this allocation; A Medicaid days is an individual nursing home's reported Medicaid days on June 30, 2005; T Medicaid days is the total reported Medicaid days for all affected nursing homes; and F is the total amount of State and federal funds to be distributed. No nursing home shall receive a total allocation greater than the amount lost, due to adjustments in Medicaid reimbursement methodology, which became effective April 1, 1995. Any balances remaining undistributed, from the above mentioned amount, shall be deposited in a reserve account in the General Fund.

Notwithstanding the provisions of any other law or regulation to the contrary, each prescription order dispensed in the Pharmaceutical Assistance to the Aged and Disabled program and the Senior Gold Prescription Discount Program for Maximum Allowable Cost (MAC) drugs, which are appropriated hereinabove in the Pharmaceutical Assistance to the Aged and Disabled-Claims program and Senior Gold Prescription Discount Program, shall state "Brand Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs, and each prescription order shall follow the requirements of P.L.1977, c.240 (C.24:6E-1 et seq.).

The amounts hereinabove appropriated for payments for the Pharmaceutical Assistance to the Aged and Disabled program, P.L.1975, c.194 (C.30:4D-20 et seq.), and the Senior Gold Prescription Discount Program, P.L.2001, c.96 (C.30:4D-43 et seq.), are available for the payment of obligations applicable to prior fiscal years.

Benefits provided under the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, P.L.1975, c.194 (C.30:4D-20 et seq.), and the Senior Gold Prescription Discount Program, P.L.2001, c.96 (C.30:4D-43 et seq.), shall be the last resource benefits, notwithstanding any provisions contained in contracts, wills, agreements or other instruments. Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or excludes coverage or payment to an individual because of that individual's eligibility for, or receipt of, PAAD or Senior Gold Prescription Discount Program benefits shall be void, and no PAAD and Senior Gold Prescription Discount Program payments shall be made as a result of any such provision.

Of the amount hereinabove appropriated in the Pharmaceutical Assistance to the Aged and Disabled-Claims program, notwithstanding the provisions of section 3 of P.L.1975, c.194 (C.30:4D-22) to the contrary, the copayment in the Pharmaceutical Assistance to the Aged and Disabled program shall be \$5.00.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2003, no State funds are appropriated for a Drug Utilization Review Council in the Department of Health and Senior Services and therefore the functions of the Council shall cease.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), and the Senior Gold Prescription Discount Program, pursuant to P.L.2001, c.96 (C.30:4D-43 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State. Furthermore, rebates from pharmaceutical manufacturing companies for prescriptions purchased by the PAAD program and the Senior Gold Prescription Discount Program shall continue during fiscal year 2006, provided that the manufacturer's rebates for the Senior Gold Prescription Discount Program shall apply only to the amount paid by the State under the Senior Gold Prescription Discount program. All revenues from such rebates during the fiscal year ending June 30, 2006 are appropriated for the PAAD program and the Senior Gold Prescription Discount Program.

Notwithstanding the provisions of any other law or regulation to the contrary, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled program classification and the Senior Gold Prescription Discount Program account shall be expended except under the following conditions: (a) reimbursement for prescription drugs shall be based on the Average Wholesale Price less a 12.5% discount; (b) the current prescription drug dispensing fee structure set as a variable rate of \$3.73 to \$4.07 in effect on June 30, 2005 shall remain in effect through fiscal year 2006, including the current increments for patient consultation, impact allowances and allowances for 24-hour emergency services; and (c)

multisource generic and single source brand name drugs shall be dispensed without prior authorization but multisource brand name drugs shall require prior authorization issued by the Department of Health and Senior Services or its authorizing agent, however, a 10-day supply of the multisource brand name drug shall be dispensed pending receipt of prior authorization. Certain multisource brand name drugs with a narrow therapeutic index, other drugs recommended by the Drug Utilization Review Board or brand name drugs with a lower cost per unit than the generic may be excluded from prior authorization by the Department of Health and Senior Services.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled program and the Senior Gold Prescription Discount Program shall be used to pay for quantities of erectile dysfunction therapy medication in excess of four treatments per month. Moreover, payment will only be provided if the diagnosis of erectile dysfunction is written on the prescription form and the treatment is provided to males over the age of 18 years.

In addition to the amount hereinabove, there are appropriated from the General Fund and available federal matching funds such additional sums as may be required for the payment of claims, credits and rebates, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Pharmaceutical Assistance to the Aged and Disabled (PAA/D) programs and the Senior Gold Prescription Discount Program are available to pharmacies that have not submitted an application to enroll as an approved medical supplier in the Medicare program, unless they already are an approved Medicare medical supplier. Pharmacies will not be required to bill Medicare directly for Medicare Part B drugs and supplies, but must agree to allow PAA/D to bill Medicare on their behalf by completing and submitting an electronic data interchange (EDI) form to PAA/D. Beneficiaries are responsible for the applicable PAA/D or Senior Gold Prescription Discount Program copayment.

Notwithstanding the provisions of any other law to the contrary, the Commissioner of Health and Senior Services shall establish a retrospective Polypharmacy drug utilization review program to study the efficacy, necessity and safety of prescriptions in excess of 10 per month per PAAD or Senior Gold Prescription Discount Program client and shall approve or disallow future payments for clients whose prescriptions exceed 10 per client per month if the prescriptions have been proven inefficient, unnecessary or unsafe.

Notwithstanding the provisions of any law or regulation to the contrary, the Department of Health and Senior Services shall have the authority to establish a voluntary prescription drug mail-order program. The mail-order program may waive, discount or rebate the beneficiary copay and mail-order pharmacy providers may dispense up to a 90-day supply on prescription refills with the voluntary participation of the beneficiary, subject to the approval of the Commissioner of Health and Senior Services and the Director of the Division of Budget and Accounting.



At any point during the year, and notwithstanding the provisions of any other law or regulation to the contrary, subject to the approval of a plan by the Commissioner of Health and Senior Services, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), or the Senior Gold Prescription Discount program, pursuant to P.L.2001, c.96 (C.30:4D-43 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State on the same basis as provided for in section 1927 (a) through (c) of the federal Social Security Act, 42 U.S.C.s.1396r-8(a)-(c).

Notwithstanding the provisions of any law or regulation to the contrary, from the amount hereinabove appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program and Senior Gold Prescription Discount Program, the Commissioner of Health and Senior Services shall establish a disease management program to improve the quality of care for beneficiaries and reduce costs in the PAAD program and Senior Gold Prescription Discount Program.

From the amount hereinabove appropriated for the Senior Gold Prescription Discount Program, an amount not to exceed \$3,850,000 may be transferred to various accounts as required, including Direct State Services accounts, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary and subject to the notice provisions of 42 CFR 447.205, for rates implemented on or after July 1, 2000, target occupancy as determined pursuant to N.J.A.C.10:63-3.16 shall not apply to those facilities receiving enhanced rates of reimbursement pursuant to N.J.A.C.10:63-2.21. The per diem amounts for all other expenses of the enhanced rates shall be based upon reasonable base period costs divided by actual base period patient days, but no less than 85% of licensed bed days shall be used.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred between the various items of appropriation within the Medical Services for the Aged and Programs for the Aged program classifications to ensure the continuity of long-term care support services for beneficiaries receiving services within the Medical Services for the Aged program classification in the Division of Senior Services in the Department of Health and Senior Services, subject to the approval of the Director of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding the provisions of any law to the contrary, effective January 1, 2005, no payment for Medicaid Adult or Pediatric Medical Day Care services, as hereinabove appropriated in the Medical Day Care Services account, shall be provided unless the services are prior authorized by professional staff designated by the Department of Health and Senior Services.

From the amount hereinabove appropriated for Payments for Medical Assistance Recipients- Nursing Homes, the Commissioner of Health and Senior Services shall increase the reasonableness limit for total nursing care up to 120% of the median costs in the Medicaid nursing home rate-setting system during State FY2006.

- Such sums as may be necessary, not to exceed \$70,840,000, for payments for the Lifeline Credit and Tenants' Lifeline Assistance programs, may be credited from the Energy Assistance program account in the Board of Public Utilities to the Lifeline program account and shall be applied in accordance with a Memorandum of Understanding between the President of the Board of Public Utilities and the Commissioner of Health and Senior Services, subject to the approval of the Director of the Division of Budgeting and Accounting.
- Such sums as may be necessary are appropriated from the General Fund for the payment of increased nursing home rates to reflect the costs incurred due to the payment of a nursing home provider assessment, pursuant to the "Nursing Home Quality of Care Improvement Fund Act," P.L.2003, c.105 (C.26:2H-92 et seq.) and P.L.2004, c.41, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding the provisions of any law or regulation to the contrary, the appropriation hereinabove for Medical Day Care Services is conditioned upon rate increases for the nursing home provider assessment not being included in the calculation of the Adult/Pediatric Day Care payment rates.
- Notwithstanding the provisions of any other law or regulation to the contrary, the appropriations hereinabove to the Pharmaceutical Assistance to the Aged and Pharmaceutical Assistance to the Aged and Disabled (PAA/D) programs is conditioned upon the Department of Health and Senior Services coordinating the benefits of the PAA/D programs with the prescription drug benefits of the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" (MMA) as the primary payer due to the current federal prohibition against State automatic enrollment of PAA/D recipients in the new federal program. The PAA/D benefit and reimbursement shall only be available to cover the beneficiary cost share to in-network pharmacies and for deductible and coverage gap costs (as determined by the Commissioner of the Department of Health and Senior Services) associated with enrollment in Medicare Part D for beneficiaries of the PAA/D and Senior Gold programs, and for Medicare Part D premium costs for PAA/D beneficiaries.
- Notwithstanding the provisions of any other law or regulation to the contrary, effective January 1, 2006, no funds appropriated in the Pharmaceutical Assistance to the Aged or Pharmaceutical Assistance to the Aged and Disabled (PAA/D) accounts shall be available as payment as a PAA/D benefit to any pharmacy that is not enrolled as a participating pharmacy in a pharmacy network under federal Medicare Part D.
- Consistent with the requirements of the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" (MMA) and the current federal prohibition against State automatic enrollment of Pharmaceutical Assistance to the Aged and Pharmaceutical Assistance to the Aged and Disabled (PAA/D) recipients, no funds hereinabove appropriated from the PAA/D accounts shall be expended unless any individual enrolled in the PAA/D programs provides all data that may be necessary to enroll them in the federal Medicare Part D drug program, including data required for the subsidy assistance, as outlined by the Centers for Medicare and Medicaid Services.

Notwithstanding the provisions of any other law or regulation to the contrary, the appropriations hereinabove for the Pharmaceutical Assistance to the Aged, Pharmaceutical Assistance to the Aged and Disabled, and Senior Gold programs shall be conditioned upon the following provision: no funds shall be appropriated for the refilling of a prescription drug until such time as the original prescription is 85% finished.

Notwithstanding the provisions of any other laws or regulations to the contrary, in order to maximize prescription drug coverage under Part D of Title XVIII of the Federal Social Security Act, the Pharmaceutical Assistance to the Aged and Disabled (PAAD) Program shall be designated the authorized representative for the purposes of coordinating benefits with the Medicare Drug Program, including enrollment and appeals of coverage determinations. PAAD is authorized to represent program beneficiaries in the pursuit of such coverage. PAAD representation shall not result in any additional financial liability on behalf of such program beneficiaries and shall include, but need not be limited to, the following actions: application for the premium and cost-sharing subsidies on behalf of eligible program beneficiaries; pursuit of appeals, grievances, or coverage determinations; facilitated enrollment in a prescription drug plan or MA-PD plan. If the beneficiary declines enrollment in any Part D plan, the beneficiary shall be barred from all benefits of the PAAD Program.

Notwithstanding the provisions of any law to the contrary, the appropriation hereinabove for the ElderCare Initiatives program shall be conditioned upon the following provision: Jersey Assistance for Community Caregiving (JACC) benefits paid incorrectly on behalf of JACC beneficiaries may be recovered from individuals found ineligible.

The monies hereinabove appropriated for "global budget" shall only be expended if federal approvals are received for such a program and only if federal Medicaid reimbursement or other federal matching funds are available to support the State appropriation.

In addition to the amount hereinabove, there are appropriated from the Casino Revenue Fund and available federal matching funds such additional sums as may be required for the payment of claims, credits and rebates, subject to the approval of the Director of the Division of Budget and Accounting.

All funds recovered under P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.), during the fiscal year ending June 30, 2006, are appropriated for payments to providers in the same program class from which the recovery originated.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the Medical Services for the Aged program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

For the purposes of account balance maintenance, all object accounts in the Medical Services for the Aged program classification shall be considered as one object. This will allow timely payment of claims to providers of medical services, but ensure that no overspending will occur in the program classification.

Notwithstanding the provisions of P.L.1988, c.92 (C.30:4E-5 et seq.) to the contrary, funds appropriated for the Home Care Expansion Program (HCEP) shall be paid only for individuals enrolled in the program as of June 30, 1996 who are not eligible for the Community Care Program for the Elderly and Disabled or alternative programs, and only for so long as those individuals require services covered by the HCEP. Individuals enrolled in the HCEP as of June 30, 1996 and eligible for the Community Care Program for the Elderly and Disabled, may apply to be enrolled in that program.

Notwithstanding the provisions of any other law to the contrary, a sufficient portion of receipts generated or savings realized in Casino Revenue Fund Medical Services for the Aged or Pharmaceutical Assistance to the Aged and Disabled Grants-In-Aid accounts from initiatives included in the fiscal year 2006 annual appropriations act may be transferred to administration accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove appropriated for payments for the Pharmaceutical Assistance to the Aged and Disabled program, P.L.1975, c.194 (C.30:4D-20 et seq.) are available for the payment of obligations applicable to prior fiscal years. Benefits provided under the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, P.L.1975, c.194 (C.30:4D-20 et seq.), shall be the last resource benefits, notwithstanding any provision contained in contracts, wills, agreements or other instruments. Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or excludes coverage or payment to an individual because of that individual's eligibility for or receipt of PAAD benefits shall be void, and no PAAD payments shall be made as a result of any such provision.

Of the amount hereinabove appropriated in the Pharmaceutical Assistance to the Aged and Disabled-Claims program, notwithstanding the provisions of section 3 of P.L.1975, c.194 (C.30:4D-22) to the contrary, the copayment in the Pharmaceutical Assistance to the Aged and Disabled program shall be \$5.00.

Notwithstanding the provisions of any other law or regulation to the contrary, each prescription order dispensed in the Pharmaceutical Assistance to the Aged and Disabled program and the Senior Gold Prescription Discount Program for Maximum Allowable Cost (MAC) drugs, which are hereinabove appropriated in the Pharmaceutical Assistance to the Aged and Disabled-Claims program and Senior Gold Prescription Discount Program, shall state "Brand Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs, and each prescription order shall follow the requirements of P.L.1977, c.240 (C.24:6E-1 et seq.).

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2003, no State funds are appropriated for a Drug Utilization Review Council in the Department of Health and Senior Services and therefore the functions of the Council shall cease.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts

with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State. Furthermore, rebates from pharmaceutical manufacturing companies for prescriptions purchased by the PAAD program and the Senior Gold Prescription Discount Program shall continue during the fiscal year 2006, provided that the manufacturer's rebates for the Senior Gold Prescription Discount Program shall apply only to the amount paid by the State under the Senior Gold Prescription Discount Program. All revenues from such rebates during the fiscal year ending June 30, 2006 are appropriated for the PAAD program and the Senior Gold Prescription Discount Program.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and the Disabled program shall be used to pay for quantities of erectile dysfunction therapy medication in excess of four treatments per month. Moreover, payment will only be provided if the diagnosis of erectile dysfunction is written on the prescription form and the treatment is provided to males over the age of 18 years.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program are available to pharmacies that have not submitted an application to enroll as an approved medical supplier in the Medicare program, unless they already are an approved Medicare medical supplier. Pharmacies will not be required to bill Medicare directly for Medicare Part B drugs and supplies, but must agree to allow PAAD to bill Medicare on their behalf by completing and submitting an electronic data interchange (EDI) form to PAAD. Beneficiaries are responsible for the applicable PAAD copayment.

Notwithstanding the provisions of any other law or regulation to the contrary, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled program classification and the Senior Gold Prescription Discount Program account shall be expended except under the following conditions: (a) reimbursement for prescription drugs shall be based on the Average Wholesale Price less a 12.5% discount; (b) the current prescription drug dispensing fee structure set as a variable rate of \$3.73 to \$4.07 in effect on June 30, 2005 shall remain in effect through fiscal year 2006, including the current increments for patient consultation, impact allowances and allowances for 24-hour emergency services; and (c) multisource generic and single source brand name drugs shall be dispensed without prior authorization but multisource brand name drugs shall require prior authorization issued by the Department of Health and Senior Services or its authorizing agent, however, a 10-day supply of the multisource brand name drug shall be dispensed pending receipt of prior authorization. Certain multisource brand name drugs with a narrow therapeutic index, other drugs recommended by the Drug Utilization Review Board or brand name drugs with a lower cost per unit than the generic may be excluded from prior authorization by the Department of Health and Senior Services.

Notwithstanding the provisions of any law or regulation to the contrary, the Commissioner of Health and Senior Services shall establish a retrospective Polypharmacy drug utilization review program to study the efficacy, necessity and safety of prescriptions in excess of 10 per month per PAAD or Senior Gold

Prescription Discount Program client and shall approve or disallow future payments for clients whose prescriptions exceed 10 per client per month if the prescriptions have been proven inefficient, unnecessary or unsafe.

Notwithstanding the provisions of any law or regulation to the contrary, the Department of Health and Senior Services shall have the authority to establish a voluntary prescription drug mail-order program. The mail-order program may waive, discount or rebate the beneficiary copay and mail-order pharmacy providers may dispense up to a 90-day supply on prescription refills with the voluntary participation of the beneficiary, subject to the approval of the Commissioner of Health and Senior Services and the Director of the Division of Budget and Accounting.

At any point during the year, and notwithstanding the provisions of any other law or regulation to the contrary, subject to the approval of a plan by the Commissioner of Health and Senior Services, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), or the Senior Gold Prescription Discount Program, pursuant to P.L.2001, c.96 (C.30:4D-43 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State on the same basis as provided for in section 1927 (a) through (c) of the federal Social Security Act, 42 U.S.C. s.1396r-8(a)-(c).

Notwithstanding the provisions of any law or regulation to the contrary, from the amount hereinabove appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, the Commissioner of Health and Senior Services shall establish a disease management program to improve the quality of care for beneficiaries and reduce costs in the PAAD program.

Notwithstanding the provisions of section 2 of P.L.1988, c.114 (C.26:2M-10) to the contrary, private for-profit agencies shall be eligible grantees for funding from the Demonstration Adult Day Care Center Program-Alzheimer's Disease account.

Notwithstanding the provisions of any other law to the contrary, of the amount hereinabove appropriated for the Respite Care for the Elderly (CRF) account, \$800,000 shall be charged to the Casino Simulcasting Fund.

Notwithstanding the provisions of any other law or regulation to the contrary, the appropriations hereinabove to the Pharmaceutical Assistance to the Aged and Disabled (PAAD) programs is conditioned upon the Department of Health and Senior Services coordinating the benefits of the PAAD programs with the prescription drug benefits of the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" (MMA) as the primary payer due to the current federal prohibition against State automatic enrollment of PAAD recipients in the new federal program. The PAAD benefit and reimbursement shall only be available to cover the beneficiary cost share to in-network pharmacies and for deductible and coverage gap costs (as determined by the Commissioner of the Department of Health and Senior Services) associated with enrollment in Medicare Part D for beneficiaries of the PAAD and Senior Gold programs, and for Medicare Part D premium costs for PAAD beneficiaries.

Notwithstanding the provisions of any other law or regulation to the contrary, effective January 1, 2006, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled (PAAD) account, shall be available as payment as a PAAD benefit to any pharmacy that is not enrolled as a participating pharmacy in a pharmacy network under federal Medicare Part D.

Consistent with the requirements of the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" (MMA) and the current federal prohibition against State automatic enrollment of Pharmaceutical Assistance to the Aged and Disabled (PAAD) recipients, no funds hereinabove appropriated from the PAAD account shall be expended unless any individual enrolled in the PAAD program provides all data that may be necessary to enroll them in the federal Medicare Part D drug program, including data required for the subsidy assistance, as outlined by the Centers for Medicare and Medicaid Services.

Notwithstanding the provisions of any other laws or regulations to the contrary, in order to maximize prescription drug coverage under Part D of Title XVIII of the Federal Social Security Act, the Pharmaceutical Assistance to the Aged and Disabled (PAAD) Program shall be designated the authorized representative for the purposes of coordinating benefits with the Medicare Drug Program, including enrollment and appeals of coverage determinations. PAAD is authorized to represent program beneficiaries in the pursuit of such coverage. PAAD representation shall not result in any additional financial liability on behalf of such program beneficiaries and shall include, but need not be limited to, the following actions: application for the premium and cost-sharing subsidies on behalf of eligible program beneficiaries; pursuit of appeals, grievances, or coverage determinations; facilitated enrollment in a prescription drug plan or MA-PD plan. If the beneficiary declines enrollment in any Part D plan, the beneficiary shall be barred from all benefits of the PAAD Program.

Notwithstanding the provisions of any other law or regulation to the contrary, the appropriations hereinabove for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program and the Senior Gold Prescription Discount Program shall be conditioned upon the following provision: no funds shall be appropriated for the refilling of a prescription drug until such time as the original prescription is 85% finished.

**STATE AID**

55-4275 Programs for the Aged	.....	<u>\$7,152,000</u>
Total State Aid Appropriation, Senior Services	.....	<u>\$7,152,000</u>
<b>State Aid:</b>		
55 County Offices on Aging	.....	(\$2,498,000)
55 Older Americans Act - State Share		(4,654,000)
<b>Less:</b>		
<i>Savings from Administrative Efficiencies</i>	.....	<i>\$3,500,000</i>
Department of Health and Senior Services,		
Total State Appropriation	.....	<u>\$1,666,447,000</u>

Notwithstanding the provisions of any other law to the contrary, there is appropriated to the Department of Health and Senior Services from the Health Care Subsidy Fund, established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58), to continue to fund programs established pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47), section 30 of P.L.1997, c.192 and section 15 of P.L.1998, c.43, through the hospital and other health care initiatives account established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62). However, available funding shall first provide for the Community Care Program for the Elderly and Disabled, the expansion of Medicaid to 185% of poverty and the Infant Mortality Reduction Program. Remaining amounts may be used to fund programs established pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47), section 30 of P.L.1997, c.192 and section 15 of P.L.1998, c.43, as determined by the Commissioner of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Any unexpended balance at the end of the preceding fiscal year in the Health Care Subsidy Fund received through the hospital and other health care initiatives account during fiscal year 2005 is appropriated.

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services, in excess of those anticipated, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 7 of P.L.1992, c.160 (C.26:2H-18.57) or any other law to the contrary, the first \$1,200,000 in per adjusted admission charge assessment revenues, attributable to \$10.00 per adjusted admission charge assessments made by the Department of Health and Senior Services, shall be anticipated as revenue in the General Fund available for health-related purposes. Furthermore, it is recommended that the remaining revenue attributable to this fee shall be available to carry out the provisions of section 7 of P.L.1992, c.160 (C.26:2H-18.57), as determined by the Commissioner of Health and Senior Services, and subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, the State Treasurer shall transfer to the Health Care Subsidy Fund, established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58), only those additional revenues generated from third party liability recoveries, excluding Medicaid, by the State arising from a review by the Director of the Division of Budget and Accounting of hospital payments reimbursed from the Health Care Subsidy Fund with service dates that are after the date of enactment of P.L.1996, c.29.

Notwithstanding the provisions of any other law to the contrary, the Commissioner of Health and Senior Services shall devise, at the commissioner's discretion, rules or guidelines that allocate reductions in health service grants to the extent possible toward administration, and not client services.

Any change in program eligibility criteria and increases in the types of services or rates paid for services to or on behalf of clients for all programs under the purview of the Department of Health and Senior Services, not mandated by federal law, shall first be approved by the Director of the Division of Budget and Accounting.



- Notwithstanding the provisions of any other law to the contrary, fees, fines, penalties and assessments owed to the Department of Health and Senior Services shall be offset against payments due and owing from other appropriated funds.
- In addition to the amount hereinabove, receipts from the federal Medicaid (Title XIX) program for health services-related programs throughout the Department of Health and Senior Services are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- In order to permit flexibility in implementing the ElderCare Initiatives within the Medical Services for the Aged program classification, amounts may be transferred between Direct State Services and Grants-In-Aid accounts, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.
- In order to permit flexibility in implementing the ElderCare Advisory Commission Initiatives within the Programs for the Aged program classification, amounts may be transferred between Direct State Services and Grants-In-Aid accounts, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.
- Such sums as may be necessary are appropriated or transferred from existing appropriations within the Department of Health and Senior Services for the purpose of promoting awareness to increase participation in programs that are administered by the departments, subject to the approval of the Director of the Division of Budget and Accounting.

***Summary of Department of Health and Senior Services Appropriations  
(For Display Purposes Only)***

*Appropriations by Category:*

Direct State Services	.....	\$64,407,000
Grants-in-Aid	.....	1,592,488,000
State Aid	.....	9,552,000

*Appropriations by Fund:*

General Fund	.....	\$1,334,864,000
Casino Revenue Fund	.....	331,583,000

**54 DEPARTMENT OF HUMAN SERVICES**

***20 Physical and Mental Health***

***23 Mental Health Services***

***7700 Division of Mental Health Services***

**DIRECT STATE SERVICES**

99-7700	Administration and Support Services	.....	<u>\$9,825,000</u>
	Total Direct State Services Appropriation, Division of		
	Mental Health Services	.....	<u>\$9,825,000</u>

***Direct State Services:***

**Personal Services:**

Salaries and Wages	.....	(\$7,865,000)
Materials and Supplies	.....	(21,000)

- Services Other Than Personal . . . . . (609,000)
- Maintenance and Fixed Charges . . . . . (155,000)
- Special Purpose:
  - 99 Fraud and Abuse Initiative . . . . . (300,000)
  - 99 Nursing Incentive Program . . . . . (625,000)
  - 99 Governor's Council on Mental Health Stigma . . . . . (250,000)

The amounts hereinabove appropriated for the Governor's Council on Mental Health Stigma shall be expended consistent with the recommendations in the final report of the Governor's Task Force on Mental Health.

Of the amounts hereinabove appropriated for Salaries and Wages, \$250,000 shall be expended consistent with the recommendations in the final report of the Governor's Task Force on Mental Health as follows: \$250,000 for the Office of Disaster Mental Health.

**GRANTS-IN-AID**

- 08-7700 Community Services . . . . . \$286,894,000
- Total Grants-in-Aid Appropriation, Division of Mental Health Services . . . . . \$286,894,000

**Grants-in-Aid:**

- 08 Greystone Park Psychiatric Hospital Bridge Fund . . . . . (\$32,725,000)
- 08 Arthur Brisbane Child Treatment Center Bridge Fund . . . . . (7,980,000)
- 08 Community Care . . . . . (228,124,000)
- 08 Community Mental Health Center -- University of Medicine and Dentistry -- Newark . . . . . (6,205,000)
- 08 Community Mental Health Center -- University of Medicine and Dentistry -- Piscataway . . . . . (11,860,000)

From the amount appropriated hereinabove for the Greystone Park Psychiatric Hospital Bridge Fund account, such funds as are necessary may be transferred to various accounts as required, including Direct State Services or State Aid accounts, subject to the approval of the Director of the Division of Budget and Accounting of a phase-in plan which relates to "Redirection II" as shall be submitted by the Commissioner of Human Services.

The amount appropriated hereinabove for the Community Mental Health Centers and the amount appropriated to the University of Medicine and Dentistry of New Jersey are first charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid uncompensated care.

With the exception of disproportionate share hospital revenues that may be received, federal and other funds received for the operation of community mental health centers at the New Jersey Medical School and the Robert Wood Johnson Medical School shall be available to the University of Medicine and Dentistry of New Jersey for the operation of the centers.

Revenues that may be received from fees derived from the licensing of all community mental health agencies as specified in N.J.A.C.10:37-10.1 et seq. are appropriated to the Division of Mental Health Services to offset the costs of performing the required reviews.

Of the amounts hereinabove appropriated for Community Care, \$26,300,000 shall be expended consistent with the recommendations in the final report of the Governor's Task Force on Mental Health as follows: \$10,000,000 for Mental Health Screening Centers; \$2,100,000 for Self-Help Centers; \$2,500,000 for psychiatric services; \$5,000,000 for support services for permanent supportive housing; \$600,000 for jail diversion in Atlantic County; \$600,000 for jail diversion in Essex County; \$600,000 for jail diversion in Union County; \$1,000,000 for bilingual and culturally competent services; \$1,000,000 for Short-Term Care Facilities; \$600,000 for Community Health Law Project; \$1,500,000 for Special Case Management services; \$800,000 for Pilot Re-entry Case Management services.

The Commissioner of Human Services shall provide the Governor's Task Force on Mental Health with quarterly reports, due within 60 days after the end of each quarter, containing written statistical and financial information on the Governor's Task Force on Mental Health's final recommendations.

**STATE AID**

08-7700 Community Services .....	<u>\$104,575,000</u>
Total State Aid Appropriation, Division of	
Mental Health Services .....	<u>\$104,575,000</u>

**State Aid:**

- 08 Support of Patients in County
- Psychiatric Hospitals ..... (\$104,575,000)

The appropriation for the Support of Patients in County Psychiatric Hospitals account is available to pay liabilities applicable to prior fiscal years, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Support of Patients in County Psychiatric Hospitals account is appropriated.

With the exception of all past, present, and future revenues representing federal financial participation received by the State from the United States that is based on payments to hospitals that serve a disproportionate share of low-income patients, which shall be retained by the State, the sharing of revenues received to defray the costs of maintaining patients in State and county psychiatric hospitals and facilities for the developmentally disabled shall be based on the same percent as costs are shared.

State Aid reimbursement payments for maintenance of patients in county psychiatric facilities shall be limited to inpatient services only, except that such reimbursement shall be paid to a county for outpatient and partial hospitalization services as defined by the Department of Human Services, if outpatient and/or partial hospitalization services had been previously provided at the county psychiatric facility prior to January 1, 1998. These outpatient and partial hospitalization payments shall not exceed the amount of State Aid funds paid to reimburse outpatient and partial hospitalization services provided during calendar year 1997.

The amount appropriated for the Division of Mental Health Services for State facility operations and the amount appropriated as State Aid for the costs of county facility operations first are charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid uncompensated care.

**7710 Greystone Park Psychiatric Hospital**

**DIRECT STATE SERVICES**

10-7710 Patient Care and Health Services . . . . .	\$49,708,000
99-7710 Administration and Support Services . . . . .	<u>12,912,000</u>
Total Direct State Services Appropriation, Greystone Park Psychiatric Hospital . . . . .	<u>\$62,620,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . .	(\$56,488,000)
Materials and Supplies . . . . .	(3,306,000)
Services Other Than Personal . . . . .	(1,346,000)
Maintenance and Fixed Charges . . . . .	(898,000)

Special Purpose:

10 Interim Assistance . . . . .	(50,000)
Additions, Improvements and Equipment . .	(532,000)

**7720 Trenton Psychiatric Hospital**

**DIRECT STATE SERVICES**

10-7720 Patient Care and Health Services . . . . .	\$46,374,000
99-7720 Administration and Support Services . . . . .	<u>11,089,000</u>
Total Direct State Services Appropriation, Trenton Psychiatric Hospital . . . . .	<u>\$57,463,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . .	(\$51,262,000)
Materials and Supplies . . . . .	(2,954,000)
Services Other Than Personal . . . . .	(1,818,000)
Maintenance and Fixed Charges . . . . .	(799,000)

Special Purpose:

10 Interim Assistance . . . . .	(150,000)
Additions, Improvements and Equipment . .	(480,000)

**7725 Ann Klein Forensic Center**

**DIRECT STATE SERVICES**

10-7725 Patient Care and Health Services . . . . .	\$17,787,000
99-7725 Administration and Support Services . . . . .	<u>2,614,000</u>
Total Direct State Services Appropriation, Ann Klein Forensic Center . . . . .	<u>\$20,401,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . .	(\$18,469,000)
Materials and Supplies . . . . .	(1,214,000)

Services Other Than Personal . . . . . (520,000)  
 Maintenance and Fixed Charges . . . . . (98,000)  
 Additions, Improvements and Equipment . . (100,000)

**7740 Ancora Psychiatric Hospital**  
**DIRECT STATE SERVICES**

10-7740 Patient Care and Health Services . . . . . \$57,016,000  
 99-7740 Administration and Support Services . . . . . 13,527,000  
 Total Direct State Services Appropriation,  
 Ancora Psychiatric Hospital . . . . . \$70,543,000

**Direct State Services:**

Personal Services:  
 Salaries and Wages . . . . . (\$63,306,000)  
 Materials and Supplies . . . . . (3,610,000)  
 Services Other Than Personal . . . . . (1,974,000)  
 Maintenance and Fixed Charges . . . . . (917,000)  
 Special Purpose:  
 10 Interim Assistance . . . . . (120,000)  
 Additions, Improvements and Equipment . . (616,000)

**7750 Arthur Brisbane Child Treatment Center**  
**DIRECT STATE SERVICES**

10-7750 Patient Care and Health Services . . . . . \$4,374,000  
 99-7750 Administration and Support Services . . . . . 1,168,000  
 Total Direct State Services Appropriation,  
 Arthur Brisbane Child Treatment Center . . . . . \$5,542,000

**Direct State Services:**

Personal Services:  
 Salaries and Wages . . . . . (\$5,015,000)  
 Materials and Supplies . . . . . (228,000)  
 Services Other Than Personal . . . . . (163,000)  
 Maintenance and Fixed Charges . . . . . (66,000)  
 Additions, Improvements and Equipment . . (70,000)

Of the amounts appropriated hereinabove for the Arthur Brisbane Child Treatment Center, such sums as are necessary may be transferred to the Arthur Brisbane Child Treatment Center Bridge Fund account in the Division of Mental Health Services, subject to the approval of the Director of the Division of Budget and Accounting.

**7760 Senator Garrett W. Hagedorn Gero-Psychiatric Hospital**  
**DIRECT STATE SERVICES**

10-7760 Patient Care and Health Services . . . . . \$25,388,000  
 99-7760 Administration and Support Services . . . . . 8,288,000  
 Total Direct State Services Appropriation, Senator  
 Garrett W. Hagedorn Gero-Psychiatric Hospital . . \$33,676,000

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . . (\$29,581,000)  
 Materials and Supplies . . . . . (1,941,000)  
 Services Other Than Personal . . . . . (1,052,000)  
 Maintenance and Fixed Charges . . . . . (426,000)  
 Special Purpose:  
   10 Interim Assistance . . . . . (14,000)  
 Additions, Improvements and Equipment . . (662,000)  
 Receipts recovered from advances made under the Interim Assistance program in the mental health institutions during the fiscal year ending June 30, 2006 are appropriated for the same purpose.  
 The unexpended balances at the end of the preceding fiscal year, in the Interim Assistance program accounts in the mental health institutions are appropriated for the same purpose.  
 The amount appropriated for the Division of Mental Health Services for State facility operations and the amount appropriated as State Aid for the costs of county facility operations first are charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid uncompensated care.

**24 Special Health Services**  
**7540 Division of Medical Assistance and Health Services**  
**DIRECT STATE SERVICES**

21-7540 Health Services Administration  
 and Management. . . . . \$26,989,000  
 Total Direct State Services Appropriation, Division of  
 Medical Assistance and Health Services . . . . . \$26,989,000

**Direct State Services:**

Personal Services:  
 Salaries and Wages . . . . . (\$14,709,000)  
 Materials and Supplies . . . . . (180,000)  
 Services Other Than Personal . . . . . (3,480,000)  
 Maintenance and Fixed Charges . . . . . (308,000)  
 Special Purpose:  
   21 Payments to Fiscal Agents . . . . . (7,043,000)  
   21 Professional Standards  
     Review Organization--  
     Utilization Review . . . . . (1,179,000)  
   21 Drug Utilization Review Board --  
     Administrative Costs . . . . . (90,000)

The unexpended balances at the end of the preceding fiscal year, in the Payments to Fiscal Agent account are appropriated.  
 Sufficient funds from the Health Care Subsidy Fund are appropriated to the Division of Medical Assistance and Health Services for payment to disproportionate share hospitals for uncompensated care costs as defined in P.L.1991, c.187 (C.26:2H-18.24 et al.), and for subsidized children's health insurance in the NJ KidCare program (Children's Health Care Coverage Program) established in P.L.1997, c.272 (C.30:4I-1 et seq.) to maximize federal Title XXI funding.

- Additional federal Title XIX revenue generated from the claiming of uncompensated care payments made to disproportionate share hospitals shall be deposited in the General Fund as anticipated revenue.
- Notwithstanding any State law to the contrary, any third party as defined in subsection m. of section 3 of P.L.1968, c.413 (C.30:4D-3), writing health, casualty, workers' compensation or malpractice insurance policies in the State or covering residents of this State, shall enter into an agreement with the Division of Medical Assistance and Health Services to permit and assist the matching no less frequently than on a monthly basis of the Medicaid, Charity Care, and Work First New Jersey General Assistance eligibility files and/or adjudicated claims files against that third party's eligibility file, including indication of Transitional Assistance Program coverage from the Medicare Prescription Drug Discount Card Program, and/or adjudicated claims file for the purpose of the coordination of benefits, utilizing, if necessary, social security numbers as common identifiers.
- Notwithstanding the provisions of any law to the contrary, all past, present and future revenues representing federal financial participation received by the State from the United States and that are based on payments made by the State to hospitals that serve a disproportionate share of low-income patients shall be deposited in the General Fund and may be expended only upon appropriation by law.
- Notwithstanding the provisions of any law to the contrary, all revenues received from health maintenance organizations shall be deposited in the General Fund.
- Additional federal Title XIX revenue generated from the claiming of medical service payments on behalf of individuals enrolled in the second year of Medicaid Extension is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

22-7540 General Medical Services . . . . .	<u>\$2,202,558,000</u>
Total Grants-in-Aid Appropriation, Division of Medical Assistance and Health Services . . . . .	<u>\$2,202,558,000</u>

***Grants-in-Aid:***

22 Payments for Medical Assistance	
Recipients -- Personal Care . . . (\$15,949,000)	
22 Managed Care Initiative . . . . .	(583,522,000)
22 Hospital Relief Offset Payments . . .	(70,845,000)
22 Payments for Medical Assistance	
Recipients - Other Treatment	
Facilities . . . . .	(6,372,000)
22 Payments for Medical Assistance	
Recipients - Inpatient Hospital	(231,990,000)
22 Payments for Medical	
Assistance Recipients -	
Prescription Drugs . . . . .	(532,378,000)
22 Payments for Medical	
Assistance Recipients -	
Outpatient Hospital . . . . .	(172,681,000)

22	Payments for Medical Assistance Recipients - Physician Services . . .	(36,244,000)
22	Payments for Medical Assistance Recipients - Home Health Care . . .	(17,733,000)
22	Payments for Medical Assistance Recipients - Medicare Premiums . . . . .	(93,964,000)
22	Payments for Medical Assistance Recipients - Dental Services . . .	(13,483,000)
22	Payments for Medical Assistance Recipients - Psychiatric Hospital	(13,634,000)
22	Payments for Medical Assistance Recipients - Medical Supplies . .	(21,236,000)
22	Payments for Medical Assistance Recipients - Clinic Services . . . .	(57,294,000)
22	Payments for Medical Assistance Recipients - Transportation Services . . . . .	(45,397,000)
22	Payments for Medical Assistance Recipients - Other Services . . . . .	(6,786,000)
22	Unit Dose Contract Services . . . . .	(5,125,000)
22	Consulting Pharmacy Services . . .	(3,704,000)
22	Eligibility Determination Services .	(4,800,000)
22	Health Benefit Coordination Services . . . . .	(4,420,000)
22	General Assistance Medical Services . . . . .	(145,790,000)
22	NJ FamilyCare - Affordable and Accessible Health Coverage Benefits . . . . .	(113,161,000)
22	Programs for Assertive Community Treatment . . . . .	(6,050,000)

The amounts hereinabove appropriated for Payments for Medical Assistance Recipients are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from Payments for Medical Assistance Recipients-Personal Care and Payments for Medical Assistance Recipients-Other Services accounts within the General Medical Services program classification in the Division of Medical Assistance and Health Services and the Payments for Medical Assistance Recipients-Personal Care and Payments for Medical Assistance Recipients-Other Services accounts in the Division of Disability Services in the Department of Human Services. Amounts may also be transferred to and from various items of appropriations within the General Medical Services program classification of the Division of Medical Assistance and Health Services in the Department of Human Services and the Medical Services for the Aged program classification in the Division of Aging and Community Services in the Department of Health and



Senior Services, excluding the Child Behavioral Health Services and Child Behavioral Health Services-Residential accounts. All such transfers are subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

For the purposes of account balance maintenance, all object accounts in the General Medical Services program classification shall be considered as one object. This will allow timely payment of claims to providers of medical services but ensure that no overspending will occur in the program classification.

Notwithstanding any law to the contrary, the Commissioner of Human Services shall have the authority to convert individuals enrolled in a State-funded program who are also eligible for a federally matchable program, to the federally matchable program without the need for regulations.

In addition to the amounts hereinabove for payments to providers on behalf of medical assistance recipients, such additional sums as may be required are appropriated from the General Fund to cover costs consequent to the establishment of presumptive eligibility for children and pregnant women in the Medicaid (Title XIX) program and the NJ KidCare program (Children's Health Care Coverage Program) as defined in P.L.1997, c.272 (C.30:4I-1 et seq.).

Notwithstanding the provisions of P.L.1962, c.222 (C.44:7-76 et seq.), the Medical Assistance for the Aged program is eliminated.

When any action by a county welfare agency, whether alone or in combination with the Division of Medical Assistance and Health Services, results in a recovery of improperly granted medical assistance, the Division of Medical Assistance and Health Services may reimburse the county welfare agency in the amount of 25% of the gross recovery.

All funds recovered pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.) during the fiscal year ending June 30, 2006 are appropriated for payments to providers in the same program class from which the recovery originated.

The amount appropriated hereinabove for the Division of Medical Assistance and Health Services first is to be charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid uncompensated care.

Notwithstanding any other law to the contrary, a sufficient portion of receipts generated or savings realized in Medical Assistance Grants-in-Aid accounts from initiatives may be transferred to the Health Services Administration and Management accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary and subject to federal approval, the Commissioner of Human Services is authorized to develop and introduce Optional Service Plan Innovations to enhance client choice for users of Medicaid optional services, while containing expenditures.

Notwithstanding any law to the contrary and subject to the notice provisions of 42 CFR 447.205, of the amount hereinabove for Payments for Medical Assistance Recipients-Personal Care, personal care assistant services shall be limited to no more than 25 hours per week.

- The Division of Medical Assistance and Health Services, subject to federal approval, shall implement policies that would limit the ability of persons who have the financial ability to provide for their own long-term care needs to manipulate current Medicaid rules to avoid payment for that care. The division shall require, in the case of a married individual requiring long-term care services, that the portion of the couple's resources which is not protected for the needs of the community spouse be used solely for the purchase of long-term care services.
- Such sums as may be necessary are appropriated from the General Fund for the payment of any provider assessments to Intermediate Care Facilities/Mental Retardation facilities, subject to the approval of the Director of the Division of Budget and Accounting of a plan as shall be submitted by the Commissioner of Human Services.
- The Division of Medical Assistance and Health Services is empowered to competitively bid and contract for performance of federally mandated inpatient hospital utilization reviews, and the funds necessary for the contracted utilization review of these hospital services are made available from the Payments for Medical Assistance Recipients-Inpatient Hospital account, subject to the approval of the Director of the Division of Budget and Accounting.
- Such sums as may be necessary are available from the Health Care Subsidy Fund to supplement Payments for Medical Assistance Recipients-Inpatient Hospital, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding any other laws to the contrary, State funding for the New Jersey Health ACCESS program shall cease, and all enrollment shall be terminated as of July 1, 2001, or at such later date as shall be established by the Commissioner of Human Services.
- Notwithstanding the provisions of any law or regulation to the contrary, the NJ FamilyCare program benefit service packages, premium contributions, copayment levels, enrollment levels, and any other program features or operations may be modified as the Commissioner of Human Services deems necessary based upon a plan approved by the Director of the Division of Budget and Accounting to ensure that monies expended for the NJ FamilyCare program do not exceed the amount appropriated hereunder.
- Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the Commissioner of Human Services shall adopt immediately upon filing with the Office of Administrative Law such regulations as the commissioner deems necessary to ensure that monies expended for the NJ FamilyCare program do not exceed the amount appropriated hereunder. Such regulation may change or adjust the financial and non-financial eligibility requirements for some or all of the applicants or beneficiaries in the program, the benefits provided, cost-sharing amounts, or may suspend in whole or in part the processing of applications for any or all categories of individuals covered by the program.
- Notwithstanding any other law to the contrary, those hospitals that are eligible to receive a Hospital Relief Subsidy Fund (HRSF) payment as appropriated hereinabove in the Payments for Medical Assistance Recipients-Inpatient Hospital program shall receive enhanced payments from the Medicaid program for providing services to Medicaid and NJ FamilyCare beneficiaries. The total

payments shall not exceed the amount appropriated and shall be allocated among hospitals proportionately based on the amount of HRSF payments (excluding any adjustments to the HRSF for other Medicaid payment increases). Interim payments shall be made from the Hospital Relief Offset Payments account, based on an estimate of the total enhanced amount payable to a qualifying hospital, and subject to cost settlement. The enhanced payment, determined at cost settlement, will be an amount approved by the Director of the Division of Budget and Accounting per Medicaid patient day, adjusted by a volume variance factor (the ratio of expected Medicaid inpatient days to actual Medicaid inpatient days for the rate year) and an HRSF factor (the ratio of the hospital's HRSF payments to total HRSF payments) and subject to a pro rata adjustment so that the total enhanced per diem amounts are equivalent to the total State and federal funds appropriated not to exceed an amount to be approved by the Director of the Division of Budget and Accounting. The total of these payments shall be reduced by an amount equal to any increase in Medicaid and NJ FamilyCare fee-for-service payments to New Jersey hospitals enacted herein or subsequent to this legislation.

Notwithstanding any other law to the contrary for those hospitals that qualify for a Hospital Relief Subsidy Fund payment, the State Medicaid program shall reimburse those hospitals Graduate Medical Education outpatient payments up to the amount the hospital would have received under Medicare principles of reimbursement for Medicaid and NJ FamilyCare fee-for-service beneficiaries. Payments shall be made from and are appropriated hereinabove in the Hospital Relief Offset Payments account, and shall be based on the qualifying hospitals' first finalized 1996 cost reports. The amount that the qualifying hospital would otherwise be eligible to receive from the Hospital Relief Subsidy Fund shall be reduced by the amount of this Graduate Medical Education outpatient payment. The total amount of these payments shall not exceed an amount approved by the Director of the Division of Budget and Accounting in combined State and federal funds. In no case shall these payments and all other enhanced payments related to those services primarily used by Medicaid and NJ FamilyCare beneficiaries that the hospital receives exceed the amount the hospital would otherwise have been eligible to receive from the Hospital Relief Subsidy Fund in the State fiscal year.

Of the amounts appropriated in State and federal funds in the Hospital Relief Offset Payments accounts in the Department of Human Services, Division of Medical Assistance and Health Services, such sums as may be necessary shall be transferred to the Hospital Relief Subsidy Fund within the Health Care Subsidy Fund established pursuant to P.L.1992, c.160 (C.26:2H-18.51 et seq.) to maximize federal revenues related to these accounts and maintain an appropriate level of hospital payments, subject to the approval of the Director of the Division of Budget and Accounting.

Rebates from pharmaceutical manufacturing companies during the fiscal year ending June 30, 2006 for prescription expenditures made to providers on behalf of Medicaid clients are appropriated for the Payments for Medical Assistance Recipients-Prescription Drugs account.

Notwithstanding the provisions of any other law or regulation to the contrary, and subject to the notice provisions of 42 CFR 447.205 where applicable, no funds appropriated for prescription drugs in the Payments for Medical Assistance

Recipients-Prescription Drugs or General Assistance Medical Services account shall be expended except under the following conditions: (a) reimbursement for the cost of legend, and non-legend drugs, and nutritional supplements, shall not exceed their Average Wholesale Price (AWP) less a 12.5% discount; (b) the current prescription drug dispensing fee structure set as a variable rate of \$3.73 to \$4.07 in effect on June 30, 2005 shall remain in effect through fiscal year 2006, including the current increments for patient consultation, impact allowances, and allowances for 24-hour emergency services; and (c) multisource generic and single source brand name drugs shall be dispensed without prior authorization but multisource brand name drugs shall require prior authorization issued by the Division of Medical Assistance and Health Services or its authorizing agent, however, a 10-day supply of the multisource brand name drug shall be dispensed pending receipt of prior authorization. Certain multisource brand name drugs with a narrow therapeutic index, other drugs recommended by the Drug Utilization Board or brand name drugs with lower cost per unit than the generic, may be excluded from prior authorization by the Division of Medical Assistance and Health Services.

Notwithstanding any laws or regulations to the contrary, payments from the Payments for Medical Assistance Recipients-Prescription Drugs account, the General Assistance drug program or the fee-for-service portion of NJ FamilyCare shall not cover quantities of erectile dysfunction drug therapies in excess of four treatments per month. Moreover, payments will only be provided if the diagnosis of erectile dysfunction is written on the prescription form and the treatment is provided to males over the age of 18 years.

Notwithstanding any law to the contrary and subject to the notice provisions of 42 CFR 447.205, approved nutritional supplements which are funded hereinabove in the Payments for Medical Assistance Recipients-Prescription Drug program will be reimbursed in accordance with a fee schedule set by the Director of the Division of Medical Assistance and Health Services.

No funding shall be provided from the General Assistance Medical Services or NJ FamilyCare programs for anti-retroviral drugs for the treatment of HIV/AIDS, as specified in the Department of Health and Senior Services' formulary for the AIDS Drugs Distribution Program (ADDP).

Notwithstanding the provisions of any other law or regulation to the contrary, the appropriation in the General Assistance Medical Services account hereinabove shall be conditioned upon the following provisions which shall apply to the dispensing of prescription drugs through that account: (a) all Maximum Allowable Cost (MAC) drugs dispensed shall state "Brand Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs; and (b) each prescription order shall follow the requirements of P.L.1977, c.240 (C.24:6E-1 et seq.). The list of drugs substituted shall conform to all requirements pertaining to drug substitution and federal upper limits for MAC drugs as administered by the State Medicaid Program.

Such sums as may be necessary are appropriated from enhanced audit recoveries obtained by the Division of Medical Assistance and Health Services to fund the costs of enhanced audit recovery efforts of the division within the General

Medical Services program classification, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law or regulation to the contrary, the appropriations in the Payments for Medical Assistance Recipients-Prescription Drugs, General Assistance Medical Services, NJ FamilyCare, and NJ KidCare accounts shall be conditioned upon the following provision: each prescription order for protein nutritional supplements and specialized infant formulas dispensed shall be filled with the generic equivalent unless the prescription order states "Brand Medically Necessary" in the prescriber's own handwriting.

Of the amount hereinabove for Payments for Medical Assistance Recipients-Outpatient Hospital, an amount not to exceed \$1,900,000 is allocated for limited prenatal medical care for New Jersey pregnant women who, except for financial requirements, are not eligible for any other State or federal health insurance program.

Of the revenues received as a result of sanctions to health maintenance organizations participating in Medicaid Managed Care, an amount not to exceed \$500,000 is appropriated to the NJ KidCare A-Administration account to improve access to medical services and quality care through such activities as outreach, education, and awareness, subject to the approval of the Director of the Division of Budget and Accounting.

Non-contracted hospitals providing emergency services to Medicaid or NJ FamilyCare members enrolled in the managed care program shall accept, as payment in full, the amounts that the non-contracted hospital would receive from Medicaid for the emergency services and/or any related hospitalization if the beneficiary were enrolled in Medicaid fee-for-service.

Notwithstanding the provisions of subsection (b) of N.J.A.C.10:60-5.3 and subsection (a) of N.J.A.C.10:60-5.4 to the contrary, a person receiving the maximum number of Early and Periodic Screening, Diagnosis and Treatment/Private Duty Nursing (EPSDT/PDN) services, that is, 16 hours in any 24-hour period, may be authorized to receive additional PDN hours if private health insurance is available to cover the cost of the additional hours and appropriate medical documentation is provided which indicates that additional PDN hours are required and that the primary caregiver is not qualified to provide the additional PDN hours.

Of the amount hereinabove appropriated for Payments for Medical Assistance Recipients-Clinic Services, an amount not to exceed \$1,900,000 is allocated for limited prenatal medical care provided by clinics, or in the case of radiology and clinical laboratory services ordered by a clinic, for New Jersey pregnant women who, except for financial requirements, are not eligible for any other State or federal health insurance program.

Additional federal Title XIX revenue generated from the claiming of family planning services payments on behalf of individuals enrolled in the Medicaid managed care program is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for Payments for Medical Assistance Recipients-Other Services, NJ FamilyCare, and NJ KidCare may be used to pay financial rewards to individuals or entities who report instances of health

- care-related fraud and/or abuse involving the programs administered by DMAHS (including, but not limited to, the New Jersey Medicaid, NJ FamilyCare and NJ KidCare programs), or the Pharmaceutical Assistance to the Aged and Disabled (PAAD) or Work First New Jersey General Public Assistance programs. Rewards may be paid only when the reports result in a recovery by DMAHS, and only if other conditions established by DMAHS are met, and shall be limited to 10% of the recovery or \$1,000, whichever is less. Notwithstanding any State law to the contrary, but subject to any necessary federal approval and/or change in federal law, receipt of such rewards shall not affect an applicant's individual financial eligibility for the programs administered by DMAHS, or for PAAD or Work First New Jersey General Public Assistance programs.
- The Division of Medical Assistance and Health Services (DMAHS), in coordination with the county welfare agencies, shall continue a program to outstation eligibility workers in disproportionate share hospitals and federally qualified health centers.
- Of the amount hereinabove appropriated for Eligibility Determination, an amount not to exceed \$630,000 is allocated for increased eligibility determination costs related to immigrant services.
- Premiums received from families enrolled in the NJ KidCare program (Children's Health Care Coverage Program) established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.) are appropriated for NJ KidCare payments.
- Premiums received from families enrolled in the NJ FamilyCare program (FamilyCare Health Coverage Program) established pursuant to P.L.2000, c.71 (C.30:4J-1 et seq.) are appropriated for NJ FamilyCare payments.
- Of the amount hereinabove appropriated for the NJ FamilyCare Program, there shall be transferred to various accounts, including Direct State Services and State Aid accounts, such amounts, not to exceed \$6,000,000, as are necessary to pay for the administrative costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.
- The Commissioners of the Departments of Human Services and Health and Senior Services shall establish a system to utilize unopened prescription drugs at nursing facilities issued to patients at such facilities and which have not exceeded their expiration date.
- Notwithstanding the provisions of any law or regulation to the contrary, from the amount appropriated hereinabove for the Payments for Medical Assistance Recipients-Inpatient Hospital program, the Commissioner of Human Services shall establish a disease management program to improve the quality of care for beneficiaries of the Division of Medical Assistance and Health Services and reduce costs in the General Medical Services program.
- Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Medicaid program as hereinabove appropriated in the Payments for Medical Assistance Recipients-Prescription Drugs account are available to any pharmacy that does not agree to allow Medicaid to bill on its behalf any third party, as defined in subsection m. of section 3 of P.L.1968, c.413 (C.30:4D-3), by participating in a billing agreement executed between the State and the pharmacy.
- Notwithstanding the provisions of any other law to the contrary, effective January 1, 2005, inpatient hospital reimbursements for Medical Assistance services for

dually eligible individuals shall exclude Medicare Part A crossover payments and shall be based upon the Medicare exhausted days, according to a plan designed by the Commissioner of Human Services and approved by the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of N.J.A.C.10:49-7.1 et seq. to the contrary and subject to approval by the federal government, the Division of Medical Assistance and Health Services shall increase reimbursement for ambulance services, including BLS emergency and nonemergency ambulance services and specialty care transport services, provided to Medicaid recipients who are also Medicare eligible to the applicable Medicare rate.

Notwithstanding the provisions of any other law or regulation to the contrary, and subject to the notice provisions of 42 CFR 447.205 where applicable, the appropriation in the Payments for Medical Assistance Recipients-Physician Services account shall be conditioned upon the following provisions: (a) reimbursement for the cost of physician-administered drugs shall not exceed the lower of the physician's acquisition cost or the Average Wholesale Price (AWP) less a 12.5% discount; and (b) reimbursement for selected high cost physician-administered drugs shall be limited to those drugs supplied by manufacturers who have entered into the federal Medicaid Drug Rebate Agreement and are subject to drug rebate rules and regulations consistent with this agreement.

Notwithstanding the provisions of any law or regulation to the contrary, the appropriations hereinabove for Payments for Medical Assistance Recipients-Other Services and NJ FamilyCare are conditioned upon rate increases for the provider tax not being included in the calculation of the hospice per diem room and board payment rates.

Notwithstanding the provisions of any other law or regulation to the contrary, the appropriation in the Payments for Medical Assistance Recipients-Clinic Services shall be conditioned upon the following provision: No funds shall be expended for partial care services to any provider who was not a Medicaid approved partial care provider prior to July 1, 2005 with the exception of new providers whose services are deemed necessary to meet special needs by the Division of Medical Assistance and Health Services.

Notwithstanding the provisions of any other law or regulation to the contrary, the appropriation hereinabove for Payments for Medical Assistance Recipients-Prescription Drugs shall be conditioned upon the following provision: No funds shall be appropriated for the refilling of a prescription drug until such time as the original prescription is 85% finished.

Notwithstanding the provisions of any other law or regulation to the contrary, the appropriation hereinabove for Payments for Medical Assistance Recipients-Outpatient Hospital shall be conditioned upon the following provision: Certifications shall not be granted for new or re-locating off-site hospital-based entities in accordance with N.J.A.C.10:52-1.3 with the exception of providers whose services are deemed necessary to meet special needs by the Division of Medical Assistance and Health Services.

Of the amount hereinabove appropriated for Payments for Medical Assistance Recipients-Prescription Drugs, such sums as are necessary are available for payment of Medicare Part D co-payments and for certain pharmaceuticals not

included in the Part D provider formularies for those individuals who are dually eligible for Medicaid and Medicare. These funds shall only be available to cover co-payments and non-formulary drugs to pharmacies participating in the federal Medicare Part D program. Payments of pharmaceuticals not included in the Part D formularies may be subject to prior authorization. The Department of Human Services may require proof of appeal or may appeal the Medicare Part D formulary decision on behalf of a dual-eligible client.

Notwithstanding the provision of any other law to the contrary, no funds appropriated in the Payments for Medical Assistance Recipients-Prescription Drugs line item shall be expended for the payment of claims for pharmaceuticals not included in the Part D provider formularies of Medicare Part D eligibles unless participating pharmaceutical manufacturing companies execute contracts with the Department of Human Services providing for the payment of rebates to the State on the same basis as provided for in section 1927 (a) through (c) of the federal Social Security Act, 42 U.S.C. s.1396r-8(a)-(c). All rebates received are appropriated for the Medical Assistance Recipients-Prescription Drugs account.

### **27 Disability Services**

#### **7545 Division of Disability Services**

##### **DIRECT STATE SERVICES**

99-7545 Division of Disability Services . . . . . \$1,071,000  
 Total Direct State Services Appropriation,  
 Division of Disability Services . . . . . \$1,071,000

##### **Direct State Services:**

###### **Personal Services:**

Salaries and Wages . . . . . (\$1,029,000)  
 Materials and Supplies . . . . . (4,000)  
 Services Other Than Personal . . . . . (29,000)  
 Maintenance and Fixed Charges . . . . . (9,000)

##### **GRANTS-IN-AID**

27-7545 Division of Disability Services . . . . . \$183,541,000  
 (*From General Fund . . . . . \$103,213,000*)  
 (*From Casino Revenue Fund . . . . . 80,328,000*)  
 Total Grants-in-Aid Appropriation,  
 Division of Disability Services . . . . . \$183,541,000  
 (*From General Fund . . . . . \$103,213,000*)  
 (*From Casino Revenue Fund . . . . . 80,328,000*)

##### **Grants-in-Aid:**

27 Personal Assistance  
 Services Program . . . . . (\$3,496,000)  
 27 Personal Assistance Services  
 Program (CRF) . . . . . (3,734,000)  
 27 Community Supports to Allow  
 Discharge from Nursing Homes . (2,000,000)  
 27 Payments for Medical Assistance  
 Recipients - Personal Care . . . . (89,837,000)



27	Payments for Medical Assistance Recipients - Personal Care (CRF) . . . . .	(60,092,000)
27	Payments for Medical Assistance Recipients - Waiver Initiatives . .	(5,818,000)
27	Payments for Medical Assistance Recipients - Waiver Initiatives (CRF) . . . . .	(16,502,000)
27	Payments for Medical Assistance Recipients - Other Services . . . .	(2,062,000)

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the Division of Disabilities Services program classification. Amounts may also be transferred to and from Payments for Medical Assistance Recipients-Personal Care and Payments for Medical Assistance Recipients-Other Services within the General Medical Services program classification in the Division of Medical Assistance and Health Services and the Payments for Medical Assistance Recipients-Personal Care and the Payments for Medical Assistance Recipients-Other Services accounts in the Division of Disability Services within the Department of Human Services. All such transfers are subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding any law to the contrary and subject to the notice provisions of 42 CFR 447.205, of the amount appropriated hereinabove for Payments for Medical Assistance Recipients-Personal Care, personal care assistant services shall be authorized prior to the beginning of services by the Director of the Division of Disability Services. The hourly weekend rate shall not exceed \$16.00.

**30 Educational, Cultural and Intellectual Development**  
**32 Operation and Support of Educational Institutions**  
**7600 Division of Developmental Disabilities**

**DIRECT STATE SERVICES**

99-7600	Administration and Support Services . . . . .	<u>\$11,307,000</u>
	<i>(From General Fund . . . . .</i>	<i>\$4,433,000)</i>
	<i>(From Federal Funds . . . . .</i>	<i>6,874,000)</i>
	Total Appropriation, State and Federal Funds . . . . .	<u>\$11,307,000</u>
	<i>(From General Fund . . . . .</i>	<i>\$4,433,000)</i>
	<i>(From Federal Funds . . . . .</i>	<i>6,874,000)</i>
<b>Less:</b>		
	<i>Federal Funds . . . . .</i>	<i>\$6,874,000</i>
	<b>Total Deductions . . . . .</b>	<b><u>\$6,874,000</u></b>
	Total Direct State Services Appropriation, Division of Developmental Disabilities . . . . .	<u>\$4,433,000</u>
<b>Direct State Services:</b>		
	Personal Services:	
	Salaries and Wages . . . . .	(\$9,267,000)

Materials and Supplies . . . . . (64,000)  
 Services Other Than Personal . . . . . (252,000)  
 Maintenance and Fixed Charges . . . . . (99,000)  
 Special Purpose:  
   99 Foster Grandparents Program . . . . . (669,000)  
   99 Developmental Disabilities Council . . . . . (306,000)  
   99 Nursing Incentive Program . . . . . (625,000)  
 Additions, Improvements and Equipment . . . . . (25,000)

**Less:**

**Federal Funds . . . . . 6,874,000**

An amount not to exceed \$223,000 from receipts from individuals for whom the Division of Developmental Disabilities in the Department of Human Services is the representative payee is appropriated for participation in the Foster Grandparents and Senior Companions programs.

**7601 Community Programs****DIRECT STATE SERVICES**

01-7601 Purchased Residential Care . . . . . \$7,717,000  
   *(From General Fund . . . . . \$3,594,000)*  
   *(From Federal Funds . . . . . 4,123,000)*  
 02-7601 Social Supervision and Consultation . . . . . 24,318,000  
   *(From General Fund . . . . . 1,685,000)*  
   *(From Federal Funds . . . . . 22,633,000)*  
 03-7601 Adult Activities . . . . . 1,981,000  
   *(From General Fund . . . . . 1,086,000)*  
   *(From Federal Funds . . . . . 895,000)*  
 Total Appropriation, State and Federal Funds . . . . . \$34,016,000  
   *(From General Fund . . . . . \$6,365,000)*  
   *(From Federal Funds . . . . . 27,651,000)*

**Less:**

**Federal Funds . . . . . \$27,651,000**

**Total Deductions . . . . . \$27,651,000**

Total Direct State Services Appropriation,  
 Community Programs . . . . . \$6,365,000

**Direct State Services:**

## Personal Services:

Salaries and Wages . . . . . (\$27,858,000)  
 Materials and Supplies . . . . . (76,000)  
 Services Other Than Personal . . . . . (434,000)  
 Maintenance and Fixed Charges . . . . . (491,000)

## Special Purpose:

01 Developmental Center  
   Enhancement . . . . . (4,298,000)  
 02 Guardianship Program . . . . . (285,000)  
 02 Homemaker Services (State Share) . . . . . (342,000)  
 Additions, Improvements and Equipment . . . . . (232,000)

**Less:**

**Federal Funds** ..... 27,651,000

Of the amounts hereinabove appropriated for Developmental Center Enhancement, such sums as are necessary may be transferred to Grants-in-Aid for the Developmental Center Enhancement or to the Woodbridge Developmental Center, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Developmental Center Enhancement account is appropriated.

**GRANTS-IN-AID**

01-7601 Purchased Residential Care ..... \$566,881,000  
 (From General Fund ..... \$331,413,000)  
 (From Casino Revenue Fund ..... 22,934,000)  
 (From Federal Funds ..... 173,904,000)  
 (From All Other Funds ..... 38,630,000)  
 02-7601 Social Supervision and Consultation ..... 57,227,000  
 (From General Fund ..... 45,645,000)  
 (From Casino Revenue Fund ..... 2,208,000)  
 (From Federal Funds ..... 9,374,000)  
 03-7601 Adult Activities ..... 131,633,000  
 (From General Fund ..... 87,117,000)  
 (From Casino Revenue Fund ..... 7,374,000)  
 (From Federal Funds ..... 37,142,000)  
 Total State, Federal and All Other Funds ..... \$755,741,000  
 (From General Fund ..... \$464,175,000)  
 (From Casino Revenue Fund ..... 32,516,000)  
 (From Federal Funds ..... 220,420,000)  
 (From All Other Funds ..... 38,630,000)

**Less:**

**Federal Funds** ..... \$220,420,000  
**All Other Funds** ..... 38,630,000  
**Total Deductions** ..... \$259,050,000

Total Grants-in-Aid Appropriation,  
 Community Programs ..... \$496,691,000

**Grants-in-Aid:**

01 Dental Program for Non-  
 Institutionalized Children ..... (\$814,000)  
 01 Private Institutional Care ..... (41,878,000)  
 01 Private Institutional Care (CRF) ... 1,311,000  
 01 Skill Development Homes ..... (27,646,000)  
 01 Skill Development Homes (CRF) . (1,141,000)  
 01 Group Homes ..... (398,872,000)  
 01 Group Homes (CRF) ..... (26,247,000)  
 01 Family Care ..... (5,135,000)  
 01 Family Care (CRF) ..... (128,000)  
 01 Community Nursing Care  
 Initiative - FY2002 ..... (1,604,000)

01 Community Services Waiting List Reduction Initiative - FY 2002 . . .	(28,579,000)
01 CSWL Initiative Development . . .	(20,713,000)
01 Developmental Center Enhancement . . . . .	(2,894,000)
01 Community Transition Initiative - FY 2002 . . . . .	(9,919,000)
02 Essex ARC - Expanded Respite Care Services for Families with Autistic Children . . . . .	(75,000)
02 Autism Respite Care . . . . .	(1,000,000)
02 Developmental Disabilities Council . . . . .	(1,183,000)
02 Home Assistance . . . . .	(37,268,000)
02 Home Assistance (CRF) . . . . .	(1,657,000)
02 Bancroft School . . . . .	(125,000)
02 Purchase of After School and Camp Services . . . . .	(1,339,000)
02 Purchase of After School and Camp Services (CRF) . . . . .	(551,000)
02 Real Life Choices . . . . .	(9,510,000)
02 Social Services . . . . .	(4,048,000)
02 Case Management . . . . .	(471,000)
03 Purchase of Adult Activity Services . . . . .	(124,259,000)
03 Purchase of Adult Activity Services (CRF) . . . . .	(7,374,000)

**Less:**

<b>Federal Funds . . . . .</b>	<b>220,420,000</b>
<b>All Other Funds . . . . .</b>	<b>38,630,000</b>

The Division of Developmental Disabilities is authorized to transfer funds from the Dental Program for Non-Institutionalized Children account to the Division of Medical Assistance and Health Services, in proportion to the number of program participants who are Medicaid eligible.

Excess State funds realized by federal involvement through Medicaid in the Dental Program for Non-Institutionalized Children are committed for the program's support during the subsequent fiscal year, rather than for expansion.

Amounts required to return persons with mental retardation or developmental disabilities presently residing in out-of-State institutions to group homes within the State may be transferred from the Private Institutional Care account to the Group Homes account, subject to the approval of the Director of the Division of Budget and Accounting.

Amounts that become available as a result of the return of persons from private institutional care placements, including in-State and out-of-State placements, shall be available for transfer to community and community support programs, subject to the approval of the Director of the Division of Budget and Accounting.

Skill development homes cost recoveries during the fiscal year ending June 30, 2006, not to exceed \$12,500,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The total amount appropriated in the Community Services Waiting List Reduction Initiative-FY2002, the Community Transition Initiative-FY2002 and the Community Nursing Care Initiative-FY2002 accounts are available for transfer to community support programs, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of Title 30 of the Revised Statutes or any other law or regulation to the contrary, the Director of the Division of Developmental Disabilities is authorized to waive statutory, regulatory, or licensing requirements in the use of funds appropriated hereinabove for the implementation of a self-determination pilot program including participants from the Community Services Waiting List Reduction Initiatives-FY1997 through FY2002, subject to the approval of a plan by the Director of the Division of Developmental Disabilities, which will allow an individual to be removed from the waiting list. This waiver also applies to those persons identified as part of the Community Transition Initiatives-FY2001 and FY2002, and the Community Nursing Care Initiative-FY2002, who choose self-determination.

Cost recoveries from developmentally disabled patients and residents collected during the fiscal year ending June 30, 2006, not to exceed \$5,500,000, are appropriated for the continued operation of the Group Homes program, and an additional amount, not to exceed \$20,630,000, is appropriated for Community Services Waiting List Reduction Initiatives, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, the State Treasurer, in consultation with the Commissioner of Human Services, may transfer, pursuant to the terms and conditions the State Treasurer deems to be in the best interest of the State, the operation, care, custody, maintenance and control of State-owned buses utilized for transportation of clients of the Adult Activity Centers funded from appropriations in the Adult Activities program classification in the Division of Developmental Disabilities to any party under contract with the Department of Human Services to operate an Adult Activity Center. That transfer shall be for a time to run concurrent with the contract for the operation of the Adult Activity Center. That transfer as a non-cash award, and in conjunction with a cash appropriation, shall complete the terms of any contract with the Department of Human Services for the operation of the Adult Activity Center. Upon termination of any contract for the operation of an Adult Activity Center, the operation, care, custody, maintenance and control of the State-owned buses shall revert to the State. The State Treasurer shall execute any agreements necessary to effectuate the purpose of this provision.

Such sums as may be necessary are appropriated from the General Fund for the payment of any provider assessments to State Intermediate Care Facilities/Mental Retardation facilities, subject to the approval of the Director of the Division of Budget and Accounting of a plan to be submitted by the Commissioner of Human Services. Notwithstanding any other law to the contrary, only the federal share of

funds anticipated from these assessments shall be available to the Department of Human Services for the purposes set forth in P.L.1998, c.40 (C.30:6D-43 et seq.). From the amounts hereinabove appropriated for the Community Services Waiting List Reduction Initiative-FY2002 and the Community Transition Initiative-FY2002 accounts, such funds as are necessary may be transferred to various administrative accounts as required, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, expenditures of federal Community Care Waiver funds received for community-based programs in the Division of Developmental Disabilities are limited to \$238,655,000. Federal funding received above this level must be approved by the Director of the Division of Budget and Accounting in accordance with a plan submitted by the Department of Human Services.

In order to permit flexibility in the handling of appropriations and assure timely payment of provider services, funds may be transferred within the Grants-in-Aid accounts within the Division of Developmental Disabilities, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Developmental Center Enhancement account is appropriated.

Amounts required to return persons with mental retardation or developmental disabilities presently residing in out-of-State institutions to group homes within the State may be transferred from the Private Institutional Care account to the Group Homes account, subject to the approval of the Director of the Division of Budget and Accounting.

Cost recoveries from skill development homes during the fiscal year ending June 30, 2006, not to exceed \$12,500,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Cost recoveries from developmentally disabled patients and residents, collected during the fiscal year ending June 30, 2006, not to exceed \$5,500,000, are appropriated for the continued operation of the Group Homes program, and an additional amount, not to exceed \$20,630,000, is appropriated for Community Services Waiting List Reduction Initiatives, subject to the approval of the Director of the Division of Budget and Accounting.

**7610 Green Brook Regional Center**

**DIRECT STATE SERVICES**

05-7610 Residential Care and Habilitation Services . . . . .	\$8,693,000
<i>(From General Fund . . . . .</i>	<i>\$549,000)</i>
<i>(From Federal Funds . . . . .</i>	<i>8,144,000)</i>
99-7610 Administration and Support Services . . . . .	<u>3,467,000</u>
<i>(From General Fund . . . . .</i>	<i>898,000)</i>
<i>(From Federal Funds . . . . .</i>	<i>2,569,000)</i>
Total Appropriation, State and Federal Funds . . . . .	<u>\$12,160,000</u>
<i>(From General Fund . . . . .</i>	<i>\$1,447,000)</i>
<i>(From Federal Funds . . . . .</i>	<i>10,713,000)</i>
<b>Less:</b>	
<i>Federal Funds . . . . .</i>	<i>\$10,713,000</i>

<b>Total Deductions</b> .....	<b><u>\$10,713,000</u></b>
Total Direct State Services Appropriation, Green Brook Regional Center .....	<b><u>\$1,447,000</u></b>
<b>Direct State Services:</b>	
Personal Services:	
Salaries and Wages .....	(\$10,713,000)
Materials and Supplies .....	(875,000)
Services Other Than Personal .....	(262,000)
Maintenance and Fixed Charges .....	(210,000)
Additions, Improvements and Equipment .	(100,000)
<b>Less:</b>	
<b>Federal Funds</b> .....	<b>10,713,000</b>

**7620 Vineland Developmental Center**  
**DIRECT STATE SERVICES**

05-7620 Residential Care and Habilitation Services . . . .	\$65,928,000
<b>(From General Fund</b> .....	<b>\$25,167,000)</b>
<b>(From Federal Funds</b> .....	<b>40,761,000)</b>
99-7620 Administration and Support Services .....	<u>14,310,000</u>
<b>(From General Fund</b> .....	<b>12,197,000)</b>
<b>(From Federal Funds</b> .....	<b>2,113,000)</b>
Total Appropriation, State and Federal Funds .....	<b><u>\$80,238,000</u></b>
<b>(From General Fund</b> .....	<b>\$37,364,000)</b>
<b>(From Federal Funds</b> .....	<b>42,874,000)</b>
<b>Less:</b>	
<b>Federal Funds</b> .....	<b>\$42,874,000</b>
<b>Total Deductions</b> .....	<b><u>\$42,874,000</u></b>
Total Direct State Services Appropriation, Vineland Developmental Center .....	<b><u>\$37,364,000</u></b>

**Direct State Services:**

Personal Services:	
Salaries and Wages .....	(\$72,786,000)
Materials and Supplies .....	(5,050,000)
Services Other Than Personal .....	(1,467,000)
Maintenance and Fixed Charges .....	(673,000)
Special Purpose:	
05 Family Care .....	(6,000)
Additions, Improvements and Equipment .	(256,000)
<b>Less:</b>	
<b>Federal Funds</b> .....	<b>.42,874,000</b>

**7630 North Jersey Developmental Center**  
**DIRECT STATE SERVICES**

05-7630 Residential Care and Habilitation Services . . . .	\$39,397,000
<b>(From General Fund</b> .....	<b>\$14,071,000)</b>
<b>(From Federal Funds</b> .....	<b>25,326,000)</b>
99-7630 Administration and Support Services .....	<u>9,673,000</u>

<i>(From General Fund</i> .....	7,750,000)	
<i>(From Federal Funds</i> .....	1,923,000)	
Total Appropriation, State and Federal Funds .....		<u>\$49,070,000</u>
<i>(From General Fund</i> .....	\$21,821,000)	
<i>(From Federal Funds</i> .....	27,249,000)	
<b>Less:</b>		
<i>Federal Funds</i> .....	\$27,249,000	
<b>Total Deductions</b> .....		<u>\$27,249,000</u>
Total Direct State Services Appropriation, North Jersey Developmental Center .....		<u>\$21,821,000</u>
<b>Direct State Services:</b>		
Personal Services:		
Salaries and Wages .....	(\$43,097,000)	
Materials and Supplies .....	(3,069,000)	
Services Other Than Personal .....	(2,058,000)	
Maintenance and Fixed Charges .....	(587,000)	
Additions, Improvements and Equipment ..	(259,000)	
<b>Less:</b>		
<i>Federal Funds</i> .....	27,249,000	

**7640 Woodbine Developmental Center  
DIRECT STATE SERVICES**

05-7640 Residential Care and Habilitation Services .....		\$51,195,000
<i>(From General Fund</i> .....	\$24,010,000)	
<i>(From Federal Funds</i> .....	27,185,000)	
99-7640 Administration and Support Services .....		<u>13,361,000</u>
<i>(From General Fund</i> .....	9,549,000)	
<i>(From Federal Funds</i> .....	3,812,000)	
Total Appropriation, State and Federal Funds .....		<u>\$64,556,000</u>
<i>(From General Fund</i> .....	\$33,559,000)	
<i>(From Federal Funds</i> .....	30,997,000)	
<b>Less:</b>		
<i>Federal Funds</i> .....	\$30,997,000	
<b>Total Deductions</b> .....		<u>\$30,997,000</u>
Total Direct State Services Appropriation, Woodbine Developmental Center .....		<u>\$33,559,000</u>
Direct State Services:		
Personal Services:		
Salaries and Wages .....	(\$57,917,000)	
Materials and Supplies .....	(4,391,000)	
Services Other Than Personal .....	(1,415,000)	
Maintenance and Fixed Charges .....	(576,000)	
Additions, Improvements and Equipment ..	(257,000)	
<b>Less:</b>		
<i>Federal Funds</i> .....	30,997,000	



**7650 New Lisbon Developmental Center  
DIRECT STATE SERVICES**

05-7650 Residential Care and Habilitation Services . . . .	\$72,571,000
<i>(From General Fund . . . . . \$35,919,000)</i>	
<i>(From Federal Funds . . . . . 36,652,000)</i>	
99-7650 Administration and Support Services . . . . .	<u>10,403,000</u>
<i>(From General Fund . . . . . 6,185,000)</i>	
<i>(From Federal Funds . . . . . 4,218,000)</i>	
Total Appropriation, State and Federal Funds . . .	<u>\$82,974,000</u>
<i>(From General Fund . . . . . \$42,104,000)</i>	
<i>(From Federal Funds . . . . . 40,870,000)</i>	
<b>Less:</b>	
<i>Federal Funds . . . . . \$40,870,000</i>	
<b>Total Deductions . . . . .</b>	<b><u>\$40,870,000</u></b>
Total Direct State Services Appropriation, New Lisbon Developmental Center . . . . .	<u>\$42,104,000</u>
Direct State Services: . . . . .	
Personal Services:	
Salaries and Wages . . . . .	(\$70,283,000)
Materials and Supplies . . . . .	(3,806,000)
Services Other Than Personal . . . . .	(7,401,000)
Maintenance and Fixed Charges . . . . .	(533,000)
Additions, Improvements and Equipment . .	(951,000)
<b>Less:</b>	
<i>Federal Funds . . . . . \$40,870,000</i>	

Of the amount hereinabove appropriated, the sum of \$21,000 shall be allocated in the amount of \$7,000 each to the Chatsworth fire company, the Lebanon Lakes fire company and the Pemberton Township fire company.

**7660 Woodbridge Developmental Center  
DIRECT STATE SERVICES**

05-7660 Residential Care and Habilitation Services . . . .	\$57,322,000
<i>(From General Fund . . . . . \$26,191,000)</i>	
<i>(From Federal Funds . . . . . 31,075,000)</i>	
<i>(From All Other Funds . . . . . 56,000)</i>	
99-7660 Administration and Support Services . . . . .	<u>8,495,000</u>
<i>(From General Fund . . . . . 6,974,000)</i>	
<i>(From Federal Funds . . . . . 1,521,000)</i>	
Total Appropriation, State, Federal and All Other Funds . . . . .	<u>\$65,817,000</u>
<i>(From General Fund . . . . . \$33,165,000)</i>	
<i>(From Federal Funds . . . . . 32,596,000)</i>	
<i>(From All Other Funds . . . . . 56,000)</i>	
<b>Less:</b>	
<i>Federal Funds . . . . . \$32,596,000</i>	
<i>All Other Funds . . . . . 56,000</i>	
<b>Total Deductions . . . . .</b>	<b><u>\$32,652,000</u></b>

Total Direct State Services Appropriation,  
Woodbridge Developmental Center . . . . . \$33,165,000

**Direct State Services:**

## Personal Services:

Salaries and Wages . . . . . (\$60,285,000)  
Materials and Supplies . . . . . (3,746,000)  
Services Other Than Personal . . . . . (1,049,000)  
Maintenance and Fixed Charges . . . . . (468,000)  
Additions, Improvements and Equipment . . (269,000)

**Less:**

**Federal Funds** . . . . . 32,596,000  
**All Other Funds** . . . . . 56,000

**7670 Hunterdon Developmental Center****DIRECT STATE SERVICES**

05-7670 Residential Care and Habilitation Services . . . . \$52,867,000

(From General Fund . . . . . \$21,667,000)

(From Federal Funds . . . . . 31,200,000)

99-7670 Administration and Support Services . . . . . 12,662,000

(From General Fund . . . . . 8,920,000)

(From Federal Funds . . . . . 3,742,000)

Total Appropriation, State and Federal Funds . . . . \$65,529,000

(From General Fund . . . . . \$30,587,000)

(From Federal Funds . . . . . 34,942,000)

**Less:**

**Federal Funds** . . . . . \$34,942,000

**Total Deductions** . . . . . \$34,942,000

Total Direct State Services Appropriation,  
Hunterdon Developmental Center . . . . . \$30,587,000

**Direct State Services:**

## Personal Services:

Salaries and Wages . . . . . (\$57,978,000)  
Materials and Supplies . . . . . (5,618,000)  
Services Other Than Personal . . . . . (1,089,000)  
Maintenance and Fixed Charges . . . . . (567,000)  
Additions, Improvements and Equipment . . (277,000)

**Less:**

**Federal Funds** . . . . . 34,942,000

The State appropriation is based on ICF/MR revenues of \$278,905,000, provided that if the ICF/MR revenues exceed \$278,905,000, there will be placed in reserve a portion of the State appropriation equal to the excess amount of ICF/MR revenues, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for Operation and Support of Educational Institutions of the Division of Developmental Disabilities, such other sums provided in Inter-Departmental accounts for Employee Benefits, as the Director of the Division of Budget and Accounting shall determine, are

considered as appropriated on behalf of the Developmental Centers and are available for matching federal funds.

**33 Supplemental Education and Training Programs**  
**7560 Commission for the Blind and Visually Impaired**  
**DIRECT STATE SERVICES**

11-7560 Services for the Blind and Visually Impaired . . .	\$7,521,000
99-7560 Administration and Support Services . . . . .	<u>1,437,000</u>
Total Direct State Services Appropriation, Commission for the Blind and Visually Impaired .	<u>\$8,958,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . .	(\$7,411,000)
Materials and Supplies . . . . .	(123,000)
Services Other Than Personal . . . . .	(476,000)
Maintenance and Fixed Charges . . . . .	(80,000)

Special Purpose:

11 Technology for the Visually Impaired . . . . .	(848,000)
Additions, Improvements and Equipment . .	(20,000)

There is appropriated from funds recovered from audits or other collection activities, an amount sufficient to pay vendors' fees to compensate the recoveries and the administration of the State's vending machine program, subject to the approval of the Director of the Division of Budget and Accounting. Receipts in excess of \$130,000 are appropriated for the purpose of expanding vision screening services and other prevention services, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance at the end of the preceding fiscal year of such receipts is appropriated.

Notwithstanding the provisions of N.J.S.18A:61-1 and N.J.S.18A:46-13, or any other law to the contrary, local boards of education shall reimburse the Commission for the Blind and Visually Impaired for the documented costs of providing services to children who are classified as "educationally handicapped," provided however, each local board of education shall pay that portion of cost which the number of children classified as "educationally handicapped" bears to the total number of such children served, and provided further, however, that payments shall be made by each local board in accordance with a schedule adopted by the Commissioners of Education and Human Services, and further, the Director of the Division of Budget and Accounting is authorized to deduct such reimbursements from the State Aid payments to the local boards of education.

The unexpended balances at the end of the preceding fiscal year in the Technology for the Visually Impaired account are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated, the amount of \$900,000 is transferred from the Governor's Literacy Initiative to the Commission for the Blind and Visually Impaired for increased Braille lessons for blind children, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

11-7560 Services for the Blind and Visually Impaired . . . \$4,226,000  
 Total Grants-in-Aid Appropriation, Commission for  
 the Blind and Visually Impaired . . . . . \$4,226,000

**Grants-in-Aid:**

11 Camp Marcella . . . . . (\$52,000)  
 11 Psychological Counseling . . . . . (154,000)  
 11 Recording for the Blind, Inc . . . . . (52,000)  
 11 Educational Services for Children . (2,167,000)  
 11 Services to Rehabilitation Clients . (1,801,000)

**50 Economic Planning, Development and Security****53 Economic Assistance and Security****7550 Division of Family Development****DIRECT STATE SERVICES**

15-7550 Income Maintenance Management . . . . . \$133,782,000  
*(From General Fund . . . . . \$27,162,000)*  
*(From Federal Funds . . . . . 94,118,000)*  
*(From All Other Funds . . . . . 12,502,000)*

Total Appropriation, State, Federal and  
 All Other Funds . . . . . \$133,782,000

*(From General Fund . . . . . \$27,162,000)*  
*(From Federal Funds . . . . . 94,118,000)*  
*(From All Other Funds . . . . . 12,502,000)*

**Less:**

*Federal Funds . . . . . \$94,118,000*  
*All Other Funds . . . . . 12,502,000*

**Total Deductions . . . . . \$106,620,000**

Total Direct State Services Appropriation,  
 Division of Family Development . . . . . \$27,162,000

**Direct State Services:****Personal Services:**

Salaries and Wages . . . . . (\$28,914,000)  
 Materials and Supplies . . . . . (749,000)  
 Services Other Than Personal . . . . . (20,201,000)  
 Maintenance and Fixed Charges . . . . . (1,490,000)

**Special Purpose:**

15 Electronic Benefit Transfer/  
 Distribution System . . . . . (3,612,000)  
 15 Child Support Medical Notice . . . . . (2,135,000)  
 15 Hospital Paternity Program . . . . . (1,453,000)  
 15 Work First New Jersey Child  
 Support Initiatives . . . . . (10,032,000)  
 15 Work First New Jersey -  
 Technology Investment . . . . . (62,352,000)  
 15 SSI Attorney Fees . . . . . (2,600,000)  
 Additions, Improvements and Equipment . . (244,000)

**Less:**

**Federal Funds** . . . . . 94,118,000  
**All Other Funds** . . . . . 12,502,000

Receipts derived from counties and local governments for data processing services and the unexpended balance at the end of the preceding fiscal year of such receipts are appropriated.

In order to permit flexibility, amounts may be transferred between various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

The unexpended balances at the end of the preceding fiscal year in accounts where expenditures are required to comply with Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

15-7550 Income Maintenance Management . . . . . \$547,164,000  
 (From General Fund . . . . . \$240,372,000)  
 (From Federal Funds . . . . . 296,792,000)  
 (From All Other Funds . . . . . 10,000,000)  
 Total Appropriation, State and Federal Funds . . . \$547,164,000  
 (From General Fund . . . . . \$240,372,000)  
 (From Federal Funds . . . . . 296,792,000)  
 (From All Other Funds . . . . . 10,000,000)

**Less:**

**Federal Funds** . . . . . 296,792,000  
**All Other Funds** . . . . . 10,000,000  
**Total Deductions** . . . . . \$306,792,000  
 Total Grants-in-Aid Appropriation,  
 Division of Family Development . . . . . \$240,372,000

**Grants-in-Aid:**

15 DFD Homeless  
 Prevention Initiative . . . . . (\$4,083,000)  
 15 Restricted Grants . . . . . (5,431,000)  
 15 Work First New Jersey - Training  
 Related Expenses . . . . . (12,905,000)  
 15 Work First New Jersey - Work  
 Activities . . . . . (78,820,000)  
 15 Work First New Jersey -  
 Community Housing for Teens . . . (207,000)  
 15 Work First New Jersey -  
 Breaking the Cycle . . . . . (8,597,000)  
 15 Work First New Jersey  
 Child Care . . . . . (243,700,000)  
 15 TANF Abbott Expansion . . . . . (108,409,000)

15 Kinship Care Initiatives . . . . .	(6,469,000)
15 Housing Diversion/ Subsidy Program . . . . .	(1,250,000)
15 Domestic Violence Prevention Training and Assessment . . . . .	(465,000)
15 Pre-Early Childhood Education . . . . .	(1,530,000)
15 Mental Health Assessments . . . . .	(3,312,000)
15 Wage Supplement Program . . . . .	(1,280,000)
15 Kinship Care Guardianship and Subsidy . . . . .	(19,382,000)
15 School Based Youth Services . . . . .	(12,532,000)
15 Minority Male Initiative . . . . .	(200,000)
15 Family Friendly Centers . . . . .	(2,070,000)
15 Social Services for the Homeless . . . . .	(11,348,000)
15 Substance Abuse Initiatives . . . . .	(25,174,000)

**Less:**

<b>Federal Funds . . . . .</b>	<b>296,792,000</b>
<b>All Other Funds . . . . .</b>	<b>10,000,000</b>

In order to permit flexibility, amounts may be transferred between various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

The unexpended balances at the end of the preceding fiscal year in accounts where expenditures are required to comply with Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts appropriated for Work First New Jersey, amounts may be transferred to the various departments in accordance with the Division of Family Development's agreements, subject to the approval of the Director of the Division of Budget and Accounting. Any unobligated balances remaining from funds transferred to the departments shall be transferred back to the Division of Family Development subject to the approval of the Director of the Division of Budget and Accounting.

The Commissioner of Human Services shall provide the Director of the Division of Budget and Accounting, the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or the successor committees thereto, with quarterly reports, due within 60 days after the end of each quarter, containing written statistical and financial information on the Work First New Jersey program and any subsequent welfare reform program the State may undertake.

Of the amounts appropriated for the School Based Youth Services Program, there shall be available \$400,000 for the After School Reading Initiative, \$200,000 for the After School Start-Up Fund, \$400,000 for School Health Clinics, and \$530,000 for Positive Youth Development.

Of the amounts appropriated for TANF Abbott Expansion, such sums as are necessary may be transferred to the Department of Education, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, in addition to the amount hereinabove for the Work First New Jersey-Work Activities and Work First New Jersey-Training Related Expenses accounts, an amount not to exceed \$10,000,000 is appropriated from the New Jersey Workforce Development Partnership Fund established pursuant to section 9 of P.L.1992, c.43 (C.34:15D-9), subject to the approval of the Director of the Division of Budget and Accounting.

**STATE AID**

15-7550 Income Maintenance Management .....	<u>\$800,209,000</u>
<i>(From General Fund .....</i>	<i>\$352,058,000)</i>
<i>(From Federal Funds .....</i>	<i>448,151,000)</i>
Total Appropriation, State and	
Federal Funds .....	<u>\$800,209,000</u>
<i>(From General Fund .....</i>	<i>\$352,058,000)</i>
<i>(From Federal Funds .....</i>	<i>448,151,000)</i>
<b>Less:</b>	
<i>Federal Funds .....</i>	<i>\$448,151,000</i>
<b>Total Deductions .....</b>	<b><u>\$448,151,000</u></b>
Total State Aid Appropriation, Division of	
Family Development .....	<u>\$352,058,000</u>

**State Aid:**

15 County Administration	
Funding .....	(\$230,657,000)
15 Work First New Jersey -	
Client Benefits .....	(145,641,000)
15 Earned Income Tax	
Credit Program .....	(18,393,000)
15 Federal Energy Assistance	
Program .....	(35,711,000)
15 General Assistance Emergency	
Assistance Program .....	(79,508,000)
15 Payments for Cost of	
General Assistance .....	(80,526,000)
15 Work First New Jersey -	
Emergency Assistance .....	(81,104,000)
15 Payments for Supplemental	
Security Income .....	(76,933,000)
15 State Supplemental Security	
Income Administrative	
Fee to SSA .....	(17,006,000)
15 General Assistance County	
Administration .....	(26,005,000)
15 Food Stamp Administration	
- State .....	(8,600,000)

15 Fair Labor Standards Act-  
 Minimum Wage  
 Requirements (TANF) . . . . . (125,000)

**Less:**

**Federal Funds. . . . . 448,151,000**

The net State share of reimbursements and the net balances remaining after full payment of sums due the federal government of all funds recovered under R.S.44:7-14, P.L.1959, c.86 (C.44:10-1 et seq.), P.L.1950, c.166 (C.30:4B-1 et seq.) and P.L.1971, c.209 (C.44:13-1 et seq.), during the fiscal year ending June 30, 2006 are appropriated.

Receipts from State administered municipalities during the fiscal year ending June 30, 2005 are appropriated.

The sum hereinabove appropriated is available for payment of obligations applicable to prior fiscal years.

Any change by the Department of Human Services in the standards upon which or from which grants of categorical public assistance are determined, first shall be approved by the Director of the Division of Budget and Accounting.

In order to permit flexibility and ensure the timely payment of benefits to welfare recipients, amounts may be transferred between the various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding the provisions of any other law to the contrary, the Director of the Division of Budget and Accounting is authorized to withhold State Aid payments to municipalities to satisfy any obligations due and owing from audits of that municipality's General Assistance program.

The unexpended balances at the end of the preceding fiscal year in accounts where expenditures are required to comply with Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, and in the Payments for Cost of General Assistance and General Assistance-Emergency Assistance Program accounts are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from counties for persons receiving Old Age Assistance, Disability Assistance, and Assistance for the Blind under the Supplemental Security Income (SSI) program are appropriated for the purpose of providing State Aid to the counties, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the provisions of section 3 of P.L.1973, c.256 (C.44:7-87), the Department of Human Services shall assess welfare boards at the beginning of each fiscal year in the same proportion that the counties currently participate in the federal categorical assistance programs, in order to obtain the amount of each county's share of the supplementary payments for eligible persons in this State, based upon the number of eligible persons in the county. Welfare boards shall pay the amount assessed.



There is appropriated an amount equal to the difference between actual revenue loss reflected in the Earned Income Tax Credit program and the amount anticipated as the revenue loss from the Earned Income Tax Credit to meet federal Maintenance of Effort requirements to allow the Department of Human Services to comply with the Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, and as legislatively required by the Work First New Jersey program established pursuant to section 4 of P.L.1997, c.38 (C.44:10-58), subject to the approval of the Director of the Division of Budget and Accounting.

Additional funds as may be allocated by the federal government for New Jersey's Low Income Energy Assistance Block Grant Program (LIHEAP) are appropriated subject to the approval of the Director of the Division of Budget and Accounting. A pro-rata share of Low Income Energy Assistance Block Grant funds received by the Department of Human Services is to be allocated immediately upon receipt to the Departments of Community Affairs and Health and Senior Services to enable these departments to implement programs funded by this block grant.

**50 Economic Planning, Development and Security**

**55 Social Services Programs**

**Office of Children's Services**

**DIRECT STATE SERVICES**

04-7565 Education Services .....	\$32,916,000
<i>(From General Fund .....</i>	<i>\$8,152,000)</i>
<i>(From Federal Funds .....</i>	<i>2,008,000)</i>
<i>(From All Other Funds .....</i>	<i>22,756,000)</i>
16-7570 Child Protective and Permanency Services . . . .	300,771,000
<i>(From General Fund .....</i>	<i>118,000,000)</i>
<i>(From Federal Funds .....</i>	<i>180,702,000)</i>
<i>(From All Other Funds .....</i>	<i>2,069,000)</i>
36-7567 Prevention and Community Partnership Services .	2,222,000
<i>(From General Fund .....</i>	<i>1,839,000)</i>
<i>(From Federal Funds .....</i>	<i>383,000)</i>
95-7565 Child Welfare Training Academy	
Services and Operations .....	3,933,000
<i>(From General Fund .....</i>	<i>2,145,000)</i>
<i>(From Federal Funds .....</i>	<i>1,788,000)</i>
99-7565 Administration and Support Services .....	<u>83,389,000</u>
<i>(From General Fund .....</i>	<i>52,373,000)</i>
<i>(From Federal Funds .....</i>	<i>31,016,000)</i>
Total Appropriation, State, Federal	
and All Other Funds .....	<u>\$423,231,000</u>
<i>(From General Fund .....</i>	<i>\$182,509,000)</i>
<i>(From Federal Funds .....</i>	<i>215,897,000)</i>
<i>(From All Other Funds .....</i>	<i>24,825,000)</i>
<b>Less:</b>	
<i>Federal Funds .....</i>	<i>\$215,897,000</i>
<i>All Other Funds .....</i>	<i>24,825,000</i>

<b>Total Deductions</b> .....	<b><u>\$240,722,000</u></b>
Total Direct State Services Appropriation, Office of Children's Services .....	<b><u>\$182,509,000</u></b>
<b>Direct State Services:</b>	
Personal Services:	
Salaries and Wages .....	(\$330,109,000)
Materials and Supplies .....	(4,072,000)
Services Other Than Personal .....	(28,631,000)
Maintenance and Fixed Charges .....	(21,041,000)
Special Purpose:	
16 Child Protective and Permanency Services .....	(4,189,000)
16 New Jersey Safe Haven Infant Protection Act .....	(518,000)
99 Safety and Permanency in the Courts .....	(16,200,000)
Additions, Improvements and Equipment	(18,471,000)
<b>Less:</b>	
<b>Federal Funds</b> .....	<b>215,897,000</b>
<b>All Other Funds</b> .....	<b>24,825,000</b>

Notwithstanding the provisions of any other law to the contrary, amounts herein appropriated for children's services may be transferred within and across all divisions within the Department of Human Services consistent with the direction of the Child Welfare Reform Plan and subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for Safety and Permanency in the Courts, an amount not to exceed \$15,800,000 shall be transferred to the Department of Law and Public Safety and the Office of the Public Defender in accordance with the approved Child Welfare Reform Plan, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts hereinabove appropriated for Child Protective and Permanency Services and Safety and Permanency in the Courts, \$750,000 shall be allocated to the Court Appointed Special Advocate Program.

#### GRANTS-IN-AID

16-7570 Child Protective and Permanency Services . . .	\$350,717,000
<i>(From General Fund</i> .....	<i>\$298,906,000)</i>
<i>(From Federal Funds</i> .....	<i>48,557,000)</i>
<i>(From All Other Funds</i> .....	<i>3,254,000)</i>
26-7566 Child Behavioral Health Services .....	330,107,000
<i>(From General Fund</i> .....	<i>223,141,000)</i>
<i>(From Federal Funds</i> .....	<i>106,966,000)</i>
36-7567 Prevention and Community Partnership Services .	19,668,000
<i>(From General Fund</i> .....	<i>19,645,000)</i>
<i>(From Federal Funds</i> .....	<i>23,000)</i>
99-7570 Administration and Support Services .....	<u>1,080,000</u>
<i>(From Federal Funds</i> .....	<i>1,080,000)</i>

Total Appropriation, State, Federal and All Other Funds .....	<u>\$701,572,000</u>
<i>(From General Fund .....</i>	<i>\$541,692,000)</i>
<i>(From Federal Funds .....</i>	<i>156,626,000)</i>
<i>(From All Other Funds .....</i>	<i>3,254,000)</i>
<b>Less:</b>	
<i>Federal Funds .....</i>	<i>\$156,626,000</i>
<i>All Other Funds .....</i>	<i>3,254,000</i>
<b>Total Deductions .....</b>	<b><u>\$159,880,000</u></b>
Total Grants-in-Aid Appropriation, Office of Children's Services .....	<u>\$541,692,000</u>
<b>Grants-in-Aid:</b>	
16 Rutgers MSW Program .....	(\$950,000)
16 Group Homes .....	(12,546,000)
16 Treatment Homes .....	(1,809,000)
16 Public Awareness for Child Abuse Prevention Program .....	(286,000)
16 Independent Living and Shelter Care .....	(24,102,000)
16 Residential Placements .....	(12,921,000)
16 Family Support Services .....	(55,387,000)
16 Child Abuse Prevention .....	(11,672,000)
16 Foster Care .....	(76,490,000)
16 Subsidized Adoption .....	(69,189,000)
16 Amanda Easel Project .....	(125,000)
16 Recruitment of Adoptive Parents ...	(677,000)
16 Domestic Violence Program .....	(7,034,000)
16 Foster Care and Permanency Initiative .....	(8,049,000)
16 County Human Services Advisory Board - Formula Funding .....	(8,107,000)
16 Children and Families Initiative ...	(1,350,000)
16 New Jersey Homeless Youth Act .	(1,537,000)
16 Wynona M. Lipman Child Advocacy Center, Essex County	(1,007,000)
16 Purchase of Social Services .....	(43,384,000)
16 Restricted Federal Grants .....	(13,895,000)
16 Ginny's House (Sussex) .....	(100,000)
16 Hudson Cradle .....	(100,000)
26 Care Management Organizations	(40,631,000)
26 Treatment Homes and Emergency Behavioral Health Services ..	(219,028,000)
26 Youth Case Managers .....	(8,470,000)
26 Family Support Organizations ...	(8,732,000)
26 Mobile Response .....	(11,406,000)
26 Intensive In-Home Behavioral Assistance .....	(33,284,000)

26 Other Residential Services . . . . .	(264,000)
26 Youth Incentive Program . . . . .	(8,292,000)
36 Area Prevention and Support Services . . . . .	(4,296,000)
36 Collaboratives . . . . .	(3,645,000)
36 Community Case Managers . . . . .	(2,844,000)
36 School Based Youth Program . . . . .	(8,883,000)
99 Children's Justice Act . . . . .	(483,000)
99 National Center for Child Abuse and Neglect . . . . .	(597,000)

**Less:**

<b>Federal Funds . . . . .</b>	<b>156,626,000</b>
<b>All Other Funds . . . . .</b>	<b>3,254,000</b>

The sums hereinabove appropriated for the Residential Placements, Group Homes, Treatment Homes, Other Residential Services, Foster Care, Subsidized Adoption, and Family Support Services accounts are available for the payment of obligations applicable to prior fiscal years.

Any change by the Department of Human Services in the rates paid for the foster care and adoption subsidy programs shall first be approved by the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for Foster Care and Subsidized Adoption, the Division of Youth and Family Services may expend up to \$225,000 for recruitment of foster and adoptive families; provided, however, that a plan for recruitment and training first shall be approved by the Director of the Division of Budget and Accounting.

Receipts in the Marriage License Fee Fund in excess of the amount anticipated are appropriated.

Of the amount hereinabove appropriated for the Domestic Violence Program, \$1,309,000 is payable out of the Marriage License Fee Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced by the amount of the shortfall.

Funds recovered under P.L.1951, c.138 (C.30:4C-1 et seq.) during the fiscal year ending June 30, 2006, are appropriated.

Notwithstanding the provisions of any law to the contrary, the appropriation hereinabove in the Residential Placements account is subject to the following condition: amounts that become available as a result of the return of persons from in-State and out-of-State residential placements to community programs within the State may be transferred from the Residential Placements account to the appropriate Child Protective and Permanency Services account, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from counties for persons under the care and supervision of the Division of Youth and Family Services are appropriated for the purpose of providing State Aid to the counties, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for the Purchase of Social Services account, \$800,000 is appropriated to the UMDNJ-School of Osteopathic Medicine Academic Center-Stratford, for the Center for Children's Support to support the

development of a model comprehensive diagnostic and treatment program to address both the medical and mental health needs of children experiencing abuse. The model program will demonstrate mental health treatment services that utilize measurable evidence-based outcomes with known effectiveness. This comprehensive model will be designed to be replicated Statewide to directly benefit children and families throughout New Jersey.

Of the amount hereinabove appropriated for the Purchase of Social Services account, \$1,000,000 is appropriated for the programs administered under the "New Jersey Homeless Youth Act," P.L.1999, c.224 (C.9:12A-2 et seq.), and the Division of Youth and Family Services shall prioritize the expenditure of this allocation to address transitional living services in the division's region that is experiencing the most severe over-capacity.

Notwithstanding any provisions of any law or regulation to the contrary, no funds hereinabove appropriated for Treatment Homes and Emergency Behavioral Health Services, Youth Case Managers, Care Management Organizations, Youth Incentive Program, and Mobile Response shall be expended for any individual served by the Division of Child Behavioral Health Services, with the exception of court-ordered placements or to ensure services necessary to prevent risk of harm to the individual or others, unless that individual makes a full and complete application for Medicaid and/or FamilyCare. Individuals receiving services from appropriations covered by the exceptions above shall apply for Medicaid and/or FamilyCare in a timely manner, as shall be defined by the Commissioner of Human Services, after receiving services.

**7555 Division of Addiction Services  
DIRECT STATE SERVICES**

09-7555 Addiction Services .....	\$482,000
Total Direct State Services Appropriation, Division of Addiction Services .....	\$482,000

**Direct State Services:**

Personal Services:

Salaries and Wages .....	(\$377,000)
Materials and Supplies .....	24,000)
Services Other Than Personal .....	(65,000)
Maintenance and Fixed Charges .....	(16,000)

The Division of Addiction Services is authorized to bill a patient, a patient's insurance carrier, a patient's estate, the person chargeable for a patient's support or the county of residence for institutional, residential and outpatient support of patients treated for alcoholism or drug abuse, or both. Receipts derived from billings or fees and unexpended balances at the end of the preceding fiscal year from these billings or fees are appropriated to the Department of Human Services for the support of the alcohol and drug abuse programs, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated from the Alcohol Education, Rehabilitation and Enforcement Fund such sums as may be necessary to carry out the provisions of P.L.1983, c.531 (C.26:2B-32 et al.).

There is transferred from the "Drug Enforcement and Demand Reduction Fund" \$350,000 to carry out the provisions of P.L.1995, c.318 (C.26:2B-36 et seq.) to establish an "Alcohol and Drug Abuse Program for the Deaf, Hard of Hearing and Disabled" in the Department of Human Services, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

09-7555 Addiction Services . . . . . \$49,875,000  
 Total Grants-in-Aid Appropriation, Division of  
 Addiction Services . . . . . \$49,875,000

**Grants-in-Aid:**

09 Substance Abuse Services -  
     Child Welfare Reform . . . . . (\$20,971,000)  
 09 Substance Abuse Treatment for  
     DYFS/WorkFirst Mothers -  
     Pilot Project . . . . . (1,450,000)  
 09 Community Based Substance  
     Abuse Treatment and  
     Prevention - State Share . . . . . (23,311,000)  
 09 Turning Point Alcohol and Drug  
     Rehabilitation Program . . . . . (200,000)  
 09 Integrity, Inc. . . . . (400,000)  
 09 Compulsive Gambling . . . . . (725,000)  
 09 Mutual Agreement Parolee  
     Rehabilitation Project for  
     Substance Abusers . . . . . (720,000)  
 09 In-State Juvenile Residential  
     Treatment Services . . . . . (2,098,000)

The unexpended balance at the end of the preceding fiscal year of appropriations made to the Department of Human Services by section 20 of P.L.1989, c.51 for State-licensed or approved drug abuse prevention and treatment programs is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for Community Based Substance Abuse Treatment and Prevention-State Share program, there is appropriated \$2,700,000 from the "Drug Enforcement and Demand Reduction Fund" for the same purpose.

Notwithstanding the provisions of any other law to the contrary, there is transferred \$1,000,000 to the Department of Human Services from the "Drug Enforcement and Demand Reduction Fund" for drug abuse services.

Notwithstanding the provisions of any other law to the contrary, there is transferred \$500,000 to the Department of Human Services from the "Drug Enforcement and Demand Reduction Fund" for the Sub-Acute Residential Detoxification Program.

An amount, not to exceed \$600,000, collected by the Casino Control Commission is payable to the General Fund pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

In addition to the amount hereinabove appropriated for Compulsive Gambling, an amount not to exceed \$200,000 is appropriated from the annual assessment against permit holders to the Department of Human Services for prevention, education and treatment programs for compulsive gambling pursuant to the provisions of section 34 of P.L.2001, c.199 (C.5:5-159), subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated \$420,000 from the Alcohol Education, Rehabilitation and Enforcement Fund to fund the Local Alcoholism Authorities-Expansion account. Notwithstanding the provisions of P.L.1983, c.531 (C.26:2B-32 et al.) or any other law to the contrary, the unexpended balance at the end of the preceding fiscal year in the Alcohol Education, Rehabilitation and Enforcement Fund is appropriated and shall be distributed to counties for the treatment of alcohol and drug abusers and for education purposes.

There is appropriated \$1,000,000 from the "Drug Enforcement and Demand Reduction Fund" to the Department of Human Services for a grant to the Partnership for a Drug-Free New Jersey.

**STATE AID**

09-7555 Addiction Services . . . . .	<u>\$12,000,000</u>
Total State Aid Appropriation, Division of Addiction Services . . . . .	<u>\$12,000,000</u>

**State Aid:**

09 County of Essex -- Delaney Hall (\$12,000,000)

**50 Economic Planning, Development and Security**

**55 Social Services Programs**

**7580 Division of the Deaf and Hard of Hearing**

**DIRECT STATE SERVICES**

23-7580 Services for the Deaf . . . . .	<u>\$740,000</u>
Total Direct State Services Appropriation, Division of the Deaf and Hard of Hearing . . . . .	<u>\$740,000</u>

**Direct State Services:**

**Personal Services:**

Salaries and Wages . . . . .	(\$314,000)
Materials and Supplies . . . . .	(41,000)
Services Other Than Personal . . . . .	(39,000)
Maintenance and Fixed Charges . . . . .	(1,000)

**Special Purpose:**

23 Services to Deaf Clients . . . . .	290,000)
23 Communication Access Services . . . . .	(55,000)

**70 Government Direction, Management and Control**

**76 Management and Administration**

**7500 Division of Management and Budget**

**DIRECT STATE SERVICES**

94-7500 Children's Services Support . . . . .	\$9,647,000
96-7500 Institutional Security Services . . . . .	8,797,000

99-7500 Administration and Support Services . . . . .	<u>25,771,000</u>
Total Direct State Services Appropriation, Division of Management and Budget . . . . .	<u>\$44,215,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages . . . . .	(\$28,035,000)
Materials and Supplies . . . . .	(238,000)
Services Other Than Personal . . . . .	(6,720,000)
Maintenance and Fixed Charges . . . . .	(1,247,000)

## Special Purpose:

94 Information Technology - Child Welfare Reform . . . . .	(2,703,000)
99 Clinical Services Scholarships . . . . .	(150,000)
99 Affirmative Action and Equal Employment Opportunity . . . . .	(255,000)
99 Transfer to State Police for Finger- printing/Background Checks of Job Applicants . . . . .	(2,360,000)
99 Institutional Staff Background Checks . . . . .	(407,000)
99 Additions, Improvements and Equipment . . . . .	(2,100,000)

Notwithstanding the provisions of any other law to the contrary, the Department of Human Services is authorized to identify opportunities for increased recoveries to the General Fund and to the department. Such funds collected are appropriated, subject to the approval of the Director of the Division of Budget and Accounting in accordance with a plan approved by the Director of the Division of Budget and Accounting.

Revenues representing receipts to the General Fund from charges to residents' trust accounts for maintenance costs are appropriated for use as personal needs allowances for patients/residents who have no other source of funds for these purposes; except that the total amount herein for these allowances shall not exceed \$1,375,000 and any increase in the maximum monthly allowance shall be approved by the Director of the Division of Budget and Accounting.

Upon promulgation of federal regulations modifying the Medicare inpatient hospital reimbursement system, there are appropriated such additional sums as are required to fund the purchase of a Health Care Billing System, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

99-7500 Administration and Support Services . . . . .	<u>\$22,770,000</u>
Total Grants-in-Aid Appropriation, Division of Management and Budget . . . . .	<u>\$22,770,000</u>

**Grants-in-Aid:**

99 Cost of Living Adjustment (Community Care Providers) . . . . .	(\$21,706,000)
99 United Way 2-1-1 System . . . . .	(350,000)



99 Office for Prevention of Mental  
Retardation and Developmental  
Disabilities . . . . . (714,000)

Of the amount appropriated hereinabove for Cost of Living Adjustment, amounts may be transferred to other divisions within the Department of Human Services, subject to the approval of the Director of the Division of Budget and Accounting.

#### CAPITAL CONSTRUCTION

99-7500 Administration and Support Services . . . . . \$11,600,000  
Total Capital Construction Appropriation,  
Division of Management and Budget . . . . . \$11,600,000

**Capital Projects:**

99 Statewide Automated Child  
Welfare Information System . . (\$3,500,000)  
99 Vineland Developmental  
Center -- HVAC . . . . . (3,000,000)  
99 Sewer Connection --  
Camden County Municipal  
Utilities Authority . . . . . (5,100,000)

**Less:**

***Savings from Administrative Efficiencies . . . . . \$10,500,000***

Department of Human Services,  
Total State Appropriation . . . . . \$5,261,393,000

Of the amount hereinabove appropriated for the Department of Human Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Recommendation Document dated March 1, 2005 first shall be charged to the State Lottery Fund.

Balances on hand at the end of the preceding fiscal year of funds held for the benefit of patients in the several institutions, and such funds as may be received, are appropriated for the use of the patients.

Funds received from the sale of articles made in occupational therapy departments of the several institutions are appropriated for the purchase of additional material and other expenses incidental to such sale or manufacture.

Any change in program eligibility criteria and increases in the types of services or rates paid for services to or on behalf of clients for all programs under the purview of the Department of Human Services, not mandated by federal law, shall first be approved by the Director of the Division of Budget and Accounting.

Notwithstanding any other provision of law to the contrary, receipts from payments collected from clients receiving services from the Department of Human Services and collected from their chargeable relatives, are appropriated to offset administrative and contract expenses related to the charging, collecting and accounting of payments from clients receiving services from the department and from their chargeable relatives pursuant to R.S.30:1-12, subject to the approval of the Director of the Division of Budget and Accounting.

Payment to vendors for their efforts in maximizing federal revenues is appropriated and shall be paid from the federal revenues received, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance at the end of the preceding fiscal year in this account is appropriated.

Unexpended State balances may be transferred among Department of Human Services accounts in order to comply with the State Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, and as legislatively required by the Work First New Jersey program established pursuant to section 4 of P.L.1997, c.38 (C.44:10-58), subject to the approval of the Director of the Division of Budget and Accounting. Notice of such transfers that would result in appropriations or expenditures exceeding the State's Maintenance of Effort requirement obligation shall be subject to the approval of the Joint Budget Oversight Committee. In addition, unobligated balances remaining from funds allocated to the Department of Labor and Workforce Development for Work First New Jersey as of June 1 of each year are to be reverted to the Work First New Jersey-Client Benefits account in order to comply with the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" and as legislatively required by the Work First New Jersey program.

Of the amounts hereinabove appropriated for Child Behavioral Health Services, the Department of Human Services may transfer appropriations for children's services and related administration within and across all divisions within the department based on a plan approved by the Director of the Division of Budget and Accounting.

***Summary of Department of Human Services Appropriations  
(For Display Purposes Only)***

*Appropriations by Category:*

Direct State Services .....	\$752,541,000
Grants-in-Aid .....	4,028,619,000
State Aid .....	468,633,000
Capital Construction .....	11,600,000

*Appropriations by Fund:*

General Fund .....	\$5,148,549,000
Casino Revenue Fund .....	112,844,000

**62 DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

***50 Economic Planning, Development and Security***

***51 Economic Planning and Development***

**DIRECT STATE SERVICES**

99-4565 Administration and Support Services .....	<u>\$933,000</u>
Total Direct State Services Appropriation, Economic Planning and Development .....	<u>\$933,000</u>

***Direct State Services:***

**Personal Services:**

Salaries and Wages .....	(\$600,000)
Materials and Supplies .....	(11,000)

Services Other Than Personal . . . . . (232,000)  
 Maintenance and Fixed Charges . . . . . (25,000)

Special Purpose:

99 Affirmative Action and Equal  
     Employment Opportunity . . . . . (62,000)

Additions, Improvements and Equipment . . . (3,000)

Of the amount hereinabove for the Administration and Support Services program classification, \$265,000 is appropriated from the Unemployment Compensation Auxiliary Fund.

In addition to the amount hereinabove for Administration and Support Services, an amount not to exceed \$550,000 is appropriated from the Unemployment Compensation Auxiliary Fund, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove appropriated for Administration and Support Services, there are appropriated from the New Jersey Redevelopment Investment Fund and the Economic Development Fund an amount of \$142,000 to provide for administrative costs incurred by the Department of Labor and Workforce Development for activities related to the New Jersey Redevelopment Authority and the New Jersey Economic Development Authority programs, as determined by the Director of the Division of Budget and Accounting.

Of the amounts hereinabove for Administration and Support Services, \$31,000 are payable out of the State Disability Benefits Fund, and in addition to the amounts hereinabove there are appropriated out of the State Disability Benefits Fund those additional sums as may be required to administer Administration and Support Services, subject to the approval of the Director of the Division of Budget and Accounting.

The amount necessary to provide administrative costs incurred by the Department of Labor and Workforce Development to meet the statutory requirements of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) is appropriated from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting.

The amount necessary to provide employer rebate awards as a result of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), are appropriated from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), the Department of Labor and Workforce Development, based upon the authorization of the Chief Executive Officer and Secretary of the New Jersey Commerce, Economic Growth and Tourism Commission, shall make employer rebate awards.

Such sums as may be necessary to collect the contributions to the Health Care Subsidy Fund, pursuant to section 29 of the "Health Care Reform Act of 1992," P.L.1992, c.160 (C.43:21-7b), are appropriated from the Health Care Subsidy Fund, subject to the approval of the Director of the Division of Budget and Accounting.

**53 Economic Assistance and Security**  
**DIRECT STATE SERVICES**

03-4520 State Disability Insurance Plan .....	\$21,539,000
04-4520 Private Disability Insurance Plan .....	4,216,000
05-4525 Workers' Compensation .....	12,130,000
06-4530 Special Compensation .....	<u>1,685,000</u>
Total Direct State Services Appropriation, Economic Assistance and Security .....	<u>\$39,570,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages .....	(\$24,713,000)
Materials and Supplies .....	(257,000)
Services Other Than Personal .....	(5,290,000)
Maintenance and Fixed Charges .....	(3,007,000)

## Special Purpose:

03 Reimbursement to Unemployment Insurance for Joint Tax Functions .....	(5,500,000)
06 Special Compensation .....	(40,000)
Additions, Improvements and Equipment ..	(763,000)

The amounts hereinabove for the State Disability Insurance Plan and Private Disability Insurance Plan are payable out of the State Disability Benefits Fund and, in addition to the amounts hereinabove, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to pay disability benefits, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for administrative costs associated with the State Disability Insurance Plan there is appropriated from the State Disability Benefits Fund an amount not to exceed \$6,550,000, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Workers' Compensation program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Second Injury Fund are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Second Injury Fund shall be payable out of the Second Injury Fund and, notwithstanding the \$12,500 limitation set forth in R.S.34:15-95, in addition to the amounts hereinabove, there are appropriated out of the Second Injury Fund such additional sums as may be required for costs of administration and beneficiary payments.

There is appropriated out of the balance in the Second Injury Fund an amount not to exceed \$1,000,000 to be deposited to the credit of the Uninsured Employers' Fund for the payment of benefits as determined in accordance with section 11 of P.L.1966, c.126 (C.34:15-120.2). Any amount so transferred shall be included in the next Uninsured Employers' Fund surcharge imposed in accordance with section 10 of P.L.1966, c.126 (C.34:15-120.1) and any amount so transferred shall be returned to the Second Injury Fund without interest and shall be included

in the net assets of the Second Injury Fund pursuant to paragraph (4) of subsection c. of R.S.34:15-94.

The funds appropriated for Second Injury Fund benefits are available for the payment of obligations applicable to prior fiscal years.

Amounts to administer the Uninsured Employers' Fund are appropriated from the Uninsured Employers' Fund, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove appropriated, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to administer the Private Disability Insurance Plan.

From the funds made available to the State under section 903(d)(4) of the Social Security Act (42 U.S.C. s.1103 et seq.), as amended, the sum of \$30,000,000, or so much thereof as may be necessary, is appropriated for the improvement of services to unemployment insurance claimants through the improvement and modernization of the benefit payment system and other technological improvements and to employment service clients through the continued development and maintenance of one-stop offices throughout the State and other investments in technology and processes that will enhance job opportunities for clients.

#### **54 Manpower and Employment Services**

##### **DIRECT STATE SERVICES**

07-4535 Vocational Rehabilitation Services .....	\$2,446,000
09-4545 Employment Services .....	9,119,000
10-4545 Employment and Training Services .....	83,000
12-4550 Workplace Standards .....	5,096,000
16-4555 Public Sector Labor Relations .....	3,225,000
17-4560 Private Sector Labor Relations .....	<u>474,000</u>
Total Direct State Services Appropriation, Manpower and Employment Services .....	<u>\$20,443,000</u>

##### **Direct State Services:**

###### Personal Services:

Salaries and Wages .....	(\$14,826,000)
Materials and Supplies .....	(59,000)
Services Other Than Personal .....	(352,000)
Maintenance and Fixed Charges .....	(82,000)

###### Special Purpose:

09 Workforce Development Partnership Program .....	(1,909,000)
09 Workforce Development Partnership - Counselors .....	(81,000)
09 Workforce Literacy and Basic Skills Program .....	(2,000,000)
10 Council on Gender Parity .....	(83,000)
12 Worker and Community Right-to- Know Act .....	(38,000)
12 Public Employees Occupational Safety .....	(378,000)

- 12 Public Works Contractor  
     Registration . . . . . (450,000)  
 12 Mine Safety Program Expansion . . . (144,000)  
 12 Safety Commission . . . . . (3,000)  
 Additions, Improvements and Equipment . . (38,000)
- Notwithstanding the provisions of the “New Jersey Employer-Employee Relations Act,” P.L.1941, c.100 (C.34:13A-1 et seq.), the cost of fact-finding shall be borne equally by the public employer and the exclusive employee representative.
- The amount hereinabove appropriated for the Vocational Rehabilitation Services program classification is available for the payment of obligations applicable to prior fiscal years.
- The amount hereinabove for the Vocational Rehabilitation Services program classification is appropriated from the Unemployment Compensation Auxiliary Fund.
- The amounts hereinabove for the Workforce Development Partnership Program shall be appropriated from receipts received pursuant to P.L.1992, c.44 (C.34:15D-12 et seq.), together with such additional sums as may be required to administer the Workforce Development Partnership Program, subject to the approval of the Director of the Division of Budget and Accounting.
- The amounts hereinabove for the Workforce Literacy and Basic Skills Program shall be appropriated from receipts received pursuant to P.L.2001, c.152 (C.34:15D-21 et seq.), together with such additional sums as may be required to administer the Workforce Literacy Program, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding the provisions of the “Supplemental Workforce Fund for Basic Skills,” P.L.2001, c.152 (C.34:15D-21 et seq.), or any other law to the contrary, the unexpended balance at the end of the preceding fiscal year in the Supplemental Workforce Fund for Basic Skills is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts in excess of the amount anticipated for the Workplace Standards Program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts in excess of the amount anticipated for the Public Works Contractor Registration Program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- The unexpended balance at the end of the preceding fiscal year in the Public Works Contractor Registration Program is appropriated for the Public Works Contractor Registration Program.
- Notwithstanding the provisions of the “Worker and Community Right To Know Act,” P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove appropriated for the Worker and Community Right To Know Act account is payable out of the Worker and Community Right To Know Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately. In addition to the amounts hereinabove, there are appropriated out of the Worker and Community Right To Know Fund such additional sums, not to exceed \$8,400, to administer the Right To Know Program, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated out of the Wage and Hour Trust Fund and the Prevailing Wage Act Trust Fund such sums as may be necessary for payments.

In addition to the amounts hereinabove appropriated to the Public Employment Relations Commission, there are also appropriated those additional sums as may be necessary to administer increased mediator services' caseloads, not to exceed \$50,000, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Private Sector Labor Relations program classification is appropriated from the Unemployment Compensation Auxiliary Fund.

From the appropriation provided hereinabove in support of office leases, and notwithstanding the provisions of N.J.S.A.52:18A-191.1 et seq., the State Treasurer in consultation with the Commissioner of Labor and Workforce Development, is hereby authorized to enter into cost-sharing agreements with any authorized non-State partner that offers programs and activities supported primarily by federal funds from the United States Departments of Labor and Education in the State's one-stop centers for the purpose of co-locating that partner in an office with the Department of Labor and Workforce Development, providing rent costs shall be equitably shared in accordance with a cost allocation plan approved by the Commissioner of Labor and Workforce Development.

#### GRANTS-IN-AID

07-4535 Vocational Rehabilitation Services .....	\$32,044,000
<i>(From General Fund .....</i> <b>\$29,604,000</b> )	
<i>(From Casino Revenue Fund .....</i> <b>2,440,000</b> )	
09-4545 Employment Services .....	4,000,000
Employment and Training Services .....	<u>11,238,000</u>
Total Grants-in-Aid Appropriation, Manpower and Employment Services .....	<u>\$47,282,000</u>
<i>(Total From General Fund .....</i> <b>\$44,842,000</b> )	
<i>(Total From Casino Revenue Fund ...</i> <b>2,440,000</b> )	

#### **Grants-in-Aid:**

07 Services to Clients (State Share) .	(\$4,286,000)
07 Sheltered Workshop Transportation	(1,460,000)
07 Sheltered Workshop Transportation (CRF) .....	(2,440,000)
07 Cost of Living Adjustment, Sheltered Workshops .....	(188,000)
07 Supported Employment Services ..	(3,550,000)
07 Sheltered Workshop Support ....	(18,871,000)
07 Sheltered Workshop Employment Placement Incentive Program ....	(450,000)
07 Services for Deaf Individuals .....	(170,000)
07 Independent Living Centers .....	(625,000)
07 Training (State Share) .....	(4,000)
09 Heldrich Center for Workforce Development .....	(4,000,000)
10 New Jersey Youth Corps .....	(3,048,000)

10 Work First New Jersey Work  
Activities . . . . . (8,190,000)

The sum hereinabove for the Vocational Rehabilitation Services program classification is available for the payment of obligations applicable to prior fiscal years. Of the amount hereinabove for the Vocational Rehabilitation Services program classification, an amount not to exceed \$14,422,000 is appropriated from the Unemployment Compensation Auxiliary Fund.

Of the amounts hereinabove appropriated for Supported Employment Services, \$1,000,000 shall be expended consistent with the recommendations in the final report of the Governor's Task Force on Mental Health.

Amounts appropriated hereinabove for the Sheltered Workshop Employment Placement Incentive Program shall be available to support expenditures under the Sheltered Workshop Support Program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the John J. Heldrich Center shall be reduced by the sum of funds received from the New Jersey Economic Development Authority. The funds shall be used to pay a portion of the costs associated with the acquisition, site preparation, design and construction of a Statewide workforce training center to be located in New Brunswick, New Jersey known as the Heldrich Center for Workforce Development at the Edward J. Bloustein School of Policy and Planning (the "Heldrich Center") and the infrastructure and site preparation costs associated with the redevelopment project. The authority's investment is subject to the terms and conditions set forth in an agreement between the authority and the New Brunswick Development Corporation. The agreement shall be subject to the approval of the State Treasurer who, upon such approval, shall report to the Joint Budget Oversight Committee on the terms and conditions of the agreement.

Notwithstanding any law to the contrary, in addition to the amounts hereinabove for the Work First New Jersey Work Activities and Work First New Jersey-Training Related Expenses accounts, an amount not to exceed \$25,500,000 is appropriated from the New Jersey Workforce Development Partnership Fund, section 9 of P.L.1992, c.43 (C.34:15D-9), subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, of the amounts hereinabove for Work First New Jersey Work Activities and Work First New Jersey-Training Related Expenses, \$8,190,000 is appropriated from the New Jersey Workforce Development Partnership Fund, section 9 of P.L.1992, c.43 (C.34:15D-9), subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts hereinabove appropriated for Work First New Jersey Work Activities, an amount not to exceed 3% shall be made available for administrative costs incurred by the Department of Labor and Workforce Development.

Notwithstanding any law to the contrary, of the amount hereinabove for New Jersey Youth Corps, \$1,850,000 is appropriated from the Workforce Development Partnership Fund, section 9 of P.L.1992, c.43 (C.34:15D-9).

Of the amounts hereinabove appropriated for New Jersey Youth Corps, an amount not to exceed 10% from all funds shall be made available for administrative costs incurred by the Department of Labor and Workforce Development.



Notwithstanding any law to the contrary, up to 15% of the amount available from the Workforce Development Partnership Fund for the Supplemental Workforce Development Benefits Program shall be appropriated as necessary to fund additional administrative costs relating to the processing and payment of benefits, subject to the approval of the Director of the Division of Budget and Accounting. Of the amount hereinabove appropriated for Sheltered Workshop Transportation, \$400,000 shall be allocated to ACCSES New Jersey/CNA Services for reimbursement of transportation costs.

**STATE AID**

10-4545 Employment and Training Services .....	<u>\$1,522,000</u>
Total State Aid Appropriation, Manpower and Employment Services .....	<u>\$1,522,000</u>

**State Aid:**

10 Adult Literacy .....	(\$922,000)
10 Vocational Education - Apprenticeship .....	(600,000)

Of the amount hereinabove appropriated in the Adult Literacy account, those sums as are necessary may be transferred to the applicant State department.

**Less:**

<i>Savings from Administrative Efficiencies</i> .....	<i>\$250,000</i>
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Department of Labor and Workforce Development, Total State Appropriation .....	<u>\$109,500,000</u>
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**Summary of Department of Labor and Workforce Development  
Appropriations  
(For Display Purposes Only)**

*Appropriations by Category:*

Direct State Services .....	\$60,696,000
Grants-in-Aid .....	47,282,000
State Aid .....	1,522,000

*Appropriations by Fund:*

General Fund .....	\$107,060,000
Casino Revenue Fund .....	2,440,000

**66 DEPARTMENT OF LAW AND PUBLIC SAFETY**

**10 Public Safety and Criminal Justice**

**12 Law Enforcement**

**DIRECT STATE SERVICES**

06-1200 State Police Operations .....	\$248,264,000
09-1020 Criminal Justice .....	29,421,000
11-1050 State Medical Examiner .....	600,000
30-1460 Gaming Enforcement .....	40,599,000

**(From Casino Control Fund ..... \$40,599,000)**

99-1200 Administration and Support Services. ....	<u>56,685,000</u>
Total Direct State Services Appropriation, Law Enforcement .....	<u>\$375,569,000</u>

*(From General Fund . . . . . \$334,970,000)*

*(From Casino Control Fund . . . . . 40,599,000)*

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . . (\$224,609,000)

Salaries and Wages (CCF) . . . . . (25,908,000)

Cash in Lieu of Maintenance . . . . . (24,293,000)

Cash in Lieu of Maintenance (CCF) . . . . . (888,000)

Employee Benefits (CCF) . . . . . (7,494,000)

*(From General Fund . . . . . \$248,902,000)*

*(From Casino Control Fund . . . . . 34,290,000)*

Materials and Supplies . . . . . (5,563,000)

Materials and Supplies (CCF) . . . . . (389,000)

Services Other Than Personal . . . . . (11,713,000)

Services Other Than Personal (CCF) . . . . . (1,864,000)

Maintenance and Fixed Charges . . . . . (4,430,000)

Maintenance and Fixed Charges (CCF) . . . . . (2,440,000)

Special Purpose:

06 Purchase and Maintenance of  
MedEvac and Law Enforcement  
Helicopters . . . . . (2,271,000)

06 Nuclear Emergency  
Response Program . . . . . (1,591,000)

06 Drunk Driver Fund Program . . . . . (962,000)

06 Noncriminal Record Checks . . . . . (1,014,000)

03 Camden Initiative . . . . . (1,500,000)

06 Office of Emergency Management  
Service Enhancement . . . . . (1,000,000)

06 Enhanced DNA Testing . . . . . (450,000)

06 Megan's Law DNA Testing . . . . . (200,000)

06 State Police DNA Laboratory  
Enhancement . . . . . (1,800,000)

06 Urban Search and Rescue . . . . . (1,000,000)

06 Nuclear Facilities Security Detail . . . . . (1,600,000)

06 Computer Aided Dispatch  
Maintenance . . . . . (600,000)

06 State Police Forensic and  
Communication Equipment/  
Hamilton Facilities . . . . . (4,375,000)

06 State Police Operation  
Dispatch Unit . . . . . (1,400,000)

06 State Police Federal Monitor . . . . . (500,000)

09 Criminal Justice - Corruption  
Prosecution Expansion . . . . . (1,700,000)

09 Division of Criminal Justice --  
State Match . . . . . (1,482,000)

09 Human Relations Council . . . . . (250,000)

09 Expenses of State Grand Jury . . . . .	(356,000)
09 Medicaid Fraud Investigation --	
State Match . . . . .	(500,000)
30 Gaming Enforcement (CCF) . . . . .	(1,185,000)
99 Consent Decree Vehicles . . . . .	(10,300,000)
99 Telecommunications - 911	
Call Takers . . . . .	(1,950,000)
99 FY 05 State Police	
Recruit Training . . . . .	(2,083,000)
99 Hamilton Headquarters/TechPlex	
Maintenance . . . . .	(3,278,000)
99 FY 06 State Police Recruit Training .	(417,000)
99 Central Monitoring Station . . . . .	(654,000)
99 FY 06 State Police Recruit Class . .	(2,500,000)
99 State Police Radio Upgrade . . . . .	(2,000,000)
99 Affirmative Action and Equal	
Employment Opportunity . . . . .	(193,000)
99 N.C.I.C. 2000 Project . . . . .	(2,000,000)
99 State Police Cadet Pilot Program . . . .	(174,000)
99 State Police Information	
Technology Maintenance . . . . .	(4,000,000)
99 State Police Technology	
Enhancements . . . . .	(600,000)
99 State Police Enhanced Systems	
and Procedures . . . . .	(3,450,000)
Additions, Improvements and Equipment	(6,212,000)
Additions, Improvements and	
Equipment (CCF) . . . . .	(431,000)

Notwithstanding the provisions of any law or regulation to the contrary, receipts derived from the recovery of costs associated with the implementation of the "Criminal Justice Act of 1970," P.L.1970, c.74 (C.52:17B-97 et seq.), are appropriated for the purpose of offsetting the costs of the Division of Criminal Justice, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Victim and Witness Advocacy Fund account, together with receipts derived pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), are appropriated.

Notwithstanding the provisions of any law or regulation to the contrary, funds obtained through seizure, forfeiture, or abandonment pursuant to any federal or State statutory or common law and proceeds of the sale of any such confiscated property or goods, except for such funds as are dedicated pursuant to N.J.S.2C:64-6, are appropriated for law enforcement purposes designated by the Attorney General.

The unexpended balance at the end of the preceding fiscal year in the revolving fund established under the "New Jersey Antitrust Act," P.L.1970, c.73 (C.56:9-1 et seq.) is appropriated for the administration of the Act and any expenditures

- therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.
- Such additional amounts as may be required to carry out the provisions of the "New Jersey Antitrust Act," P.L.1970, c.73 (C.56:9-1 et seq.) are appropriated from the General Fund; provided, however, that any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts in excess of the amount anticipated from license fees and/or audits conducted to ensure compliance with the "Private Detective Act of 1939," P.L.1939, c.369 (C.45:19-8 et seq.), are appropriated to defray the cost of this activity.
- In addition to the amount hereinabove for State Police Operations, such amounts as may be required for the purpose of offsetting costs of the provision of State Police services are appropriated from indirect cost recoveries, subject to the approval of the Director of the Division of Budget and Accounting.
- All fees and receipts collected, pursuant to paragraph 7 of subsection 1. of N.J.S.2C:39-6, "The Retired Officer Handgun Permit Program," and the unexpended balance at the end of the preceding fiscal year, are appropriated to offset the costs of administering the application process, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts derived pursuant to the New Jersey Emergency Medical Service Helicopter Response Act under section 1 of P.L.1992, c.87 (C.39:3-8.2) are appropriated to the Division of State Police and the Department of Health and Senior Services to defray the operating costs of the program as authorized under P.L.1986, c.106 (C.26:2K-35 et seq.). The unexpended balance at the end of the preceding fiscal year is appropriated to the special capital maintenance reserve account for capital replacement and major maintenance of helicopter equipment and any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.
- The amount hereinabove for the Nuclear Emergency Response Program account is payable from receipts received pursuant to the assessment of electrical utility companies under P.L.1981, c.302 (C.26:2D-37 et seq.). The unexpended balance at the end of the preceding fiscal year in the Nuclear Emergency Response Program account is appropriated.
- The unexpended balance at the end of the preceding fiscal year in the Drunk Driver Fund program account, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- The amount hereinabove for the Drunk Driver Fund program is payable out of the Drunk Driving Enforcement Fund established pursuant to section 1 of P.L.1984, c.4 (C.39:4-50.8) designated for this purpose and any amount remaining therein. If receipts to the fund are less than anticipated, the appropriation shall be reduced proportionately.
- The amount hereinabove for the Noncriminal Record Checks account is payable out of the dedicated fund designated for this purpose. If receipts to the fund are less than anticipated, the appropriation shall be reduced proportionately.
- Notwithstanding the provisions of section 3 of P.L.1985, c.69 (C.53:1-20.7), the unexpended balance at the end of the preceding fiscal year, in the Noncriminal

Record Checks account, together with any receipts in excess of the amount anticipated are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in the "Commercial Vehicle Enforcement Fund," established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75), are appropriated to offset all reasonable and necessary expenses of the Division of State Police and Motor Vehicle Commission in the performance of commercial truck safety and emission inspections, subject to the approval of the Director of the Division of Budget and Accounting.

All registration fees, tuition fees, training fees, and all other fees received for reimbursement for attendance at courses conducted by Division of State Police and Division of Criminal Justice personnel are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove to the Divisions of State Police and Criminal Justice and the Office of the State Medical Examiner, there are appropriated to the respective State departments and agencies such sums as may be received or receivable from any instrumentality, municipality, or public authority for direct and indirect costs of all services furnished thereto, except as to such costs for which funds have been included in appropriations otherwise made to the respective State departments and agencies as the Director of the Division of Budget and Accounting shall determine; provided, however, that payments from such instrumentalities, municipalities, or authorities for employer contributions to the State Police and Public Employees' Retirement Systems shall not be appropriated and shall be paid into the General Fund.

Notwithstanding the provisions of section 11 of P.L.1993, c.220 (C.2C:43-3.2), an amount not to exceed \$1,100,000 is appropriated from the Safe Neighborhoods Services Fund to provide Criminal Justice Statewide Law Enforcement federal grant match, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove for the State Police-Enhanced DNA Testing account, there is appropriated an amount not to exceed \$450,000 to be offset by actual receipts pursuant to P.L.2000, c.118. Additional funding shall be based upon the review of monthly workload data, collection data, and spending plans, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the agency surcharge on vehicle rentals pursuant to section 54 of P.L.2002, c.34 (C.App.A:9-78), not to exceed \$13,855,000 for State Police salaries related to Statewide security services, are appropriated for those purposes and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the State Police Recruit Training and the State Police Supplemental Recruit Class accounts are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the appropriation hereinabove for Purchase and Maintenance of MedEvac and Law Enforcement Helicopters, there is appropriated a sum not to exceed \$2,000,000 for a portion of the cost of purchasing an additional helicopter, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated an amount up to \$25,000 from the General Fund to pay for each award or each tip for information that prevents, frustrates, or favorably resolves acts of international or domestic terrorism against New Jersey persons or property, as well as tips related to the identification of illegal guns, drugs and gangs. Rewards may also be paid for information leading to the arrest or conviction of terrorists and/or gang members attempting, committing, conspiring to commit or aiding and abetting in the commission of such acts or to the identification or location of an individual who holds a key leadership position in a terrorist and/or gang organization, subject to the approval of the Attorney General and the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove for Gaming Enforcement, there are appropriated from the Casino Control Fund such additional sums as may be required for gaming enforcement, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

06-1200 State Police Operations .....	\$265,000
09-1020 Criminal Justice .....	<u>300,000</u>
Total Grants-in-Aid Appropriation, Law Enforcement ...	<u>\$565,000</u>

***Grants-in-Aid:***

06 Nuclear Emergency Response Program .....	(\$265,000)
09 Sex Offender Internet Registry Grants	(300,000)

The unexpended balance at the end of the preceding fiscal year in the Division of Criminal Justice's Community Justice Program is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

#### **STATE AID**

09-1020 Criminal Justice .....	\$1,000,000
Total State Aid Appropriation, Law Enforcement .....	<u>\$1,000,000</u>

***State Aid:***

09 Safe and Secure Neighborhoods Program .....	(\$1,000,000)
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#### **CAPITAL CONSTRUCTION**

06-1200 State Police Operations .....	\$4,055,000
Total Capital Construction Appropriation, Law Enforcement .....	<u>4,055,000</u>

***Capital Projects:***

06 State Police Emergency Operations Center .....	(\$3,555,000)
06 HVAC Systems Upgrade for Radio Tower Sites .....	(500,000)

### ***13 Special Law Enforcement Activities***

#### **DIRECT STATE SERVICES**

03-1160 Office of Highway Traffic Safety .....	\$400,000
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17-1420 Election Law Enforcement .....	6,536,000
20-1450 Review and Enforcement of Ethical Standards ...	1,129,000
21-1400 Regulation of Alcoholic Beverages .....	1,241,000
25-1421 Election Management and Coordination .....	<u>1,077,000</u>

Total Direct State Services Appropriation, Special Law  
Enforcement Activities ..... \$10,383,000

Personal Services:

Salaries and Wages .....	(\$7,066,000)
Materials and Supplies .....	(209,000)
Services Other Than Personal .....	(713,000)
Maintenance and Fixed Charges .....	(40,000)

Special Purpose:

03 Federal Highway Safety Program -- State Match .....	(400,000)
17 Fair and Clean Elections .....	(1,500,000)
17 Per Diem Payment to Members of Election Law Enforcement Commission .....	(15,000)
25 County Monitoring and Oversight ...	(440,000)

The unexpended balance at the end of the preceding fiscal year in the Federal Highway Safety Program-State Match account, including the accounts of the several departments, is appropriated for such highway safety projects.

Notwithstanding the provisions of section 14 of P.L.1992, c.188 (C.33:1-4.1), in addition to the amounts hereinabove, all fees and penalties collected by the Director of Alcoholic Beverage Control in excess of \$3,960,000 are appropriated for the purpose of offsetting additional operational costs of the Alcoholic Beverage Control Investigative Bureau in the Division of State Police and the Division of Alcoholic Beverage Control, subject to the approval of the Director of the Division of Budget and Accounting.

Registration fees, tuition fees, training fees, and other fees received for reimbursement for attendance at courses administered or conducted by the Division of Alcoholic Beverage Control are appropriated for program costs.

From the receipts derived from uncashed pari-mutuel winning tickets and the regulation, supervision, licensing, and enforcement of all New Jersey Racing Commission activities and functions, such sums as may be required are appropriated for the purpose of offsetting the costs of the administration and operation of the New Jersey Racing Commission, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from breakage monies and uncashed pari-mutuel winning tickets resulting from off-track and account wagering and any reimbursement assessment against permit holders or successors in interest to permit holders shall be distributed to the New Jersey Racing Commission in accordance with the provisions of the "Off Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

All fees, fines, and penalties collected pursuant to P.L.1973, c.83 (C.19:44A-1 et al.) and section 11 of P.L.1991, c.244 (C.52:13C-23.1) are appropriated for the

purpose of offsetting additional operational costs of the Election Law Enforcement Commission, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provision hereinabove, amounts received pursuant to P.L. 1971, c.183 (C.52:13C-18 et seq.) are appropriated for the purpose of offsetting additional operational costs of the Election Law Enforcement Commission, subject to the approval of the Director of the Division of Budget and Accounting.

Of the receipts derived from the regulation, supervision, and licensing of all State Athletic Control Board activities and functions, an amount is appropriated for the purpose of offsetting the costs of the administration and operation of the State Athletic Control Board, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the examination of voting machines by Election Management and Coordination and the unexpended balance at the end of the preceding fiscal year of those receipts are appropriated for the costs of making such examinations.

The unexpended balances at the end of the preceding fiscal year in the Help America Vote Act-State Match account are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

17-1420 Election Law Enforcement . . . . .	<u>\$1,025,000</u>
<i>(From Gubernatorial Elections Fund . . . . . \$1,025,000)</i>	
Total Grants-in-Aid Appropriation, Special Law Enforcement Activities . . . . .	<u>\$1,025,000</u>

**Grants-in-Aid:**

Special Purpose:

17 Election Law Enforcement (GEF) . . . . . (\$1,025,000)

There are appropriated from the Gubernatorial Elections Fund such sums as may be required for payments to persons qualifying for additional public funds; provided, however, that should the amount available in the Gubernatorial Elections Fund be insufficient to support such an appropriation, there are appropriated from the General Fund to the Gubernatorial Elections Fund such sums as may be required.

Notwithstanding the provisions of any law or regulation to the contrary, from the amounts appropriated hereinabove to the Gubernatorial Elections Fund, there are appropriated up to \$1,025,000 for administrative purposes, subject to the approval of the Director of the Division of Budget and Accounting.

#### **STATE AID**

25-1421 Election Management and Coordination . . . . .	<u>\$7,030,000</u>
Total State Aid Appropriation, Special Law Enforcement Activities . . . . .	<u>\$7,030,000</u>

**State Aid:**

Special Purpose:

25 Extended Polling Place Hours . . . (\$7,030,000).



**18 Juvenile Services**  
**1500 Division of Juvenile Services**  
**DIRECT STATE SERVICES**

34-1500 Juvenile Community Programs .....	\$23,380,000
40-1500 Aftercare Programs .....	6,741,000
99-1500 Administration and Support Services .....	<u>7,019,000</u>
Total Direct State Services Appropriation, Division of Juvenile Services .....	<u>\$37,140,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages .....	(\$30,181,000)
Materials and Supplies .....	(1,626,000)
Services Other Than Personal .....	(2,571,000)
Maintenance and Fixed Charges .....	(954,000)

## Special Purpose:

34 Juvenile Justice Initiatives .....	(770,000)
34 Social Services Block Grant -- State Match .....	(42,000)
34 Female Substance Abuse Program ..	(302,000)
99 Juvenile Justice -- State Matching Funds .....	(406,000)
99 Custody and Civilian Staff Training ..	(185,000)
Additions, Improvements and Equipment ..	(103,000)

**GRANTS-IN-AID**

34-1500 Juvenile Community Programs .....	\$20,212,000
40-1500 Aftercare Programs .....	<u>400,000</u>
Total Grants-in-Aid Appropriation, Division of Juvenile Services .....	<u>\$20,612,000</u>

**Grants-in-Aid:**

34 Alternatives to Juvenile Incarceration Programs .....	(\$2,609,000)
34 Crisis Intervention Program .....	(4,166,000)
34 State/Community Partnership Grants .....	(8,232,000)
34 Day Reporting Program .....	(1,200,000)
34 State Incentive Program .....	(3,521,000)
34 Cost of Living Adjustment, Alternatives to Incarceration Programs .....	(26,000)
34 Cost of Living Adjustment, Crisis Intervention/State Community Partnership .....	(124,000)
34 Cost of Living Adjustment, State Incentive Program .....	(35,000)
34 Cost of Living Adjustment, Purchase of Services for Juvenile Offenders ...	(3,000)

- 34 Purchase of Services for Juvenile  
     Offenders . . . . . (296,000)  
 40 Re-Entry Case Management Services (400,000)

The amounts appropriated hereinabove for Re-entry Case Management Services shall be expended consistent with the recommendations in the final report of the Governor's Task Force on Mental Health.

**CAPITAL CONSTRUCTION**

- 99-1500 Administration and Support Services . . . . . \$750,000  
 Total Capital Construction Appropriation,  
 Division of Juvenile Services . . . . . \$750,000

**Capital Projects:**

- 99 Suicide Prevention Improvements . (\$500,000)  
 99 Critical Repairs, Juvenile  
     Services Facilities . . . . . (250,000)

**1505 New Jersey Training School for Boys**

**DIRECT STATE SERVICES**

- 35-1505 Institutional Control and Supervision . . . . . \$15,450,000  
 36-1505 Institutional Care and Treatment . . . . . 5,704,000  
 99-1505 Administration and Support Services . . . . . 4,690,000  
 Total Direct State Services Appropriation, New Jersey  
     Training School for Boys . . . . . \$25,844,000

**Direct State Services:**

Personal Services:

- Salaries and Wages . . . . . (\$21,208,000)  
     Food in Lieu of Cash . . . . . (89,000)  
     Materials and Supplies . . . . . (1,885,000)  
     Services Other Than Personal . . . . . (1,548,000)  
     Maintenance and Fixed Charges . . . . . (591,000)

Special Purpose:

- 36 Secure Care Mental Health Program (503,000)  
     99 Administration and Support Services . . (2,000)  
     Additions, Improvements and Equipment . . (18,000)

Receipts derived from the Eyeglass Program at the New Jersey Training School for Boys and any unexpended balance at the end of the preceding fiscal year are appropriated for the operation of the program.

**1510 Juvenile Medium Security Center**

**DIRECT STATE SERVICES**

- 35-1510 Institutional Control and Supervision . . . . . \$22,934,000  
 36-1510 Institutional Care and Treatment . . . . . 5,189,000  
 99-1510 Administration and Support Services . . . . . 3,803,000  
 Total Direct State Services Appropriation, Juvenile  
     Medium Security Center . . . . . \$31,926,000

**Direct State Services:**

Personal Services:

Salaries and Wages .....	(\$18,378,000)
Food in Lieu of Cash .....	(59,000)
Materials and Supplies .....	(782,000)
Services Other Than Personal .....	(1,173,000)
Maintenance and Fixed Charges .....	(199,000)
Special Purpose:	
35 Juvenile Boot Camp .....	(4,046,000)
35 Juvenile Reception and Assessment Center .....	(6,513,000)
35 Mental Health Unit - State Match ....	(66,000)
99 Johnstone Facility Maintenance ....	(687,000)
Additions, Improvements and Equipment ..	(23,000)

**19 Central Planning, Direction and Management**

**DIRECT STATE SERVICES**

88-1000 Central Library Services .....	\$603,000
99-1000 Administration and Support Services .....	<u>16,577,000</u>
Total Direct State Services Appropriation, Central Planning, Direction and Management .....	<u>\$17,180,000</u>

**Direct State Services:**

Personal Services:	
Salaries and Wages .....	(\$9,087,000)
Materials and Supplies .....	(162,000)
Services Other Than Personal .....	(166,000)
Maintenance and Fixed Charges .....	(88,000)
Special Purpose:	
99 Fiscal Integrity Unit/Office of Government Integrity .....	(4,100,000)
99 Smart Growth Enforcement .....	(250,000)
99 Criminal Disposition Commission ..	(300,000)
99 Criminal Sentencing Commission ...	(100,000)
99 Cigarette Task Force .....	(708,000)
99 Affirmative Action and Equal Employment Opportunity .....	(198,000)
99 Office of Counter-Terrorism .....	(2,000,000)
Additions, Improvements and Equipment ..	(21,000)

Notwithstanding the provisions of any law or regulation to the contrary, funds obtained through seizure, forfeiture, or abandonment pursuant to any federal or State statutory or common law and the proceeds of the sale of any such confiscated property or goods, except for such funds as are dedicated pursuant to N.J.S.2C:64-6, are appropriated for law enforcement purposes designated by the Attorney General; provided, however, that receipts in excess of \$2,255,000 may only be used for non-recurring expenditures.

The Attorney General shall provide the Director of the Division of Budget and Accounting, the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or the successor committees thereto, with written reports on August 1, 2005 and February 1, 2006, of the use and disposition by

State law enforcement agencies, including the offices of the county prosecutors, of any interest in property or money seized, or proceeds resulting from seized or forfeited property, and any interest or income earned thereon, arising from any State law enforcement agency involvement in a surveillance, investigation, arrest or prosecution involving offenses under N.J.S.2C:35-1 et seq. and N.J.S.2C:36-1 et seq. leading to such seizure or forfeiture. The reports shall specify for the preceding period of the fiscal year the type, approximate value, and disposition of the property seized and the amount of any proceeds received or expended, whether obtained directly or as contributive share, including but not limited to the use thereof for asset maintenance, forfeiture prosecution costs, costs of extinguishing any perfected security interest in seized property and the contributive share of property and proceeds of other participating local law enforcement agencies. The reports shall provide an itemized accounting of all proceeds expended and shall specify with particularity the nature and purpose of each such expenditure.

Penalties, fines, and other fees collected pursuant to N.J.S.2C:35-20 and deposited in the State Forensic Laboratory Fund, together with the unexpended balance at the end of the preceding fiscal year, are appropriated to defray additional laboratory related administration and operational expenses of the "Comprehensive Drug Reform Act of 1987," P.L.1987, c.106 (C.2C:35-1 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts hereinabove appropriated for the Unit of Fiscal Integrity in School Construction/Office of Government Integrity, there shall be credited against such amounts those monies as are received by the Unit of Fiscal Integrity in School Construction/Office of Government Integrity pursuant to a Memorandum of Understanding between the Unit of Fiscal Integrity in School Construction and the New Jersey Economic Development Authority for oversight services including employee benefit costs in connection with the school construction program.

Receipts derived from the agency surcharge on vehicle rentals pursuant to section 54 of P.L.2002, c.34 (C.App.A:9-78), not to exceed \$7,200,000, are appropriated for the Office of Counter-Terrorism and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances at the end of the preceding fiscal year in the Criminal Sentencing Commission account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances at the end of the preceding year in the Office of Counter-Terrorism are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

**70 Government Direction, Management and Control**

**74 General Government Services**

**DIRECT STATE SERVICES**

12-1010 Legal Services .....	\$85,328,000
26-1431 Child Advocate Agency .....	<u>2,500,000</u>
Total All Operations .....	<u>\$87,828,000</u>
<b>Less:</b>	
<b>Legal Services .....</b>	<b>\$56,345,000</b>

<b>Total Income Deductions</b> .....	<b><u>\$56,345,000</u></b>
Total Direct State Services Appropriation, General Government Services .....	<b><u>\$31,483,000</u></b>

**Direct State Services:**

Personal Services:

Salaries and Wages .....	(\$18,339,000)
Materials and Supplies .....	(89,000)
Services Other Than Personal .....	(601,000)
Maintenance and Fixed Charges .....	(262,000)

Special Purpose:

12 Legal Services .....	(56,345,000)
12 A-901 Fee Reimbursement .....	(8,250,000)
12 Child Welfare Unit .....	(1,442,000)
26 Child Advocate Agency .....	(2,500,000)

**Less:**

<b>Income Deductions</b> .....	<b>56,345,000</b>
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In addition to the \$56,345,126 attributable to Reimbursements from Other Sources and the corresponding additional amount associated with employee fringe benefit costs, there are appropriated such sums as may be received or receivable from any State agency, instrumentality or public authority for direct or indirect costs of legal services furnished thereto and attributable to a change in, or the addition of, a client agency agreement, subject to the approval of the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting is empowered to credit or transfer to the General Fund from any other department, branch, or non-State fund source, out of funds appropriated thereto, such funds as may be required to cover the costs of legal services attributable to that other department, branch, or non-State fund source as the Director of the Division of Budget and Accounting shall determine. Receipts in any non-State fund are appropriated for the purpose of such transfer.

Notwithstanding the provisions of any law or regulation to the contrary, revenues derived from penalties, cost recoveries, restitution or other recoveries to the State are appropriated to offset unbudgeted, extraordinary costs of legal, investigative, administrative, expert witnesses and other services incurred by the Division of Law related to litigation and acting on behalf of the State and State agencies. Such sums shall first be charged to any revenues derived from recoveries collected by the State but may also be provided from the General Fund, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances at the end of the preceding fiscal year in the Child Advocate Agency account are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

**80 Special Government Services**

**82 Protection of Citizens' Rights**

**DIRECT STATE SERVICES**

14-1310 Consumer Affairs .....	\$13,914,000
15-1320 Operation of State Professional Boards .....	17,633,000

<i>(From General Fund . . . . . \$17,541,000)</i>	
<i>(From Casino Revenue Fund . . . . . 92,000)</i>	
16-1350 Protection of Civil Rights . . . . .	5,415,000
19-1440 Victims of Crime Compensation Board . . . . .	<u>5,608,000</u>
Total Direct State Services Appropriation, Protection of Citizens' Rights . . . . .	<u>\$42,570,000</u>
<i>(Total From General Fund . . . . . \$42,478,000)</i>	
<i>(Total From Casino Revenue Fund . . . . . 92,000)</i>	

**Direct State Services:**

## Personal Services:

Salaries and Wages . . . . .	(\$10,886,000)
Salaries and Wages (CRF) . . . . .	(66,000)
Employee Benefits (CRF) . . . . .	(20,000)
<i>(From General Fund . . . . . 10,886,000)</i>	
<i>(From Casino Revenue Fund . . . . . 86,000)</i>	
Materials and Supplies . . . . .	(490,000)
Services Other Than Personal . . . . .	(13,028,000)
Services Other Than Personal (CRF) . . . . .	(6,000)
Maintenance and Fixed Charges . . . . .	(1,896,000)

## Special Purpose:

14 Consumer Affairs Legalized Games of Chance . . . . .	(1,390,000)
14 Securities Enforcement Fund . . . . .	(6,994,000)
14 Consumer Affairs Weights and Measures Program . . . . .	(2,612,000)
14 Consumer Affairs Charitable Registrations Program . . . . .	(695,000)
15 Personal Care Attendants -- Background Checks . . . . .	(500,000)
16 Civil Rights Case Tracking System . . . . .	(100,000)
19 Claims -- Victims of Crime . . . . .	(3,630,000)
19 Victims of Crime Outreach Program . . . . .	(150,000)
Additions, Improvements and Equipment . . . . .	(107,000)

Receipts derived from the assessment and recovery of costs, fines, and penalties as well as other receipts received pursuant to the Consumer Fraud Act, P.L.1960, c.39 (C.56:8-1 et seq.), are appropriated for additional operational costs of the Division of Consumer Affairs, subject to the approval of the Director of the Division of Budget and Accounting.

All fees, penalties, and costs collected pursuant to P.L.1988, c.123 (C.56:12-29 et seq.) are appropriated for the purpose of offsetting costs associated with the handling and resolution of consumer automotive complaints.

In addition to the amount appropriated hereinabove for Consumer Affairs, receipts in excess of the amount anticipated, attributable to changes in fee structure or fee increases are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

- Fees and cost recoveries collected pursuant to P.L.1989, c.331 (C.34:8-43 et al.) are appropriated in an amount not to exceed additional expenses associated with mandated duties, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts derived from penalties and the unexpended balance at the end of the preceding fiscal year in the Consumer Fraud Education Fund program account pursuant to P.L.1999, c.129 (C.56:8-14.2 et seq.) are appropriated for the purpose of offsetting the cost of operating the program, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts in excess of the amount anticipated are appropriated to the Controlled Dangerous Substance Registration program for the purpose of offsetting the costs of the administration and operation of the program, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.
- Receipts in excess of the amount anticipated derived pursuant to P.L.1954, c.7 (C.5:8-1 et seq.) from the operations of the Division of Consumer Affairs Legalized Games of Chance program and the unexpended balances at the end of the preceding fiscal year are appropriated for the purpose of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.
- The amount hereinabove for the Securities Enforcement Fund account is payable from receipts from fees and penalties deposited in the Securities Enforcement Fund pursuant to section 15 of P.L.1985, c.405 (C.49:3-66.1). If receipts are less than anticipated, the appropriation shall be reduced proportionately.
- Notwithstanding the provisions of section 15 of P.L.1985, c.405 (C.49:3-66.1) to the contrary, receipts in excess of the amount anticipated and the unexpended balances at the end of the preceding fiscal year are appropriated to the Securities Enforcement Fund program account to offset the cost of operating this program and for use by the Department of Law and Public Safety, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts in excess of the amount anticipated derived pursuant to R.S.51:1-1 et seq. from the operations of the Division of Consumer Affairs Office of Weights and Measures program and the unexpended balances at the end of the preceding fiscal year are appropriated for the purposes of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts in excess of the amount anticipated derived pursuant to P.L.1994, c.16 (C.45:17A-18 et seq.) from the operations of the Division of Consumer Affairs Charitable Registration and Investigation program and the unexpended balances at the end of the preceding fiscal year are appropriated for the purpose of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.
- The amount hereinabove for each of the several State professional boards, advisory boards, and committees shall be provided from receipts of those entities, and any receipts in excess of the amounts specifically provided to each of the entities are appropriated. The unexpended balances at the end of the preceding fiscal year are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the sale of films, pamphlets, and other educational materials developed or produced by the Division on Civil Rights are appropriated to defray production costs.

Receipts derived from the provision of copies of transcripts and other materials related to officially docketed cases are appropriated.

Notwithstanding the provisions of section 2 of P.L.1983, c.412 (C.10:5-14.1a), any receipts derived from the assessment of fines, fees, and penalties pursuant to P.L.1945, c.169 (C.10:5-1 et seq.) are appropriated to the Division on Civil Rights for additional operational costs, subject to the approval of the Director of the Division of Budget and Accounting.

The sum hereinabove for Claims-Victims of Crime is available for payment of awards applicable to claims filed in prior fiscal years.

Receipts derived from assessments pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) and the unexpended balance at the end of the preceding fiscal year in the Criminal Disposition and Revenue Collection Fund program account, are appropriated for the purpose of offsetting the costs of the design, development, implementation and operation of the Criminal Disposition and Revenue Collection program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from assessments under section 2 of P.L.1979, c.396 (C.2C:43-3.1) in excess of the amount anticipated and the unexpended balance at the end of the preceding fiscal year are appropriated for payment of claims of victims of crime pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and additional Victims of Crime Compensation Board operational costs up to \$1,175,000, and \$356,000 for the board's Strategic IT Automation Initiative, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances at the end of the preceding fiscal year in the Office of Victim-Witness Assistance and in the Victim and Witness Advocacy Fund pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) are appropriated.

Receipts derived from licensing fees pursuant to subsection f. of N.J.S.2C:58-5 and registration fees pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) and the unexpended balance at the end of the preceding fiscal year are appropriated for payment of claims for victims of crime pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and additional board operational costs, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove is appropriated from the Casino Revenue Fund.

**Less:**

***Savings from Administrative Efficiencies* . . . . . \$5,250,000**

Department of Law and Public Safety,  
Total State Appropriation . . . . . \$601,882,000

Receipts derived from the provision of copies, the processing of credit cards and other materials related to compliance with section 6 of P.L.2001, c.404 (C.47:1A-5), are appropriated for the purpose of offsetting costs related to public access of government records.



**Summary of Department of Law and Public Safety Appropriations  
(For Display Purposes Only)**

*Appropriations by Category:*

Direct State Services	\$566,845,000
Grants-in-Aid	22,202,000
State Aid	8,030,000
Capital Construction	4,805,000

*Appropriations by Fund:*

General Fund	\$560,166,000
Casino Control Fund	40,599,000
Casino Revenue Fund	92,000
Gubernatorial Elections Fund	1,025,000

**67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS**

**10 Public Safety and Criminal Justice**

**14 Military Services**

**DIRECT STATE SERVICES**

40-3620 New Jersey National Guard Support Services	\$13,028,000
60-3600 Joint Training Center Management and Operations	494,000
99-3600 Administration and Support Services	<u>4,621,000</u>
Total Direct State Services Appropriation, Military Services	<u>\$18,143,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages	(\$7,485,000)
Materials and Supplies	(1,257,000)
Services Other Than Personal	(602,000)
Maintenance and Fixed Charges	(1,053,000)

Special Purpose:

40 Nuclear Facilities Security Detail	(3,180,000)
40 Weapons of Mass Destruction Program	(380,000)
40 Jersey City Armory	(1,200,000)
40 National Guard-State Active Duty	(500,000)
40 New Jersey National Guard Challenge Youth Program	(920,000)
40 Joint Federal-State Operations and Maintenance Contracts (State Share)	(1,302,000)
99 Affirmative Action and Equal Employment Opportunity	(5,000)
99 Nursing Initiative	(250,000)
Additions, Improvements and Equipment	(9,000)

The unexpended balance at the end of the preceding fiscal year in the National Guard-State Active Duty account is appropriated for the same purpose.

The unexpended balance at the end of the preceding fiscal year in the Retention of U.S. Military Infrastructure in New Jersey account is appropriated for the same purpose.

The unexpended balance at the end of the preceding fiscal year in the Joint Federal-State Operations and Maintenance Contracts (State Share) account is appropriated for the same purpose.

Receipts derived from the rental and use of armories and the unexpended balance at the end of the preceding fiscal year in the receipt account are appropriated for the operation and maintenance thereof, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove, funds received for Distance Learning Program usage are appropriated for the same purposes, subject to the approval of the Director of the Division of Budget and Accounting.

#### GRANTS-IN-AID

40-3620 New Jersey National Guard Support Services . . . . . \$35,000  
 Total Grants-in-Aid Appropriation, Military Services . . . . . \$35,000

#### *Grants-in-Aid:*

40 Civil Air Patrol . . . . . (\$35,000)

#### CAPITAL CONSTRUCTION

99-3600 Administration and Support Services . . . . . \$175,000  
 Total Capital Construction Appropriation,  
 Military Services . . . . . \$175,000

#### *Capital Project:*

99 Infrastructure Projects, Statewide . . (\$175,000)

#### *80 Special Government Services*

#### *83 Services to Veterans*

#### *3610 Veterans' Program Support*

#### DIRECT STATE SERVICES

50-3610 Veterans' Outreach and Assistance . . . . . \$3,408,000  
 51-3610 Veterans Haven . . . . . 590,000  
 70-3610 Burial Services . . . . . 2,160,000  
 Total Direct State Services Appropriation, Veterans'  
 Program Support . . . . . \$6,158,000

#### *Direct State Services:*

#### Personal Services:

Salaries and Wages . . . . . (\$4,299,000)  
 Materials and Supplies . . . . . (416,000)  
 Services Other Than Personal . . . . . (193,000)  
 Maintenance and Fixed Charges . . . . . (93,000)

#### Special Purpose:

50 Vietnam Memorial and  
 Education Center . . . . . (350,000)  
 50 Veterans' State Benefits Bureau . . . . . (156,000)  
 50 Korean War Memorial  
 Maintenance Program . . . . . (90,000)  
 50 Governor's Veterans' Services Council . . (5,000)  
 51 Veterans Haven . . . . . (94,000)

- 70 Honor Guard Support Services . . . . . (462,000)
- Funds collected by and on behalf of the Korean Veterans Memorial Fund are hereby appropriated for the purposes of the fund.
- Funds received for Veterans' Transitional Housing from the federal Department of Veterans Affairs and the individual residents, and the unexpended balance at the end of the preceding fiscal year, in the receipt account are appropriated for the same purpose.
- Funds received for plot interment allowances from the federal Department of Veterans Affairs, burial fees collected, and the unexpended program balances at the end of the preceding fiscal year are appropriated for perpetual care and maintenance of burial plots and grounds at the Brigadier General William C. Doyle Veterans Memorial Cemetery in North Hanover Township, Burlington County, New Jersey.
- Notwithstanding the provisions of any other law or regulation to the contrary, no State funds are appropriated to the Department of Military and Veterans Affairs for the purpose of reforestation or "in lieu of" payments under the provisions of P.L.1993, c.106 (C.13:1L-14.1 et seq.) in conjunction with the current or future operation, maintenance and construction of the Brigadier General William C. Doyle Veterans Memorial Cemetery in North Hanover Township, Burlington County, New Jersey.

**GRANTS-IN-AID**

50-3610 Veterans' Outreach and Assistance . . . . .	<u>\$1,509,000</u>
Total Grants-in-Aid Appropriation, Veterans' Program Support . . . . .	<u>\$1,509,000</u>

**Grants-in-Aid:**

50 Veterans' Tuition Credit Program . . .	(\$38,000)
50 POW/MIA Tuition Assistance . . . . .	(11,000)
50 Vietnam Veterans' Tuition Aid . . . . .	(7,000)
50 Veterans Homeless Shelter - Burlington County . . . . .	(35,000)
50 Veterans' Transportation . . . . .	(300,000)
50 Veterans' Orphan Fund - Education Grants . . . . .	(5,000)
50 Blind Veterans' Allowances . . . . .	(46,000)
50 Paraplegic and Hemiplegic Veterans' Allowance . . . . .	(267,000)
50 Post Traumatic Stress Disorder . . . . .	(800,000)

The sums provided hereinabove and the unexpended balances at the end of the preceding fiscal year in the Veterans' Tuition Credit Program, POW/MIA Tuition Assistance, and the Vietnam Veterans' Tuition Aid accounts are appropriated and available for payment of liabilities applicable to prior fiscal years.

**3630 Menlo Park Veterans' Memorial Home**

**DIRECT STATE SERVICES**

20-3630 Domiciliary and Treatment Services . . . . .	\$15,513,000
99-3630 Administration and Support Services . . . . .	<u>5,272,000</u>
Total Direct State Services Appropriation, Menlo Park Veterans' Memorial Home . . . . .	<u>\$20,785,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages .....	(\$16,564,000)
Materials and Supplies .....	(2,253,000)
Services Other Than Personal .....	(1,589,000)
Maintenance and Fixed Charges .....	(265,000)
Additions, Improvements and Equipment ..	(114,000)

In addition to the amount hereinabove, such sums received from the federal Department of Veterans Affairs, New Jersey Department of Health and Senior Services, and New Jersey Assistance for Community Care Giving are appropriated for the Menlo Park Adult Day Care program, subject to the approval of the Director of the Division of Budget and Accounting.

**3640 Paramus Veterans' Memorial Home****DIRECT STATE SERVICES**

20-3640 Domiciliary and Treatment Services .....	\$15,185,000
99-3640 Administration and Support Services .....	4,127,000
Total Direct State Services Appropriation, Paramus Veterans' Memorial Home .....	<u>\$19,312,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages .....	(\$16,087,000)
Materials and Supplies .....	(1,625,000)
Services Other Than Personal .....	(1,375,000)
Maintenance and Fixed Charges .....	(184,000)
Additions, Improvements and Equipment ..	(41,000)

**3650 Vineland Veterans' Memorial Home****DIRECT STATE SERVICES**

20-3650 Domiciliary and Treatment Services .....	\$16,496,000
99-3650 Administration and Support Services .....	5,317,000
Total Direct State Services Appropriation, Vineland Veterans' Memorial Home .....	<u>\$21,813,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages .....	(\$17,029,000)
Materials and Supplies .....	(1,846,000)
Services Other Than Personal .....	(2,500,000)
Maintenance and Fixed Charges .....	(314,000)
Additions, Improvements and Equipment ..	(124,000)

**Less:**

**Savings from Administrative Efficiencies .....** **\$500,000**

Department of Military and Veterans' Affairs,

Total State Appropriation .....

\$87,430,000

Balances on hand at the end of the preceding fiscal year for the benefit of residents in the several veterans' homes, and such funds as may be received, are appropriated for the use of such residents.

Revenues representing receipts to the General Fund from charges to residents' trust accounts for maintenance costs are appropriated for use as personal needs allowances for patients/residents who have no other source of funds for such purposes; provided however, that the allowance shall not exceed \$50 per month for any eligible resident of an institution and provided further, that the total amount herein for such allowances shall not exceed \$100,000, and that any increase in the maximum monthly allowance shall be approved by the Director of the Division of Budget and Accounting.

Funds received from the sale of articles made in occupational therapy departments of the several veterans' homes are appropriated for the purchase of additional material and other expenses incidental to such sale or manufacture.

Forty percent of the receipts in excess of the amount anticipated derived from resident contributions and federal reimbursements at the end of the preceding fiscal year are appropriated for veterans' program initiatives, subject to the approval of the Director of the Division of Budget and Accounting of an itemized plan for the expenditure of these amounts, as shall be submitted by the Adjutant General.

Fees charged to residents for personal laundry services provided by the veterans' homes are appropriated to supplement the operational and maintenance costs of these laundry services.

Of the amount hereinabove appropriated for the Department of Military and Veterans Affairs, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Recommendation Document dated March 1, 2005 first shall be charged to the State Lottery Fund.

***Summary of Department of Military and Veterans' Affairs Appropriations  
(For Display Purposes Only)***

*Appropriations by Category:*

Direct State Services	\$85,711,000
Grants-in-Aid	1,544,000
Capital Construction	175,000

*Appropriations by Fund:*

General Fund	\$87,430,000
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**68 DEPARTMENT OF PERSONNEL**

***70 Government Direction, Management and Control***

***74 General Government Services***

**DIRECT STATE SERVICES**

01-2710 Personnel Policy Development and General Administration	\$3,868,000
02-2720 State and Local Government Operations	14,259,000
04-2740 Merit Services	2,468,000
05-2750 Equal Employment Opportunity and Affirmative Action	725,000
07-2770 Human Resource Development Institute	<u>4,220,000</u>

Total Direct State Services Appropriation, General	
Government Services .....	<u>\$25,540,000</u>
<b>Direct State Services:</b>	
Personal Services:	
Merit System Board .....	(\$56,000)
Salaries and Wages .....	(19,795,000)
Materials and Supplies .....	(523,000)
Services Other Than Personal .....	(4,313,000)
Maintenance and Fixed Charges .....	(237,000)
Special Purpose:	
01 Affirmative Action and Equal Employment Opportunity .....	(93,000)
02 Microfilm Service Charges .....	(29,000)
02 Test Validation/Police Testing .....	(434,000)
05 Americans with Disabilities Act .....	(60,000)
Receipts derived from fees charged to applicants for open competitive or promotional examinations, and the unexpended fee balance at the end of the preceding fiscal year, not to exceed \$1,200,000 collected from firefighter and law enforcement examination receipts, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.	
Receipts derived from training services and any unexpended balance at the end of the preceding fiscal year are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.	
Receipts derived from Employee Advisory Services are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.	
Notwithstanding the provisions of N.J.S.A.11A:6-32, cash awards for suggestions shall be paid from the operating budget of the agency from savings generated by the suggestion, subject to the approval of the Director of the Division of Budget and Accounting.	
<b>Less:</b>	
Savings from Administrative Efficiencies .....	<u>\$1,000,000</u>
Department of Personnel, Total State Appropriation ...	<u>\$24,540,000</u>

**Summary of Department of Personnel Appropriations  
(For Display Purposes Only)**

<i>Appropriations by Category:</i>	
Direct State Services .....	\$24,540,000
<i>Appropriations by Fund:</i>	
General Fund .....	\$24,540,000

**74 DEPARTMENT OF STATE**

**30 Educational, Cultural and Intellectual Development**

**36 Higher Educational Services**

**DIRECT STATE SERVICES**

80-2400 Statewide Planning and Coordination for Higher Education .....	\$997,000
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81-2400 Educational Opportunity Fund Programs . . . . .	<u>405,000</u>
Total Direct State Services Appropriation, Commission on Higher Education . . . . .	<u>\$1,402,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages . . . . .	(\$1,248,000)
Materials and Supplies . . . . .	(16,000)
Services Other Than Personal . . . . .	(118,000)
Maintenance and Fixed Charges . . . . .	(20,000)

**GRANTS-IN-AID**

80-2400 Statewide Planning and Coordination for Higher Education . . . . .	\$6,180,000
81-2401 Educational Opportunity Fund Programs . . . . .	<u>40,597,000</u>
Total Grants-in-Aid Appropriation, Higher Educational Services . . . . .	<u>\$46,777,000</u>

**Grants-in-Aid:**

80 College Bound . . . . .	(\$2,900,000)
80 New Jersey Transfer Initiative . . . . .	(780,000)
80 Support for Statewide Network . . . . .	(350,000)
80 Higher Education for Special Needs Students . . . . .	(1,100,000)
80 Program for the Education of Language Minority Students . . . . .	(600,000)
80 Minority Faculty Advancement Program . . . . .	(450,000)
81 Opportunity Program Grants . . . . .	(26,910,000)
81 Supplementary Education Program Grants . . . . .	(12,885,000)
81 Martin Luther King Physician - Dentist Scholarship Act of 1986 . . . . .	(602,000)
81 Ferguson Law Scholarships . . . . .	(200,000)

An amount not to exceed \$60,000 of the College Bound account is available for transfer to Direct State Services for the administrative expenses of this program, as determined by the Director of the Division of Budget and Accounting.

An amount not to exceed 5% of the total of Higher Education for Special Needs Students and the Program for the Education of Language Minority Students accounts is available for transfer to Direct State Services for the administrative expenses of these programs, as determined by the Director of the Division of Budget and Accounting.

The unexpended balances at the end of the preceding fiscal year for the Minority Faculty Advancement Program are appropriated.

Refunds from prior years to the Educational Opportunity Fund Programs accounts are appropriated to those accounts.

Notwithstanding the provisions of any law or regulation to the contrary, \$3,000,000 of the amount hereinabove appropriated for Opportunity Program Grants shall be designated as Opportunity Program Enhancement funding. Each college and

university participating in the Educational Opportunity Fund Program may allocate its share of Opportunity Program Enhancement funding to fund increases in maximum semester awards and to provide awards for additional students who meet EOF eligibility criteria.

**2405 Higher Education Student Assistance Authority**

**DIRECT STATE SERVICES**

45-2405 Student Assistance Programs . . . . .	<u>\$2,528,000</u>
Total Direct State Services Appropriation, Higher Educational Student Assistance Authority . . . . .	<u>\$2,528,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . .	(\$1,709,000)
Materials and Supplies . . . . .	(43,000)
Services Other Than Personal . . . . .	(754,000)
Maintenance and Fixed Charges . . . . .	(22,000)

At any time prior to the issuance and sale of bonds or other obligations by the Higher Education Student Assistance Authority, the State Treasurer is authorized to transfer from any available moneys in any fund of the Treasury of the State to the credit of any fund of the authority such sums as the State Treasurer deems necessary. Any 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 authority bonds or other authority obligations.

**GRANTS-IN-AID**

45-2405 Student Assistance Programs . . . . .	<u>\$248,836,000</u>
Total Grants-in-Aid Appropriation, Higher Education Student Assistance Authority . . . . .	<u>\$248,836,000</u>

**Grants-in-Aid:**

45 Veterinary Medicine Education Program . . . . .	(\$1,337,000)
45 Tuition Aid Grants . . . . .	(208,908,000)
45 Part-Time Tuition Aid Grants for County Colleges . . . . .	(4,451,000)
45 Survivor Tuition Benefits . . . . .	(50,000)
45 Coordinated Garden State Scholarship Programs . . . . .	(7,562,000)
45 Part-Time Tuition Aid Grants -- EOF Students . . . . .	(620,000)
45 Teaching Fellows Program . . . . .	(155,000)
45 Outstanding Scholar Recruitment Program . . . . .	(13,953,000)
45 New Jersey World Trade Center Scholarship Program . . . . .	(250,000)
45 Dana Christmas Scholarship for Heroism . . . . .	(50,000)



- 45 New Jersey STARS (Student Tuition Assistance Reward Scholarship) . (8,000,000)  
 45 College Loan Forgiveness Program for Mental Health Workers . . . . . (3,500,000)

The sums provided hereinabove and the unexpended balances at the end of the preceding fiscal year in Student Assistance Programs shall be appropriated and available for payment of liabilities applicable to prior fiscal years.

Amounts from the unexpended balance at the end of the preceding fiscal year, including refunds recognized after July 31, 2005, in the Tuition Aid Grants account are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, the Higher Education Student Assistance Authority shall provide to students enrolled in public institutions of higher education who are eligible for maximum awards under the Tuition Aid Grant program hereinabove appropriated an increase above the fiscal year 2005 award amount equal to the difference between the in-state undergraduate 2004-2005 tuition rate for the institution and the institution's in-state undergraduate 2003-2004 tuition rate with comparable increases provided to students eligible for maximum awards enrolled at independent institutions. All other award amounts provided under the Tuition Aid Grant program shall be based on the same parameters as used by the Higher Education Student Assistance Authority in fiscal year 2005. Reappropriated balances in the Tuition Aid Grants account shall be held as a contingency for unanticipated increases in the number of applicants qualifying for full-time Tuition Aid Grant awards, to fund shifts in the distribution of awards that result in an increase in total program costs, or to offset any shortfalls in the federal Leveraging Educational Assistance Partnership (LEAP) program.

In addition to the amount hereinabove appropriated for Tuition Aid Grants, there are appropriated such sums as are required to cover the costs of increases in the number of applicants qualifying for full-time Tuition Aid Grants awards or fund shifts in the distribution of awards that result in an increase in total program costs, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for Part-Time Tuition Aid Grants for County Colleges shall be used to provide funds for a pilot program of tuition aid grants for eligible, qualified part-time students enrolled at the county colleges established pursuant to N.J.S.18A:64A-1 et seq. The tuition aid grants shall be used to pay the tuition at a county college established pursuant to N.J.S.18A:64A-1 et seq. Within the limits of available appropriations as determined by the Higher Education Student Assistance Authority, part-time grant awards shall be pro-rated against the full-time grant award for the applicable institutional sector established pursuant to N.J.S.18A:71B-21 as follows: an eligible student enrolled with six to eight credits shall receive one-half of the value of a full-time award and an eligible student enrolled with nine to eleven credits shall receive three-quarters of a full-time award. Students shall apply first for all other forms of federal student assistance grants and scholarships; student eligibility for the tuition aid grant awards program for part-time enrollment at a community college shall in other

- respects be determined by the authority in accordance with the criteria established pursuant to N.J.S.18A:71B-20, other than the criterion for full-time enrollment. Amounts from the unexpended balance at the end of the preceding fiscal year, including refunds recognized after July 31, 2005, in the Part-Time Tuition Aid Grants for County Colleges account are appropriated, subject to the approval of the Director of the Division of Budget and Accounting. Reappropriated balances shall be held as a contingency for unanticipated increases in the number of applicants qualifying for Part-Time Tuition Aid Grants for County Colleges awards or to fund shifts in the distribution of awards that result in an increase in total program costs.
- From the amount hereinabove appropriated for the Teaching Fellows Program the authority shall establish a Teaching Fellows Program that shall provide direct loans to finance the undergraduate study of academically talented students who have leadership potential and who are interested in teaching in a public school in the State. The program shall also provide for the redemption of a portion of each eligible student's loan expenses for each year of full-time employment as a teacher in a subject area of critical need or in a high-needs district.
- Notwithstanding any law or regulation to the contrary, any institution of higher education which participates in the Student Unit Record Enrollment data system may participate in the Outstanding Scholar Recruitment Program.
- The amount hereinabove appropriated for the Dana Christmas Scholarship for Heroism shall be awarded in accordance with policies and procedures established by the Higher Education Student Assistance Authority. In general, recipients must have performed the act of heroism for which they are being recognized prior to reaching their twenty-second birthday, awards are for a one-time only scholarship of up to \$10,000, and awards must be used for educational expenses related to attendance at a post-secondary institution that participates in the federal student assistance programs authorized under Title IV of the "Higher Education Act of 1965," as amended (20 U.S.C.s.1070 et seq.).
- In addition to the amount hereinabove appropriated for the College Loan Forgiveness Program for Mental Health Workers, there are appropriated such sums as are required to cover the costs of increases in the number of applicants qualifying for this program, subject to the approval of the Director of the Division of Budget and Accounting.

**2410 Rutgers, The State University**  
**GRANTS-IN-AID**

82-2410 Institutional Support . . . . .	<u>\$1,546,857,000</u>
Subtotal General Operations . . . . .	<u>\$1,546,857,000</u>
<b>Less:</b>	
<i>General Services Income</i> . . . . .	<i>\$434,397,000</i>
<i>Auxiliary Funds Income</i> . . . . .	<i>194,030,000</i>
<i>Special Funds Income</i> . . . . .	<i>442,527,000</i>
<i>Employee Fringe Benefits</i> . . . . .	<i>158,204,000</i>
<i>Total Income Deductions</i> . . . . .	<u><i>\$1,229,158,000</i></u>
Total Appropriation, Rutgers, The State University . . . . .	<u>\$317,699,000</u>

Special Purpose:

82 General Institutional Operations	(\$1,545,940,000)
82 High Enrollment Growth Adjustment	(743,000)
82 Teacher Preparation	(174,000)

**Less:**

**Income Deductions** . . . . . **1,229,158,000**

Of the sums hereinabove appropriated for Rutgers, The State University, \$180,000 is appropriated for the Masters in Government Accounting Program, \$105,000 is appropriated for the Tomato Technology Transfer Program, \$95,000 is appropriated for the Haskin Shellfish Research Laboratory, \$200,000 is appropriated for the Camden Law School Clinical Legal Programs for the Poor, \$200,000 is appropriated for the Newark Law School Clinical Legal Programs for the Poor, \$740,000 is appropriated for the Civic Square Project-Debt Service, \$75,000 is appropriated for the Walter Rand Institute for Public Affairs, \$700,000 is appropriated for In Lieu of Taxes to New Brunswick, \$500,000 is appropriated for capital projects or maintenance for Division of Intercollegiate Athletic facilities at Rutgers, New Brunswick, \$500,000 for the Gubernatorial Papers Project, \$18,000,000 is appropriated for Rutgers-Newark School of Business, \$135,000 for E3CO, Inc. and \$515,000 is appropriated for the New Jersey EcoComplex, Burlington County. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

Receipts in excess of the amount hereinabove for the Clinical Legal Programs for the Poor are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

For the purpose of implementing the fiscal year 2006 appropriations act, the number of State-funded positions at Rutgers, The State University shall be 6,678.

From the amount hereinabove appropriated for Rutgers, The State University, \$90,000 is transferred to the Department of Agriculture for a grant to the New Jersey Museum of Agriculture.

**2415 Agricultural Experiment Station  
GRANTS-IN-AID**

82-2415 Institutional Support	\$79,150,000
Subtotal General Operations	\$79,150,000

**Less:**

**Special Funds Income** . . . . . **\$38,824,000**

**Federal Research and Extension**

**Funds Income** . . . . . **6,520,000**

**Employee Fringe Benefits** . . . . . **8,854,000**

**Total Income Deductions** . . . . . **\$54,198,000**

Total Appropriation, Agricultural Experiment Station . . . . . \$24,952,000

Special Purpose:

82 General Institutional Operations	(\$79,150,000)
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**Less:****Income Deductions . . . . . 54,198,000**

Of the sums hereinabove appropriated for the New Jersey Agricultural Experiment Station, \$900,000 is appropriated for Strategic Initiatives Programs, \$250,000 is appropriated for Blueberry and Cranberry Research, \$691,000 is appropriated for the Snyder Farm Planning and Operation, and \$500,000 is appropriated for Fruit Research. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2006 appropriations act, the number of State-funded positions at the Agricultural Experiment Station shall be 424.

For the purpose of implementing the fiscal year 2006 appropriations act, the fringe benefits for 126 positions, funded by the federal Hatch and Smith/Lever programs, are funded by the State.

**2420 University of Medicine and Dentistry of New Jersey  
GRANTS-IN-AID**

82-2420 Institutional Support . . . . .	<u>\$1,471,347,000</u>
Subtotal General Operations . . . . .	<u>\$1,471,347,000</u>

**Less:****Hospital Services Income . . . . . \$550,696,000****Core Affiliates Income . . . . . 7,382,000****General Services Income . . . . . 157,065,000****Auxiliary Funds Income . . . . . 6,702,000****Special Funds Income . . . . . 327,728,000****Employee Fringe Benefits . . . . . 188,498,000****Total Income Deductions . . . . . \$1,238,071,000**

Total Appropriation, University of  
Medicine and Dentistry . . . . . \$233,276,000

**Special Purpose:**

82 General Institutional  
Operations . . . . . (\$1,464,147,000)

82 Governor's Council for  
Medical Research and  
Treatment of Infantile  
Autism . . . . . (500,000)

82 Cancer Institute of New Jersey and  
Ancillary Facilities . . . . . (5,000,000)

82 Child Health Institute . . . . . (1,700,000)

**Less:****Income Deductions . . . . . 1,238,071,000**

In addition to the sums hereinabove appropriated to the University of Medicine and Dentistry of New Jersey, all revenues from lease agreements between the university and contracted organizations are appropriated.

From the amount hereinabove appropriated for the University of Medicine and Dentistry of New Jersey, the Director of the Division of Budget and Accounting may transfer such amounts as deemed necessary to the Division of Medical Assistance and Health Services to maximize federal Medicaid funds.

From the amount hereinabove appropriated for the University of Medicine and Dentistry of New Jersey, the Director of the Division of Budget and Accounting may transfer such amounts related to hospital employee fringe benefits costs equal to enhanced Medicaid inpatient hospital payments for a hospital that has been recognized as a nominal charge hospital for the three years prior to June 30, 2000. The University of Medicine and Dentistry of New Jersey is authorized to operate its continuing medical-dental education program as a revolving fund and the revenue collected therefrom, and any unexpended balance therein, is retained for such fund.

Of the sums hereinabove appropriated for the University of Medicine and Dentistry of New Jersey, \$100,000 is appropriated for the Inflammatory Bowel Disease Center, \$800,000 is appropriated for Emergency Medical Service-Camden, \$975,000 is appropriated for the Regional Health Education Center-Physical Plant, \$750,000 is appropriated for the Violence Institute of NJ at UMDNJ, \$525,000 is appropriated for the Regional Health Education Center-Educational Units, \$160,000 is appropriated for The Autism Center of New Jersey Medical School, \$290,000 is appropriated for the New Jersey Area Health Education Program, \$7,800,000 is appropriated for Debt Service-Robert Wood Johnson Medical School, Camden, \$5,000,000 is appropriated for Debt Service-Neuroscience Institute, Newark and \$2,700,000 is appropriated for Debt Service-School of Osteopathic Medicine Academic Center, Stratford. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2006 appropriations act, the number of State-funded positions at the University of Medicine and Dentistry of New Jersey shall be 5,545.

The unexpended balances at the end of the preceding fiscal year in the accounts hereinabove are appropriated for the purposes of the University of Medicine and Dentistry of New Jersey.

Receipts deposited in the Autism Medical Research and Treatment Fund are appropriated for the Governor's Council for Medical Research and Treatment of Infantile Autism, subject to the approval of the Director of the Division of Budget and Accounting.

**2430 New Jersey Institute of Technology**  
**GRANTS-IN-AID**

82-2430 Institutional Support .....	<u>\$216,927,000</u>
Subtotal General Operations .....	<u>\$216,927,000</u>
<b>Less:</b>	
<i>General Services Income</i> .....	<i>\$77,225,000</i>
<i>Auxiliary Funds Income</i> .....	<i>10,575,000</i>
<i>Special Funds Income</i> .....	<i>55,000,000</i>
<i>Employee Fringe Benefits</i> .....	<i>24,015,000</i>
<i>Total Income Deductions</i> .....	<u><i>\$166,815,000</i></u>
Total Appropriation, New Jersey Institute of Technology .....	<u>\$50,112,000</u>
Special Purpose:	
82 General Institutional Operations (\$216,927,000)	

**Less:****Income Deductions . . . . . 166,815,000**

For the purpose of implementing the fiscal year 2006 appropriations act, the number of State-funded positions at the New Jersey Institute of Technology shall be 805.

**2440 Thomas A. Edison State College  
GRANTS-IN-AID**

82-2440 Institutional Support . . . . . \$31,917,000  
Subtotal General Operations . . . . . \$31,917,000

**Less:**

**Fee Increase . . . . . \$372,000**  
**Self Sustaining Income . . . . . 9,048,000**  
**General Services Income . . . . . 12,412,000**  
**Employee Fringe Benefits . . . . . 3,658,000**  
**Total Income Deductions . . . . . \$25,490,000**  
Total Appropriation, Thomas A. Edison  
State College . . . . . \$6,427,000

## Special Purpose:

82 General Institutional Operations . (\$31,603,000)  
82 The John S. Watson Institute for  
Public Policy . . . . . (314,000)

**Less:****Income Deductions . . . . . 25,490,000**

For the purpose of implementing the fiscal year 2006 appropriations act, the number of State-funded positions at Thomas A. Edison State College shall be 239.

**2445 Rowan University  
GRANTS-IN-AID**

82-2445 Institutional Support . . . . . \$183,610,000  
Subtotal General Operations . . . . . \$183,610,000

**Less:**

**General Services Income . . . . . \$72,758,000**  
**Auxiliary Funds Income . . . . . 25,340,000**  
**Special Funds Income . . . . . 25,000,000**  
**Employee Fringe Benefits . . . . . 22,449,000**  
**Total Income Deductions . . . . . \$145,547,000**  
Total Appropriation, Rowan University . . . . . \$38,063,000

## Special Purpose:

82 General Institutional Operations (\$182,752,000)  
82 High Enrollment  
Growth Adjustment . . . . . (327,000)  
82 Teacher Preparation . . . . . (531,000)

**Less:****Income Deductions . . . . . 145,547,000**

Of the sums hereinabove appropriated for Rowan University, \$500,000 is appropriated for the School of Engineering and \$215,000 is appropriated for the Camden

Urban Center. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.  
 For the purpose of implementing the fiscal year 2006 appropriations act, the number of State-funded positions at Rowan University shall be 877.

**2450 New Jersey City University  
 GRANTS-IN-AID**

82-2450 Institutional Support ..... \$129,441,000  
 Subtotal General Operations ..... \$129,441,000

**Less:**

*General Services Income* ..... **\$47,001,000**  
*A.H. Moore Program Receipts* ..... **4,792,000**  
*Auxiliary Funds Income* ..... **5,217,000**  
*Special Funds Income* ..... **21,571,000**  
*Employee Fringe Benefits* ..... **18,721,000**  
**Total Income Deductions** ..... **\$97,302,000**  
 Total Appropriation, New Jersey  
     City University ..... **\$32,139,000**

**Special Purpose:**

82 General Institutional  
     Operations ..... (\$128,490,000)  
 82 High Enrollment  
     Growth Adjustment ..... (620,000)  
 82 Teacher Preparation ..... (331,000)

**Less:**

**Income Deductions** ..... **97,302,000**

Of the sums hereinabove appropriated for New Jersey City University, \$1,078,000 is appropriated for the A. Harry Moore Laboratory School and \$145,000 is appropriated for Tidelands Athletic Fields. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2006 appropriations act, the number of State-funded positions at New Jersey City University shall be 784.

**2455 Kean University  
 GRANTS-IN-AID**

82-2455 Institutional Support ..... \$159,042,000  
 Subtotal General Operations ..... \$159,042,000

**Less:**

*General Services Income* ..... **\$57,022,000**  
*Auxiliary Funds Income* ..... **11,944,000**  
*Special Funds Income* ..... **27,129,000**  
*Employee Fringe Benefits* ..... **21,394,000**  
**Total Income Deductions** ..... **\$117,489,000**  
 Total Appropriation, Kean University ..... **\$41,553,000**

**Special Purpose:**

82 General Institutional  
     Operations ..... (\$157,384,000)

82 High Enrollment  
     Growth Adjustment . . . . . (1,078,000)  
 82 Teacher Preparation . . . . . (580,000)

**Less:**

**Income Deductions . . . . . 117,489,000**

Of the sums hereinabove appropriated for Kean University, \$180,000 is appropriated for Emerging Needs/Academic Initiatives. This account shall be considered a special purpose appropriation for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2006 appropriations act, the number of State-funded positions at Kean University shall be 888.

**2460 William Paterson University of New Jersey**

**GRANTS-IN-AID**

82-2460 Institutional Support . . . . . \$152,984,000  
 Subtotal General Operations . . . . . \$152,984,000

**Less:**

**General Services Income . . . . . \$49,302,000**

**Auxiliary Funds Income . . . . . 24,563,000**

**Special Funds Income . . . . . 15,737,000**

**Employee Fringe Benefits . . . . . 22,634,000**

**Total Income Deductions . . . . . \$112,236,000**

Total Appropriation, William Paterson

University of New Jersey . . . . . \$40,748,000

## Special Purpose:

82 General Institutional Operations (\$151,798,000)

82 High Enrollment

    Growth Adjustment . . . . . (1,039,000)

82 Teacher Preparation . . . . . (147,000)

**Less:**

**Income Deductions . . . . . 112,236,000**

Of the sums hereinabove appropriated for William Paterson University of New Jersey, \$100,000 is appropriated for the New Jersey Project and \$65,000 is appropriated for Outcomes Assessment. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2006 appropriations act, the number of State-funded positions at William Paterson University of New Jersey shall be 947.

**2465 Montclair State University**

**GRANTS-IN-AID**

82-2465 Institutional Support . . . . . \$211,012,000  
 Subtotal General Operations . . . . . \$211,012,000

**Less:**

**General Services Income . . . . . \$102,233,000**

**Conservation School Receipts . . . . . 930,000**

**Auxiliary Funds Income . . . . . 26,654,000**

**Special Funds Income . . . . . 6,400,000**

**Employee Fringe Benefits . . . . . 27,350,000**



<b>Total Income Deductions</b> .....	<b><u>\$163,567,000</u></b>
Total Appropriation, Montclair State University ..	<u>\$47,445,000</u>
Special Purpose:	
82 General Institutional	
Operations .....	(\$208,823,000)
82 High Enrollment	
Growth Adjustment .....	(1,854,000)
82 Teacher Preparation .....	(335,000)

**Less:**

**Income Deductions** .....

**163,567,000**  
 In addition to the sums hereinabove appropriated for Montclair State University, all revenues from lease agreements between Montclair State University and corporations operating satellite relay stations are appropriated.

Of the sums hereinabove appropriated for Montclair State University, \$1,050,000 is appropriated for the New Jersey State School of Conservation. This account shall be considered a special purpose appropriation for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2006 appropriations act, the number of State-funded positions at Montclair State University shall be 1,102.

**2470 The College of New Jersey**

**GRANTS-IN-AID**

82-2470 Institutional Support .....	<u>\$157,579,000</u>
Subtotal General Operations .....	<u>\$157,579,000</u>

**Less:**

**General Services Income** .....

**Auxiliary Funds Income** .....

**Special Funds Income** .....

**Employee Fringe Benefits** .....

**Total Income Deductions** .....

**\$50,707,000**  
**32,229,000**  
**17,709,000**  
**20,127,000**  
**\$120,772,000**  
 Total Appropriation, The College of New Jersey . \$36,807,000

Special Purpose:

82 General Institutional Operations (\$157,263,000)

82 High Enrollment

    Growth Adjustment .....

82 Teacher Preparation .....

**Less:**

**Income Deductions** .....

**120,772,000**  
 For the purpose of implementing the fiscal year 2006 appropriations act, the number of State-funded positions at The College of New Jersey shall be 823.

**2475 Ramapo College of New Jersey**

**GRANTS-IN-AID**

82-2475 Institutional Support .....	<u>\$100,710,000</u>
Subtotal General Operations .....	<u>\$100,710,000</u>

**Less:**

**General Services Income** .....

**\$36,742,000**

<i>Auxiliary Funds Income</i> .....	23,528,000
<i>Special Funds Income</i> .....	7,847,000
<i>Employee Fringe Benefits</i> .....	12,037,000
<b>Total Income Deductions</b> .....	<b><u>\$80,154,000</u></b>
Total Appropriation, Ramapo College of New Jersey .....	<u>\$20,556,000</u>

Special Purpose:

82 General Institutional Operations .....	(\$100,049,000)
82 High Enrollment Growth Adjustment .....	(661,000.00)

**Less:**

**Income Deductions** .....

**80,154,000**

Of the sums hereinabove appropriated for Ramapo College of New Jersey, \$200,000 is appropriated for the Governor William T. Cahill Recognition Programs. This account shall be considered a special purpose appropriation for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2006 appropriations act, the number of State-funded positions at Ramapo College of New Jersey shall be 481.

**2480 The Richard Stockton College of New Jersey**

**GRANTS-IN-AID**

82-2480 Institutional Support .....	\$117,920,000
Subtotal General Operations .....	<u>\$117,920,000</u>

**Less:**

<i>General Services Income</i> .....	\$38,116,000
<i>Auxiliary Funds Income</i> .....	21,924,000
<i>Special Funds Income</i> .....	19,568,000
<i>Employee Fringe Benefits</i> .....	13,832,000
<b>Total Income Deductions</b> .....	<b><u>\$93,440,000</u></b>
Total Appropriation, The Richard Stockton College of New Jersey .....	<u>\$24,480,000</u>

## Special Purpose:

82 General Institutional Operations .....	(\$117,170,000)
82 High Enrollment Growth Adjustment .....	(512,000)
82 School of Tourism .....	(150,000)
82 Teacher Preparation .....	(88,000)

**Less:**

**Income Deductions** .....

**93,440,000**

For the purpose of implementing the fiscal year 2006 appropriations act, the number of State-funded positions at the Richard Stockton College of New Jersey shall be 623.

***Higher Educational Services***

From the sums hereinabove appropriated for Higher Educational Services-Institutional Support in each of the State colleges and universities, there are allocated such sums as are required to provide the reimbursement to cover tuition costs of the National Guard members pursuant to subsection b. of section 21 of P.L.1999, c.46 (C.18A:62-24). Public colleges and universities are authorized to provide a voluntary employee furlough program.

Notwithstanding the provisions of any other law to the contrary, any funds appropriated as Grants-In-Aid and payable to any senior public college or university which requests approval from the Educational Facilities Authority and the Director of the Division of Budget and Accounting may be pledged as a guarantee for payment of principal and interest on any bonds issued by the Educational Facilities Authority or by the college or university. Such funds, if so pledged, shall be made available by the State Treasurer upon receipt of written notification by the Educational Facilities Authority or the Director of the Division of Budget and Accounting that the college or university does not have sufficient funds available for prompt payment of principal and interest on such bonds, and shall be paid by the State Treasurer directly to the holders of such bonds at such time and in such amounts as specified by the bond indenture, notwithstanding that payment of such funds does not coincide with any date for payment otherwise fixed by law.

From the amounts hereinabove appropriated for General Institutional Operations in the senior public institutions, the State Treasurer is authorized to pay the final 1/24th of fiscal year 2005 General Institutional Operations grant payment to each senior public institution in July 2005.

Of the amount hereinabove for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Recommendation Document dated March 1, 2005, first shall be charged to the State Lottery Fund.

Notwithstanding any provision of law to the contrary, if any Senior Public College or University adopts an increase in its undergraduate 2005-2006 tuition rate of more than 8% above its undergraduate 2004-2005 tuition rate, including any shifts of costs previously funded from other institutional sources to student fees during the 2005-2006 academic year, as shall be determined by the Director of the Division of Budget and Accounting based upon a report that shall be provided by the New Jersey Commission on Higher Education, the appropriation of State funds to that college or university shall be reduced by 5% for each 1% that the tuition rate increase exceeds 8%.

***30 Educational, Cultural and Intellectual Development******37 Cultural and Intellectual Development Services*****DIRECT STATE SERVICES**

05-2530 Support of the Arts .....	\$500,000
06-2535 Museum Services .....	2,530,000
07-2540 Development of Historical Resources .....	510,000
10-2570 Public Broadcasting Services .....	<u>6,446,000</u>
Total Direct State Services Appropriation, Cultural and Intellectual Development Services .....	<u>\$9,986,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages .....	(\$7,653,000)
Materials and Supplies .....	(243,000)
Services Other Than Personal .....	(740,000)
Maintenance and Fixed Charges .....	(205,000)

## Special Purpose:

06 Maintenance of Old Barracks .....	(375,000)
06 War Memorial Operations .....	(250,000)
10 Microwave Technology .....	(500,000)
10 Affirmative Action and Equal Employment Opportunity .....	(20,000)

A sum, not to exceed \$225,000, is appropriated from the "Cultural Centers and Historic Preservation Fund," established pursuant to section 20 of P.L.1987, c.265, for costs attributable to planning and administering grants for the development of cultural centers, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

05-2530 Support of the Arts .....	\$30,810,000
06-2535 Museum Services .....	2,500,000
07-2540 Development of Historical Resources .....	4,642,000
Total Grants-in-Aid Appropriation, Cultural and Intellectual Development Services .....	<u>\$37,952,000</u>

**Grants-in-Aid:**

05 Newark Museum .....	(\$4,930,000)
05 Cultural Projects .....	(22,680,000)
05 Rutgers Camden Performing Arts Center .....	(450,000)
05 Weehawkin Arts .....	(250,000)
05 Paper Mill Playhouse .....	(1,000,000)
06 War Memorial Operations .....	(500,000)
06 Thomas Edison Museum .....	(500,000)
06 Battleship New Jersey Museum ..	(3,000,000)
07 Grants in New Jersey History .....	(189,000)
07 Grants in Afro-American History ...	(13,000)
07 Ellis Island New Jersey Foundation .	(600,000)
07 New Jersey Historical Commission - Agency Grants .....	(3,840,000)

Of the amount appropriated for Cultural Projects, Grants-In-Aid, an amount not to exceed \$75,000 may be used for administrative purposes, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount appropriated for Cultural Projects, Grants-In-Aid, an amount not to exceed \$125,000 may be used for the assessment and oversight of cultural projects, including administrative costs attendant to this function, in compliance with all pertinent State and federal laws and regulations including the Single

Audit Act, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for Cultural Projects, the value of project grants awarded within each county shall total not less than \$50,000.

Of the amount hereinabove appropriated for Cultural Projects, funds may be used for the purpose of matching federal grants.

Notwithstanding the provisions of section 4 of P.L.1999, c.131 (C:18A:73-22.4), from the amount appropriated for New Jersey Historical Commission Research and Agency Grants, an amount not to exceed \$200,000 is appropriated for administrative costs, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provision of any other law to the contrary, of the amount appropriated for Cultural Projects, 25% shall be awarded to cultural groups or artists based in the eight southernmost counties (Cape May, Salem, Cumberland, Gloucester, Camden, Ocean, Atlantic, and Burlington). In the calculation of the allocation percentage, the first \$1,000,000 of any grants that may be awarded to the New Jersey Performing Arts Center or the South Jersey Performing Arts Center shall be disregarded.

**2541 Division of State Library**

**DIRECT STATE SERVICES**

51-2541 Library Services .....	<u>\$4,370,000</u>
Total Direct State Services Appropriation, Division of State Library .....	<u>\$4,370,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages .....	(\$3,232,000)
Materials and Supplies .....	(418,000)
Services Other Than Personal .....	(193,000)
Maintenance and Fixed Charges .....	(27,000)

Special Purpose:

51 Supplies and Extended Services .....	(500,000)
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**STATE AID**

51-2541 Library Services .....	<u>\$18,537,000</u>
Total State Aid Appropriation, Division of State Library .....	<u>\$18,537,000</u>

**State Aid:**

51 Per Capita Library Aid .....	(\$8,665,000)
51 Library Network .....	(4,777,000)
51 Virtual Library Aid .....	(1,300,000)
51 Public Library Project Fund .....	(3,795,000)

**70 Government Direction, Management and Control**

**74 General Government Services**

**2505 Office of the Secretary of State**

**DIRECT STATE SERVICES**

01-2505 Office of the Secretary of State .....	\$5,085,000
08-2545 Records Management .....	<u>2,963,000</u>
Total Direct State Services Appropriation, Office of the Secretary of State .....	<u>\$8,048,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages .....	(\$4,864,000)
Materials and Supplies .....	(138,000)
Services Other Than Personal .....	(317,000)
Maintenance and Fixed Charges .....	(56,000)

## Special Purpose:

01 Affirmative Action and Equal Employment .....	(34,000)
01 9-11 Memorial Commission .....	(50,000)
01 Personal Responsibility Programs ..	(500,000)
01 Amistad Commission .....	(887,000)
01 Office of Volunteerism .....	(259,000)
01 Martin Luther King, Jr. Commemorative Commission ...	(168,000)
01 Cultural Trust - Administration ....	(250,000)
01 Additions, Improvements and Equipment .....	(525,000)

The unexpended balance at the end of the preceding fiscal year of the Amistad Commission is appropriated for the same purpose.

In addition to the amount hereinabove appropriated for the Records Management program, such sums as are necessary for information technology or State match of federal funds, not to exceed \$1,200,000, are appropriated to coordinate and implement an effective record storage system for the State and local governments, subject to the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting shall transfer from departmental accounts and credit to the Records Management program classification a sum up to \$415,000 for cost recoveries in the Division of Records.

The amount hereinabove appropriated for the Records Management program is payable from receipts deposited in the New Jersey Public Records Preservation account.

Notwithstanding the provision of any other law to the contrary, up to 40% of the receipts deposited in the New Jersey Public Records Preservation account in the Department of the Treasury less \$5,000,000 are appropriated and allocated as grants to counties and municipalities for the management, storage, and preservation of public records based on guidelines promulgated by the Division of Archives and Records Management and approved by the State Treasurer.

Receipts received from New Jersey Public Records Preservation fees, not to exceed \$1,100,000, are appropriated for the operations of the microfilm unit in the Division of Archives and Records Management within the Department of State, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

01-2505 Office of the Secretary of State . . . . . \$3,720,000  
 Total Grants-in-Aid Appropriation, Office of the  
 Secretary of State . . . . . \$3,720,000

**Grants-in-Aid:**

01 Office of Faith Based Initiatives . (\$3,000,000)  
 01 Cultural Trust . . . . . (720,000)

**Less:**

*Savings from Administrative Efficiencies* . . . . . \$1,250,000

Department of State, Total State Appropriation . . . . \$1,295,163,000

Pursuant to the provisions of P.L.2003, c.114, the appropriations hereinabove for purposes of promoting cultural and tourism activities in this State are first charged to revenues derived from the hotel and motel occupancy fee.

Of the Savings from Administrative Efficiencies, \$250,000 shall be allocated to the Higher Education Student Assistance Authority.

**Summary of Department of State Appropriations  
 (For Display Purposes Only)**

*Appropriations by Category:*

Direct State Services . . . . . \$25,084,000  
 Grants-in-Aid . . . . . 1,251,542,000  
 State Aid . . . . . 18,537,000

*Appropriations by Fund:*

General Fund . . . . . \$1,295,163,000

**78 DEPARTMENT OF TRANSPORTATION****10 Public Safety and Criminal Justice****11 Vehicular Safety**

Notwithstanding the provisions of the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2, balances in the fund are available for other Clean Air purposes, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in the "Commercial Vehicle Enforcement Fund" established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75), are appropriated to offset all reasonable and necessary expenses of the Division of State Police and the Motor Vehicle Commission in the performance of commercial truck safety and emission inspections, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived pursuant to the New Jersey Emergency Medical Service Helicopter Response Program under section 1 of P.L.1992, c.87 (C.39:3-8.2) are appropriated to the Division of State Police and the Department of Health and Senior Services to defray the operating costs of the program as authorized under P.L.1986, c.106 (C.26:2K-35 et seq.). The unexpended balance at the end of the preceding fiscal year is appropriated to the special capital maintenance reserve

account for capital replacement and major maintenance of helicopter equipment, subject to the approval of the Director of the Division of Budget and Accounting. The amount appropriated for fiscal 2006 to the New Jersey Motor Vehicle Commission is based on proportional revenue collections for that fiscal year pursuant to the statutes listed in subsection a. of section 105 of P.L.2003, c.13 (C.39:2A-36).

**60 Transportation Programs**  
**61 State and Local Highway Facilities**  
**DIRECT STATE SERVICES**

06-6100 Maintenance and Operations .....	\$78,363,000
08-6120 Physical Plant and Support Services .....	<u>7,407,000</u>
Total Direct State Services Appropriation, State and	
Local Highway Facilities .....	<u>\$85,770,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages .....	(\$54,050,000)
Materials and Supplies .....	(12,414,000)
Services Other Than Personal .....	(3,032,000)
Maintenance and Fixed Charges .....	(15,063,000)
Additions, Improvements and Equipment .....	(1,211,000)

The unexpended balances as of June 30, 2005 in excess of \$1,000,000 in the accounts hereinabove are appropriated.

In addition to the amount appropriated hereinabove for Maintenance and Operations, such additional sums as may be required are appropriated for snow removal costs, not to exceed \$10,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, of the amounts appropriated hereinabove for the Department of Transportation from the General Fund, \$2,500,000 thereof shall be paid from funds received or receivable from the various transportation-oriented authorities pursuant to contracts between the authorities and the State as are determined to be eligible for such funding pursuant to such contracts, as shall be determined by the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from the Logo Sign program fees, which include the Trailblazer Sign Program, the Variable Message Advertising Program, the Excess Parcel Advertising Program, and the Land Service Road Advertising Program, are appropriated for the purpose of administering the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated derived from highway application and permit fees pursuant to subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5) are appropriated for the purpose of administering the Access Permit Review program, subject to the approval of the Director of the Division of Budget and Accounting.

The department is permitted to transfer an amount approved by the Director of the Division of Budget and Accounting from funds previously appropriated for State highway projects from the "Transportation Rehabilitation and Improvement Fund



of 1979,” established pursuant to section 15 of P.L.1979, c.165, for planning, engineering, design, right-of-way acquisition, or other costs related to the construction of projects financed from that fund.

Of the amount hereinabove for Maintenance and Operations \$10,000,000 for winter operations is payable from the receipts of the new motor vehicle tire purchaser fee pursuant to P.L.2004, c.46 (C.54:32F-1 et seq.).

**CAPITAL CONSTRUCTION**

60-6200 Trust Fund Authority -- Revenues and other funds available for new projects . . . . .	<u>\$805,000,000</u>
Total Capital Construction Appropriation, State and Local Highway Facilities . . . . .	<u>\$805,000,000</u>

**Capital Projects:**

Transportation Trust Fund Account (\$805,000,000)

The sum provided hereinabove for the Transportation Trust Fund account shall first be provided from revenues received from motor fuel taxes, the petroleum products gross receipts tax, and the sales and use tax pursuant to Article VIII, Section II, paragraph 4 of the State Constitution, together with such additional sums pursuant to P.L.1984, c.73 (C.27:1B-1 et al.) and R.S.54:39-27 as amended, as may be necessary to satisfy all fiscal year 2006 debt service, bond reserve requirements, and other fiscal obligations of the New Jersey Transportation Trust Fund Authority.

Receipts representing the State share from the rental or lease of property, and the unexpended balances at the end of the preceding fiscal year of such receipts are appropriated for maintenance or improvement of transportation property, equipment and facilities.

Notwithstanding any other requirements of law, the department may expend necessary sums for improvements to streets and roads providing access to State facilities within the capital city without local participation.

Notwithstanding any other provision of law, the Department of Transportation may transfer Transportation Trust Fund monies to federal projects contracted in federal fiscal years 2003, 2004, 2005, and 2006 until such time as federal funds become available for the projects. These transfers shall be subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer. Subject to the receipt of federal funds, the Transportation Trust Fund shall be reimbursed for all the monies that were transferred to advance federally funded projects.

Notwithstanding the provisions of P.L.1984, c.73 (C.27:1B-1 et al.), there is appropriated the sum of \$671,000,000 from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for the specific projects identified under the seven general program headings for capital purposes as follows:

<u>Route</u>	<u>Section</u>	<u>Description</u>	<u>County</u>	<u>Amount</u>
1.	Construction	Access Management	Various	(250,000)

Access Permit Application Review	Various	(100,000)
Airport Safety Fund	Various	(7,000,000)
Alexander Road Bridge over Amtrak	Mercer	(2,340,000)
Atlantic City Medical Center Heliport	Atlantic	(1,600,000)
Baseline Document Update	Various	(100,000)
Betterments, Bridge Preservation	Various	(10,000,000)
Betterments, Roadway Preservation	Various	(7,000,000)
Betterments, Safety	Various	(4,000,000)
Bridge, Emergency Repair	Various	(10,000,000)
Clifton Avenue/Nesbitt Street Bridges over Morristown Line	Essex	(9,034,000)
Congestion Relief, Intelligent Transportation System Improvements (Smart Move Program)	Various	(2,500,000)
Congestion Relief, Operational Improvements (Fast Move Program)	Various	(4,000,000)
Construction Inspection	Various	(3,000,000)
Construction Program IT System	Various	(2,500,000)
Culvert Inspection Program State owned Structures	Various	(600,000)
Dams, Betterments	Various	(200,000)
Drainage Rehabilitation and Maintenance, State	Various	(3,000,000)
Duck Island Landfill, Site Remediation	Mercer	(100,000)
DVRCP Transportation, Land Use and Economic Development Planning	Various	(300,000)
Ecotourism Grants	Various	(500,000)
Electrical and Signal Safety Engineering Program	Various	(250,000)
Electrical facilities	Various	(1,500,000)
Emergency response operations	Various	(250,000)
Environmental Investigations	Various	(2,000,000)
Equipment (Safety-Related Equipment)	Various	(3,000,000)
Equipment (Vehicles and Construction Equipment)	Various	(4,000,000)
Equipment, Over-age Reduction Program	Various	(2,000,000)
Freight program	Various	(10,000,000)
Good Neighbor Landscaping	Various	(1,000,000)
Hackettstown remediation	Morris	(200,000)
Historic Bridge Preservation Program	Various	(1,000,000)

	Homeland Security	Various	(1,075,000)
	Intersection Improvement Program	Various	(1,000,000)
	Interstate Service Facilities	Various	(250,000)
	Legal Costs for Right of Way Condemnation	Various	(1,300,000)
	Local aid for Centers of Place Maintenance Management System	Various	(300,000)
	Maritime transportation system	Various	(3,000,000)
	New Technology and Products Evaluation and Implementation	Various	(100,000)
	Newark Circulation Improvements	Essex	(6,000,000)
	Orphan Bridge Emergency Repairs	Various	(900,000)
	Park and Ride/Transportation Demand Management Program	Various	(1,000,000)
	Physical Plant	Various	(6,000,000)
	Professional Auditing Services Program Implementation	Various	(450,000)
	costs, NJDOT	Various	(85,000,000)
	Project Enhancements	Various	(185,000)
	Rail - Highway Grade Crossing Program, State	Various	(1,000,000)
	Regional Action program	Various	(1,000,000)
	Restriping Program	Various	(3,000,000)
	Resurfacing Program	Various	(50,000,000)
	Right of Way Database/ Document Management System	Various	(100,000)
	Safe Streets to Schools Program	Various	(4,000,000)
	Sign Structure Inspection Program	Various	(1,000,000)
	Sign Structure Repair Program	Various	(1,000,000)
	Signs Program, Statewide	Various	(1,000,000)
	Smart Growth Initiatives	Various	(1,000,000)
	Solid and Hazardous Waste Cleanup, Reduction and Disposal	Various	(1,130,000)
CR 512	Springfield Avenue Bridge over Morristown Line	Union	(7,208,000)
	State Police Enforcement and Safety Services	Various	(2,500,000)
	Survey Program, National Highway System	Various	(100,000)
	Traffic Signal Relamping	Various	(1,500,000)
	Traffic Signal Replacement	Various	(4,000,000)
	Training and Employee Development	Various	(1,000,000)
	TRANSCOM Membership	Various	(900,000)

		Transportation Security Initiatives	Various	(1,000,000)
		Transportation Security Initiatives-Waterside Port Monitoring	Various	(1,000,000)
		Trenton Magic Marker Site	Mercer	(700,000)
		Trenton Revitalization Improvements	Mercer	(2,000,000)
		Unanticipated Design, Right-of-Way, and Construction Expenses - State	Various	(18,598,000)
		Underground Exploration for Utility Facilities	Various	(100,000)
		University Transportation Research Technology	Various	(2,000,000)
		Utility reconnaissance and Relocation	Various	(1,000,000)
1&9		Elizabeth River Bridge (4T)	Union	(22,360,000)
10	CR 511	Parsippany Road, Drainage Improvements	Morris	(2,280,000)
21		TSM 6, Contract 3 - I-280 to Passaic Street	Essex	(13,790,000)
22		Mountainside Boro, Drainage Improvements	Union	(1,700,000)
22		Mullen Road, Drainage Improvements	Hunterdon	(400,000)
29		Main Street, Lambertville	Hunterdon	(6,435,000)
30	73	Berlin Improvements	Camden	(16,350,000)
33 Bus.		Halls Mill Road/Kozloski Road	Monmouth	(8,470,000)
40		Route 77 to Elmer Lake (4)	Salem	(4,735,000)
46	159	Plymouth Street/Clinton Road (52)	Essex	(6,535,000)
57		Corridor Scenic Preservation	Warren	(2,500,000)
70	CR 637	Massachusetts Avenue, Intersection Improvements	Ocean	(6,060,000)
94		Sand Hill Road, Intersection Improvements	Sussex	(3,700,000)
168		Bellmawr Boro, Drainage Improvements	Camden	(2,946,000)
206		Arreton Road, Drainage Improvements	Mercer	(700,000)
295		Paulsboro Brownfields Access	Gloucester	(4,000,000)
2.		Design		
		Asbestos Surveys and Abatements	Various	(1,000,000)
		Design, Emerging projects	Various	(4,000,000)
		Design, Geotechnical Engineering Tasks	Various	(300,000)
		Electrical Load Center Replacement-North	Bergen	
			Passaic	(1,500,000)
3	46	Valley Road and Notch/Rifle	Passaic	(7,100,000)
9		Camp Road Interchange	Passaic	(7,100,000)
		Lacey Road intersection improvements	Ocean	(1,000,000)

10	53	Route 10/53 Interchange (2L 3J)	Morris	(1,200,000)
18 Ext.		Hoes Lane Extension to I-287 (3A)	Middlesex	(1,500,000)
22		Park Avenue/Bonnie Burn road	Somerset	(1,800,000)
27		Oak Tree Road/Green Street, Intersection Improvements	Middlesex	(200,000)
31		Raritan Valley Line Bridge Replacement & Operational Improvements (8P)	Hunterdon	(1,750,000)
35		Matawan Creek to Laurence Harbor Parkway	Middlesex Monmouth	(2,300,000)
42	CR	Grenloch-Little Gloucester Road		
46	673	(AKA) College Road	Camden	(2,000,000)
49		Hollywood Avenue	Essex	(800,000)
72	55	Interchange Improvements at Route 55	Cumberland	(1,000,000)
93		East Road	Ocean	(1,200,000)
183		Leonia Boro, Drainage Improvements	Bergen	(500,000)
3.	46	NJ TRANSIT Bridge/Netcong Circle	Morris	(2,600,000)
29		Feasibility Assessment Project Development, Feasibility Assessment	Various	(8,600,000)
4.		Boulevard, Cass Street to north of Calhoun Street	Mercer	(439,000)
		Local Aid		
		Local Aid, Discretionary	Various	(10,000,000)
		Local County Aid, DVRPC	Various	(13,087,000)
		Local County Aid, NJTPA	Various	(46,474,000)
		Local County Aid, SJTPO	Various	(7,939,000)
		Local Municipal Aid, DVRPC	Various	(11,540,000)
		Local Municipal Aid, NJTPA	Various	(45,741,000)
		Local Municipal Aid, SJTPO	Various	(5,219,000)
		Local Municipal Aid, Urban Aid	Various	(5,000,000)
5.		Planning		
6.		Planning and Research, State	Various	(3,000,000)
33		Preliminary Design		
7.		Environmental Documental Development	Various	(500,000)
		Washington Township Bypass	Mercer	(1,000,000)
		Right of Way		
		Advance Acquisition of Right-of-Way	Various	(2,500,000)
		Right of Way Full-Service Consultant Term Agreements	Various	(100,000)
1&9		NYS&W RR Bridge (23)	Bergen Hudson	(9,800,000)
9W		Improvements at I-95/Rt. 4	Bergen	(1,800,000)
10		Powder Mill Road	Morris	(1,000,000)
18		Interchange of CRs 516/527	Middlesex	(6,000,000)
18 Ext.		Hoes Lane Extension to I-287 (3A)	Middlesex	(6,500,000)

22		Crab Brook, Drainage Improvements	Somerset	(1,900,000)
27		Wood Avenue	Middlesex	(6,000,000)
35	36	Eatontown	Monmouth	(3,500,000)
46		Main Street, Netcong	Morris	(300,000)
46		Rockaway River; NJ TRANSIT Bridges (7L 8K)	Morris	(13,000,000)
49		Cape May Branch Bridge	Cape May	(100,000)
73	70	Marlton Circle Elimination (5)	Burlington	(10,135,000)
93		Leonia Boro, Drainage Improvements	Bergen	(120,000)
130		Renaissance Boulevard to Adams Lane (16)	Middlesex	(2,500,000)
206		Assiscunk Creek Bridge Replacement (4)	Burlington	(25,000)
206		CSX Bridge Replacement	Somerset	(2,750,000)

Notwithstanding the provisions of subsection d. of section 21 of P.L.1984, c.73 (C.27:1B-21), in order to provide the department with flexibility in administering the appropriations identified, the Commissioner of Transportation may transfer funds among projects within the same general program heading subject to the approval of the Director of the Division of Budget and Accounting. The Commissioner of Transportation shall apply to the Director of the Division of Budget and Accounting for permission to transfer funds among projects within different program headings. If the Director of the Division of Budget and Accounting shall consent thereto, the request to transfer funds among projects within different program headings shall be transmitted to the Legislative Budget and Finance Officer for approval or disapproval then returned to the Director of the Division of Budget and Accounting. The Joint Budget Oversight Committee or its successor shall be empowered to review all transfers submitted to the Legislative Budget and Finance Officer and may direct said Legislative Budget and Finance Officer to approve or disapprove any transfer.

Notwithstanding any other provision of law to the contrary, there is appropriated to the Department of Transportation an additional amount of \$175,000,000, subject to the approval of the Director of the Division of Budget and Accounting, for the Route 52 Causeway Replacement Contract A Construction Fund, from the Transportation Trust Fund Authority's Grant Anticipation Revenue Vehicles (GARVEE) bond proceeds.

Notwithstanding the provisions of P.L.1984, c.73 (C.27:1B-1 et al.), there is appropriated the sum of \$534,000,000 from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for the specific projects identified as follows:

NEW JERSEY TRANSIT CORPORATION

<u>Route</u>	<u>Section</u>	<u>Description</u>	<u>County</u>	<u>Amount</u>
TRANSIT		ADA -- Platforms/Stations	Various	(\$830,000)
TRANSIT		ADA -- Vans	Various	(2,000,000)
TRANSIT		AMTRAK Agreements	Various	(65,000,000)
TRANSIT		Bridge and Tunnel Rehabilitation	Various	(19,598,000)
TRANSIT		Building Capital Leases	Various	(9,769,000)

TRANSIT	Bus Acquisition Program	Various	(4,280,000)
TRANSIT	Bus Passenger Facilities/ Park and Ride	Various	(14,750,000)
TRANSIT	Bus Support Facilities and Equipment	Various	(34,140,000)
TRANSIT	Bus Vehicle and Facility Maintenance/Capital Maintenance	Various	(34,700,000)
TRANSIT	Capital Program Implementation	Various	(18,000,000)
TRANSIT	Claims Support	Various	(2,000,000)
TRANSIT	Environmental Compliance	Various	(1,500,000)
TRANSIT	Hoboken Terminal/Yard Rehabilitation	Hudson	(2,790,000)
TRANSIT	Hudson - Bergen LRT System, MOS I	Hudson	(11,026,000)
TRANSIT	Hudson - Bergen LRT System, MOS II	Hudson	(19,400,000)
TRANSIT	Immediate Action Program	Various	(19,752,000)
TRANSIT	Locomotive overhaul	Various	(700,000)
TRANSIT	Miscellaneous	Various	(250,000)
TRANSIT	Newark City Subway	Essex	(6,010,000)
TRANSIT	Newark Penn Station	Essex	(4,000,000)
TRANSIT	Other Rail Station/Terminal Improvements	Various	(24,089,000)
TRANSIT	Physical Plant	Various	(1,515,000)
TRANSIT	Rail Capital Maintenance	Various	(49,170,000)
TRANSIT	Rail Fleet Overhaul	Various	(100,000)
TRANSIT	Rail Park and Ride	Various	(4,974,000)
TRANSIT	Rail Rolling Stock Procurement	Various	(10,120,000)
TRANSIT	Rail Support Facilities, Equipment and Capacity Improvements	Various	(55,856,000)
TRANSIT	Railroad Associated Capital Maintenance	Various	(8,000,000)
TRANSIT	River LINE LRT	Camden Burlington Mercer	(48,000,000)
TRANSIT	Section 5310 Program	Various	(760,000)
TRANSIT	Security Improvements	Various	(2,000,000)
TRANSIT	Signals and Communications/ Electric Traction Systems	Various	(15,083,000)
TRANSIT	Small/Special Services Program	Various	(2,440,000)
TRANSIT	Study and Development	Various	(2,890,000)
TRANSIT	Technology Improvements	Various	(30,400,000)
TRANSIT	Track Program	Various	(2,108,000)
TRANSIT	Transit Rail Initiatives	Various	(6,000,000)

The unexpended balances at the end of the preceding fiscal year of appropriations from the New Jersey Transportation Trust Fund Authority are appropriated.

Notwithstanding the provisions of subsection d. of section 21 of P.L.1984, c.73 (C.27:1B-21), in order to provide the department with flexibility in administering the appropriations identified, the Commissioner may transfer funds among projects within the same general program heading subject to the approval of the Director of the Division of Budget and Accounting. The Commissioner shall apply to the Director of the Division of Budget and Accounting for permission to transfer funds among projects within different program headings. If the Director of the Division of Budget and Accounting shall consent thereto, the request to transfer funds among projects within different program headings shall be transmitted to the Legislative Budget and Finance Officer for approval or disapproval then returned to the Director of the Division of Budget and Accounting. The Joint Budget Oversight Committee or its successor shall be empowered to review all transfers submitted to the Legislative Budget and Finance Officer and may direct said Legislative Budget and Finance Officer to approve or disapprove any transfer.

**62 Public Transportation**

**GRANTS-IN-AID**

04-6050	Railroad and Bus Operations	\$1,421,400,000
	Total Appropriation, State, Federal and	
	All Other Funds	<u>\$1,421,400,000</u>
<b>Less:</b>		
	<i>Farebox Revenue</i>	<i>\$635,700,000</i>
	<i>Other Resources</i>	<i>512,000,000</i>
	<b>Total Income Deductions</b>	<b><u>\$1,147,700,000</u></b>
	Total Grants-in-Aid Appropriation,	
	Public Transportation	<u>\$273,700,000</u>

**Grants-in-Aid:**

Personal Services:

Salaries and Wages	(\$856,600,000)	
Materials and Supplies	(218,300,000)	
Services Other Than Personal	(90,500,000)	

Special Purpose:

04 Leases and Rentals	(1,900,000)	
04 Light Rail Operations	(65,100,000)	
04 Purchased Transportation	(93,500,000)	
04 Insurance and Claims	(25,800,000)	
04 Tolls, Taxes and Other		
Operating Expenses	(69,700,000)	

**Less:**

<b>Income Deductions</b>	<b>1,147,700,000</b>	
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In addition to the amount hereinabove appropriated, there is appropriated out of the Petroleum Overcharge Reimbursement Fund the sum of \$5,000,000 for the purchase of energy-efficient, alternative fuel for New Jersey Transit Corporation's bus fleet.

**STATE AID**

04-6050	Railroad and Bus Operations	\$34,352,000
	<i>(From Casino Revenue Fund)</i>	<i>\$34,352,000</i>



Total State Aid Appropriation, Public Transportation . . . \$34,352,000  
*(Total From Casino Revenue Fund . \$34,352,000)*

**State Aid:**

04 Transportation Assistance  
 for Senior Citizens and  
 Disabled Residents (CRF) . . . (\$34,352,000)

The unexpended balance at the end of the preceding fiscal year in this account is appropriated.

Counties which provide para-transit services for sheltered workshop clients may seek reimbursement for such services pursuant to P.L.1987, c.455 (C.34:16-51 et seq.).

**CAPITAL CONSTRUCTION**

Notwithstanding any other provision of law, the Commissioner of Transportation, upon approval of the Director of the Division of Budget and Accounting, may transfer funds made available from the New Jersey Transportation Trust Fund Authority for public transportation projects under the program headings "New Jersey Transit Corporation" to the line-item under that same program heading entitled "Federal Transit Administration Projects" for any federally funded public transportation project shown in this act or any previous appropriation acts until such time as federal funds become available for the projects. Subject to the receipt of federal funds, the Transportation Trust Fund shall be reimbursed for all the monies that were transferred to advance Federal Transit Administration projects. Any transfer of funds which returns funds from the line item "Federal Transit Administration Projects" to the account of origin shall be deemed approved.

From the amounts appropriated from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for fiscal year 2006 transportation capital program, the Commissioner of Transportation shall allocate \$4,000,000 of the amount listed for the Private Carrier Equipment Program to NJ Transit's Private Carrier Capital Improvement Program (PCCIP). The amount provided herein shall be allocated to the private motorbus carriers consistent with the formula used to administer the PCCIP and shall be restricted to those carriers that currently qualify for participation in the PCCIP. These funds may be used for the procurement of any goods or services currently approved under NJ Transit's PCCIP, as well as: facility improvements, vehicle procurement, and capital maintenance that comports with subsection r. of section 3 of P.L.1984, c.73 (C.27:1B-3). Such maintenance and equipment procurements shall apply to vehicles owned by the private motorbus carriers and used in public transportation service, as well as to NJ Transit owned vehicles. Private motorbus carriers receiving an allocation of such funds shall be required to submit to NJ Transit a full accounting for all expenditures, demonstrating that the funds were used to increase or maintain the current level of public transportation service provided by the carrier or to improve revenue vehicle maintenance. Under no circumstances shall these funds be used to provide compensation of any officer or owner of a private motorbus carrier.

**64 Regulation and General Management****DIRECT STATE SERVICES**

05-6070 Access and Use Management . . . . .	\$1,744,000
99-6000 Administration and Support Services . . . . .	<u>4,661,000</u>
Total Direct State Services Appropriation, Regulation and General Management . . . . .	<u>\$6,405,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages . . . . .	(\$2,285,000)
Materials and Supplies . . . . .	(288,000)
Services Other Than Personal . . . . .	(1,986,000)
Maintenance and Fixed Charges . . . . .	(70,000)

## Special Purpose:

05 Airport Safety Fund Administration . . . . .	(965,000)
05 Office of Maritime Resources . . . . .	(350,000)
99 Affirmative Action and Equal Employment Opportunity . . . . .	(461,000)

The unexpended balance at the end of the preceding fiscal year and the reimbursements in the department's Stock Purchase Revolving Fund for the purchase of materials and supplies required for the operation of the department are appropriated.

Receipts in excess of the amount anticipated derived from outdoor advertising application and permit fees are appropriated for the purpose of administering the Outdoor Advertising Permit and Regulation program, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Airport Safety Fund account together with any receipts in excess of the amount anticipated are appropriated.

Notwithstanding any other provision of law, the amount hereinabove for the Airport Safety Fund is payable out of the "Airport Safety Fund" established pursuant to section 4 of P.L.1983, c.264 (C.6:1-92) and is available for salary and operational costs incurred by the Bureau of Aeronautics in the administration of loans or grants; the acquisition of airports lands or rights in lands; the operation or provision of any program or activity which promotes aviation safety, promotes aviation education, or provides for the promotion of aeronautics; and for those aviation purposes which the department is empowered to undertake pursuant to the "New Jersey Airport Safety Act of 1983," P.L.1983, c.264 (C.6:1-89 et seq.) or under Title 6 and Title 27 of the Revised Statutes. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Receipts derived from fees on placarded rail freight cars transporting hazardous materials in this State are appropriated to defray the expenses of the Placarded Rail Freight Car Transporting Hazardous Materials program, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

The unexpended balance at the end of the preceding fiscal year in the Airport Safety Fund account together with any receipts in excess of the amount anticipated are appropriated.

*Less:*

*Savings from Administrative Efficiencies* ..... \$2,500,000

Department of Transportation,  
Total State Appropriation ..... \$1,202,727,000

**Summary of Department of Transportation Appropriations  
(For Display Purposes Only)**

*Appropriations by Category:*

Direct State Services ..... \$89,675,000  
Grants-in-Aid ..... 273,700,000  
State Aid ..... 34,352,000  
Capital Construction ..... 805,000,000

*Appropriations by Fund:*

General Fund ..... \$1,168,375,000  
Casino Revenue Fund ..... 34,352,000

**82 DEPARTMENT OF THE TREASURY  
30 Educational, Cultural and Intellectual Development  
36 Higher Educational Services**

**GRANTS-IN-AID**

47-2155 Support to Independent Institutions ..... \$25,959,000  
49-2155 Miscellaneous Higher Education Programs ..... 83,379,000  
Total Grants-in-Aid Appropriation, Higher  
Educational Services ..... \$109,338,000

**Grants-in-Aid:**

47 Aid to Independent Colleges and  
Universities ..... (\$23,962,000)  
47 Clinical Legal Programs for  
the Poor -- Seton Hall  
University (P.L.1996, c.52) ..... (200,000)  
47 Institute for Advanced Study --  
Discrete Mathematics and  
Computer Science Center ..... (130,000)  
47 Institute for Advance Study -- Park  
City Mathematics ..... (130,000)  
47 Research Under Contract with  
the Institute of Medical  
Research, Camden ..... (1,037,000)  
47 Bloomfield College -- Science  
Laboratory ..... (500,000)  
49 Higher Education Incentive  
Endowment Fund ..... (3,000,000)  
49 Garden State Savings  
Bonds Incentive ..... (100,000)

49 Higher Education Capital Improvement Program -- Debt Service . . . . .	(17,100,000)
49 Equipment Leasing Fund -- Debt Service . . . . .	(18,599,000)
49 Higher Education Facilities Trust Fund -- Debt Service . . . . .	(21,033,000)
49 Higher Education Technology Bond -- Debt Service . . . . .	(6,475,000)
49 Marine Sciences Consortium . . . . .	(576,000)
49 Dormitory Safety Trust Fund -- Debt Service . . . . .	(8,796,000)
49 Statewide Systemic Initiative to Reform Mathematics and Science Education . . . . .	(1,200,000)
49 Stevens Institute of Technology -- New Jersey Community College Strategic Partnership . . . . .	(1,000,000)
49 New Jersey Stem Cell Research Institute . . . . .	(5,500,000)

For the purpose of implementing the "Independent College and University Assistance Act," P.L.1979, c.132 (C.18A:72B-15 et seq.), the number of full-time equivalent students (FTE) at the eight State Colleges is 55,852 for fiscal year 2005.

From the amount hereinabove appropriated for Aid to Independent Colleges and Universities, the State Treasurer is authorized to pay the final 1/24th of fiscal year 2005 Aid to Independent Colleges and Universities payments in July 2005 less any amounts appropriated to these colleges and universities under P.L.2004, c.60.

Receipts in excess of the amount hereinabove for Clinical Legal Programs for the Poor-Seton Hall University (P.L.1996, c.52) are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The sums provided hereinabove for Research Under Contract with the Institute of Medical Research, Camden (Coriell Institute) shall be expended on support for research activities, and the Institute shall submit an annual audited financial statement to the Department of the Treasury which shall include a schedule showing the use of these funds.

In addition to the amounts hereinabove appropriated for the Higher Education Capital Improvement Program-Debt Service account, the unexpended balances at the end of the preceding fiscal year are appropriated for the same purpose.

In addition to the amount hereinabove appropriated, there is appropriated an amount not to exceed \$10,000,000 to pay for debt service on higher education facilities bonds as may be lawfully issued during this fiscal year subject to enabling legislation, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the New Jersey Stem Cell Research Institute shall be expended subject to the approval of the State Treasurer in consultation with the New Jersey Commission on Science and Technology.

The unexpended balance at the end of the preceding fiscal year in the New Jersey Stem Cell Research Institute account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove appropriated for the New Jersey Stem Cell Research Institute, there is appropriated to the University of Medicine and Dentistry of New Jersey \$162,000 from the Higher Education Facility Renovation and Rehabilitation Fund (P.L.1990, c.126), created pursuant to the Jobs, Education and Competitiveness Bond Act of 1988 (P.L.1988, c.78), for the purpose of renovating space in the Research Annex Building in Piscataway to support stem cell research.

In addition to the amounts hereinabove appropriated for the New Jersey Stem Cell Research Institute, there is appropriated to Rutgers, the State University \$162,000 from the Higher Education Facility Renovation and Rehabilitation Fund (P.L.1990, c.126), created pursuant to the Jobs, Education and Competitiveness Bond Act of 1988 (P.L.1988, c.78), for the purpose of renovating space in Nelson Hall to support stem cell research.

#### STATE AID

48-2155 Aid to County Colleges ..... \$223,579,000

*(From General Fund ..... \$195,023,000)*

*(From Property Tax Relief Fund .... 28,556,000)*

Total State Aid Appropriation,

Higher Educational Services ..... \$223,579,000

*(From General Fund ..... \$195,023,000)*

*(From Property Tax Relief Fund ... 28,556,000)*

**Less:**

**Supplemental Workforce**

*Fund-Basic Skills ..... \$14,000,000*

*Total Income Deductions ..... \$14,000,000*

Total State Appropriation, Higher

Educational Services ..... \$209,579,000

*(From General Fund ..... \$181,023,000)*

*(From Property Tax Relief Fund ... 28,556,000)*

**State Aid:**

48 Operational Costs ..... (\$162,562,000)

48 Debt Service for Chapter 12

N.J.S.18A:64A-22.1 (PTRF) .. (28,556,000)

48 Employer Contributions --

Alternate Benefit Program .... (18,311,000)

48 Employer Contributions --

Teachers' Pension and

Annuity Fund ..... (37,000)

48 Teachers' Pension and Annuity

Fund -- Post Retirement Medical (1,117,000)

48 Post Retirement Medical Other Than TPAF . . . . .	(12,461,000)
48 Employer Contributions -- FICA for County College Members of Teachers' Pension and Annuity Fund . . . . .	(450,000)
48 Debt Service on Pension Obligation Bonds P.L.1997, c.114 (C.34:1B-7.50 et seq.) . . . . .	(85,000)

**Less:**

**Income Deductions . . . . . 14,000,000**

In addition to the amount hereinabove for operational costs, there is appropriated \$14,000,000 from the Supplemental Workforce Fund for Basic Skills for the same purpose.

From the amount hereinabove appropriated for county college Operational Costs aid, the State Treasurer is authorized to pay the final 1/24th of fiscal year 2005 county college Operational Costs aid payments in July 2005 less any amounts appropriated to these colleges under P.L.2004, c.60.

Such additional sums as may be required for Employer Contributions-Alternate Benefit Program, Teachers' Pension and Annuity Fund-Post Retirement Medical and Post Retirement Medical Other Than TPAF are appropriated, as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding any provision of law to the contrary, in addition to the amount hereinabove appropriated for the Teachers' Pension and Annuity Fund-Post Retirement Medical, there is hereby appropriated an amount as determined by the State Treasurer to fund the pension cost contribution by the State to the Teachers' Pension and Annuity Fund, payment for which shall be credited against amounts on deposit in the benefit enhancement fund established in N.J.S.18A:66-16.

In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds P.L.1997, c.114 (C.34:1B-7.50 et seq.) to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

Such sums as may be necessary for the payment of interest or principal or both, due from the issuance of any bonds authorized under the provisions of section 1 of P.L.1971, c.12 (C.18A:64A-22.1) are appropriated.

**Higher Educational Services**

Of the amount hereinabove appropriated for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule in the Governor's Budget Recommendation Document dated March 1, 2005, first shall be charged to the State Lottery Fund.

**50 Economic Planning, Development and Security**  
**51 Economic Planning and Development**  
**DIRECT STATE SERVICES**

38-2049 Economic Development .....	<u>\$502,000</u>
Total Direct State Services Appropriation, Economic Planning and Development .....	<u>\$502,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages .....	(\$419,000)
Materials and Supplies .....	(15,000)
Services Other Than Personal .....	(43,000)
Maintenance and Fixed Charges .....	(15,000)
Additions, Improvements and Equipment ..	(10,000)

**GRANTS-IN-AID**

Funds made available for the remediation of the discharges of hazardous substances pursuant to the amendments effective December 4, 2003 to Article VIII, Section II, paragraph 6 of the State Constitution, shall be allocated to the Brownfield Site Reimbursement Fund, established pursuant to P.L.1997, c.278, in an amount to be determined by the Director of the Division of Taxation, and subject to the approval of the Director of the Division of Budget and Accounting. If such sums for the remediation of discharges of hazardous substances are insufficient, there are appropriated such sums as necessary for the Brownfield Site Reimbursement Fund, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding year in the Stem Cell Research Grant-EDA account is appropriated for the same purpose.

**2041 New Jersey Commerce, Economic Growth and Tourism Commission****GRANTS-IN-AID**

38-2041 Economic Development .....	<u>\$19,819,000</u>
Total Grants-in-Aid Appropriation, New Jersey Commerce, Economic Growth and Tourism Commission .....	<u>\$19,819,000</u>

**Grants-in-Aid:**

38 New Jersey Commerce, Economic Growth and Tourism Commission .....	(\$19,819,000)
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Of the sum hereinabove appropriated for the New Jersey Commerce, Economic Growth and Tourism Commission, not less than \$12,760,000 shall be used for Advertising and Promotion, from which \$30,000 shall be allocated to each of the six regional tourism councils for regional tourism promotion; \$2,853,000 shall be used for Business Retention, Expansion and Attraction, of which \$800,000 is for New Jersey Small Business Development Centers; \$130,000 shall be used for the New Jersey Israel Commission; and \$1,850,000 shall be used for the Travel and Tourism Cooperative Marketing Program; except that any amount for the Cooperative Marketing Program is available for expenditure only to the extent that an amount equal to 25% of the State funds are expended from funds raised by the Commerce Commission, pursuant to subsection j. of section 9 of P.L.1977, c.225 (C.34:1A-53), through contributions from private tourism industry concerns

and non-State public entities as determined by the Director of the Division of Budget and Accounting. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

Pursuant to the provisions of P.L.2003, c.114 (C.54:32-1 et seq.), the appropriations hereinabove for purposes of promoting tourism activities in this State are first charged to revenues derived from the hotel and motel occupancy fee.

There is appropriated from the Enterprise Zone Assistance Fund such sums as are necessary for administrative services provided by the New Jersey Commerce, Economic Growth and Tourism Commission in accordance with the provisions of section 11 of P.L.1993, c.367 (C.52:27H-65.1), subject to the approval of the Director of the Division of Budget and Accounting.

The Chief Executive Officer and Secretary of the Commission shall report semi-annually on the expenditure of State funds and private contributions during the preceding six months for the Advertising and Promotion Program and the Travel and Tourism, Advertising and Promotion-Cooperative Marketing Program. The first semi-annual report covering the first six months of fiscal year 2006 shall be completed not later than January 31, 2006, the second semi-annual report covering the second six months of fiscal year 2006 shall be completed not later than July 31, 2006 and both reports shall be submitted to the Treasurer, the Director of the Division of Budget and Accounting, and the Joint Budget Oversight Committee.

**2042 New Jersey Commission on Science and Technology**

**DIRECT STATE SERVICES**

39-2042 New Jersey Commission on Science and Technology	<u>\$668,000</u>
Total Direct State Services Appropriation, New Jersey Commission on Science and Technology	<u>\$668,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages	(\$471,000)
Materials and Supplies	(51,000)
Services Other Than Personal	(140,000)
Maintenance and Fixed Charges	(6,000)

**GRANTS-IN-AID**

39-2042 New Jersey Commission on Science and Technology	<u>\$14,550,000</u>
Total Grants-in-Aid Appropriation, New Jersey Commission on Science and Technology	<u>\$14,550,000</u>

**Grants-in-Aid:**

39 Science and Technology Grants	(\$13,950,000)
39 Manufacturing Extension Program	(600,000)

The unexpended balance at the end of the preceding fiscal year in the New Jersey Commission on Science and Technology Grants-In-Aid account is appropriated for the same purpose.



From the amount hereinabove appropriated for Science and Technology Grants, there is allocated \$600,000 for the Manufacturing Extension Program.

**52 Economic Regulation**  
**DIRECT STATE SERVICES**

53-2018	Ratepayer Advocacy .....	\$5,951,000
54-2008	Utility Regulation .....	8,027,000
55-2004	Regulation of Cable Television .....	2,024,000
88-2058	Energy Assistance Programs .....	1,628,000
97-2016	Regulatory Support Services .....	3,724,000
99-2003	Administration and Support Services .....	<u>10,920,000</u>
	Total Direct State Services Appropriation, Economic Regulation .....	<u>\$32,274,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages .....	(\$25,848,000)
Materials and Supplies .....	(590,000)
Services Other Than Personal .....	(3,181,000)
Maintenance and Fixed Charges .....	(905,000)

Special Purpose:

99 Energy Targets .....	(240,000)
99 Energy Master Plan Development .	(436,000)
99 Database Projects .....	(502,000)
Additions, Improvements and Equipment .	(572,000)

In addition to the sum hereinabove, such other sums as the Director of the Division of Budget and Accounting shall determine are appropriated on behalf of the Board of Public Utilities under P.L.1968, c.173 (C.48:2-59 et seq.) and P.L.1972, c.186 (C.48:5A-32 et seq.), or other applicable statutes with respect to assessment of public utilities or the cable television industry.

In addition to the amount hereinabove for administration of the Board of Public Utilities, there are appropriated such sums as may be required for operation of the board and assessed to the public utilities or the cable television industry, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from fees are appropriated.

Fees received from the "Electric Facility Need Assessment Act," P.L.1983, c.115 (C.48:7-16 et seq.), are appropriated.

The unexpended balances at the end of the preceding fiscal year are appropriated. There are appropriated from interest earned by the Petroleum Overcharge Reimbursement Fund such sums as may be required for costs attributable to the administration of the fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law, the balances from the Petroleum Overcharge Reimbursement Fund and the Secondary Stage Refunds and the monies required to be deposited in that fund from projects which have been completed or are no longer viable are reappropriated for new projects consistent with the court rulings which served as the basis for the original awards, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts of the Division of Ratepayer Advocate in excess of those anticipated are appropriated for the Division of Ratepayer Advocate to defray the costs of this activity under section 16 of P.L.1994, c.58 (C.52:27E-63).

The amounts hereinabove appropriated, not to exceed \$1,628,000, for the Energy Assistance Programs account may be transferred to the Department of Health and Senior Services, Lifeline account to fund the costs associated with administering the Lifeline Credits and Tenants' Assistance Rebates Program and shall be applied in accordance with a Memorandum of Understanding between the President of the Board of Public Utilities and the Commissioner of the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, the investment earnings derived from the funds deposited in the Clean Energy Fund shall accrue to the fund and are available to pay the costs of the various programs of the New Jersey Board of Public Utilities Clean Energy Program.

Notwithstanding the provisions of paragraph (3) of subsection a. of section 12 of the "Electric Discount and Energy Competition Act," P.L.1999, c.23 (C.48:3-60) and any other laws to the contrary, receipts from the New Jersey Clean Energy Trust Fund are appropriated for the actual administrative salary and operating costs, not to exceed \$820,000, for the Office of Clean Energy as requested by the President of the Board of Public Utilities and approved by the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

88-2058 Energy Assistance Programs .....	<u>\$70,840,000</u>
Total Grants-in-Aid Appropriation,	
Economic Regulation .....	<u>\$70,840,000</u>

***Grants-in-Aid:***

88 Payments for Lifeline Credits ...	(\$34,669,000)
88 Tenants' Assistance	
Rebate Program .....	(36,171,000)

Notwithstanding the provisions of P.L.1979, c.197 (C.48:2-29.15 et seq.), the provisions of P.L.1981, c.210 (C.48:2-29.30 et seq.) or any other law to the contrary, the benefits of the Lifeline Credits Program and the Tenants' Assistance Rebates Program may be distributed throughout the entire year from July through June, and are not limited to an October to March heating season; therefore, applications for Lifeline benefits and benefits from the Pharmaceutical Assistance to the Aged and Disabled program may be combined.

The amounts hereinabove appropriated for Payments for Lifeline Credits Program and Tenants' Assistance Rebates Program are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of Lifeline claims, amounts may be transferred from the various items of appropriation within the Energy Assistance Programs classification, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove, such sums as may be required for the payment of claims, credits, and rebates, are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Any supplemental appropriation for the Payments for Lifeline Credits and the Tenants' Assistance Rebates Program may be recovered from the Universal Service Fund through transfer to the General Fund as State revenue, subject to the approval of the Director of the Division of Budget and Accounting.

All funds recovered under P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.), during the fiscal year ending June 30, 2005, are appropriated for payments to providers in the same program class from which the recovery originated.

The amounts hereinabove appropriated, not to exceed \$70,840,000, for Payments for Lifeline Credits and the Tenants' Assistance Rebates Program are available to the Department of Health and Senior Services to fund the payments associated with the Lifeline Credits and Tenants' Assistance programs and shall be applied in accordance with a Memorandum of Understanding between the President of the Board of Public Utilities and the Commissioner of the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting.

### **70 Government Direction, Management and Control**

#### **72 Governmental Review and Oversight**

##### **DIRECT STATE SERVICES**

03-2015 Employee Relations and Collective Negotiations . . . . .	\$605,000
07-2040 Office of Management and Budget . . . . .	<u>19,138,000</u>
Total Direct State Services Appropriation,	
Governmental Review and Oversight . . . . .	<u>\$19,743,000</u>

##### **Direct State Services:**

###### **Personal Services:**

Salaries and Wages . . . . .	(\$12,695,000)
Materials and Supplies . . . . .	(293,000)
Services Other Than Personal . . . . .	(5,532,000)
Maintenance and Fixed Charges . . . . .	(124,000)

###### **Special Purpose:**

07 Independent Audits . . . . .	(1,099,000)
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Such sums as may be necessary for administrative expenses incurred in processing federal benefit payments are appropriated from such sums as may be received or receivable for this purpose.

In addition to the amounts hereinabove, there are appropriated such additional sums as may be necessary for an independent audit of the State's general fixed asset account group, management, performance, and operational audits, and the single audit.

There are appropriated, out of receipts derived from the investment of State funds, such sums as may be necessary for bank service charges, custodial costs, mortgage servicing fees and advertising bank balances under section 1 of P.L.1956, c.174 (C.52:18-16.1).

**70 Government Direction, Management and Control****72 Governmental Review and Oversight****2068 Office of the Inspector General****DIRECT STATE SERVICES**

14-2068 Office of the Inspector General .....	<u>\$2,500,000</u>
Total Direct State Services Appropriation, Office of the Inspector General .....	<u>\$2,500,000</u>

**Direct State Services:**

## Personal Services:

Salaries and Wages .....	(\$1,420,000)
Materials and Supplies .....	(100,000)
Services Other Than Personal .....	(750,000)
Maintenance and Fixed Charges .....	(155,000)
Additions, Improvements and Equipment ..	(75,000)

In addition to the amounts hereinabove appropriated, such sums as may be necessary are appropriated to fund the operations of the Office of the Inspector General, subject to the approval of the Director of the Division of Budget and Accounting.

**73 Financial Administration****DIRECT STATE SERVICES**

15-2080 Taxation Services and Administration .....	\$94,793,000
16-2090 Administration of State Lottery .....	22,400,000
17-2105 Administration of State Revenues .....	28,809,000
19-2120 Management of State Investments .....	6,920,000
25-2095 Administration of Casino Gambling .....	28,686,000
<b>(From Casino Control Fund .....</b>	<b>\$28,686,000)</b>
50-2027 Business Services Bureau .....	<u>4,703,000</u>
Total Direct State Services Appropriation, Financial Administration .....	<u>\$186,311,000</u>

**(From General Fund .....**

**(From Casino Control Fund .....**

**Direct State Services:**

## Personal Services:

Chairman and Commissioners (CCF) .	(\$585,000)
Salaries and Wages .....	(106,138,000)
Salaries and Wages (CCF) .....	(19,000,000)
Employee Benefits (CCF) .....	(6,490,000)
<b>(From General Fund .....</b>	<b>\$106,138,000)</b>
<b>(From Casino Control Fund .....</b>	<b>26,075,000)</b>
Materials and Supplies .....	(5,257,000)
Materials and Supplies (CCF) .....	(142,000)
Services Other Than Personal .....	(42,463,000)
Services Other Than Personal (CCF) ...	(1,043,000)
Maintenance and Fixed Charges .....	(1,633,000)
Maintenance and Fixed Charges (CCF) .	(1,213,000)

## Special Purpose:

- 15 Property Assessment and Management System (PAMS) . . . (1,175,000)
- 17 Wage Reporting/Temporary Disability Insurance . . . . . (899,000)
- 25 Administration of Casino Gambling (CCF) . . . . . (60,000)
- Additions, Improvements and Equipment . . (60,000)
- Additions, Improvements and Equipment (CCF) . . . . . (153,000)
- So much of the receipts derived from the sale of confiscated equipment, materials and supplies under the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), as may be necessary for confiscation, storage, disposal and other related expenses thereof, are appropriated.
- Notwithstanding the provision of any law to the contrary, there shall be no retroactive payment for refunds due under section 9 of P.L.1976, c.141 (C.58:10-23.11h) as amended pursuant to section 1 of P.L.1997, c.134 for the period from January 1, 1996 through June 26, 1997, appropriated from the Spill Compensation Fund.
- Such sums as may be necessary for the administration of the homestead property tax reimbursement established pursuant to P.L.1997, c.348 (C.54:4-8.67 et seq.) are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- Upon certification of the Director of the Division of Taxation, the State Treasurer shall pay, upon warrants of the Director of the Division of Budget and Accounting, such claims for refund as may be necessary under the provisions of Title 54 of the Revised Statutes, as amended and supplemented.
- Notwithstanding any other law to the contrary, there are appropriated out of the receipts in the Solid Waste Services Tax Fund such sums as may be necessary for the cost of administration and collection of taxes pursuant to P.L.1985, c.38 (C.13:1E-136 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.
- Such sums as are required for the acquisition of equipment essential to the modernization of processing tax returns, are appropriated from tax collections, subject to the approval of the Joint Budget Oversight Committee and the Director of the Division of Budget and Accounting.
- The amount necessary to provide administrative costs incurred by the Division of Taxation and the Division of Revenue to meet the statutory requirements of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) is appropriated from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting.
- Pursuant to the provisions of section 12 of P.L.1992, c.165 (C.40:54D-12), there are appropriated such sums as may be required to compensate the Department of the Treasury for costs incurred in administering the "Tourism Improvement and Development District Act," P.L.1992, c.165 (C.40:54D-1 et seq.).
- In addition to the amounts hereinabove appropriated, such additional sums as may be necessary are appropriated to fund costs of the collecting and processing of debts, taxes and other fees and charges owed to the State, including but not limited to the services of auditors and attorneys and enhanced compliance programs, subject to

the approval of the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Joint Budget Oversight Committee with written reports on the detailed appropriation and expenditure of sums appropriated pursuant to this provision.

Notwithstanding any provision of any other law to the contrary, there are available out of fees derived from the cost of collection imposed pursuant to section 8 of P.L.1987, c.76 (C.54:49-12.1) such sums as may be required for compliance and enforcement activities associated with the collection process as promulgated by the Taxpayers' Bill of Rights under P.L.1992, c.175.

Notwithstanding the provisions of section 4 of the "Lead Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.4), such sums as are necessary are appropriated from the Lead Hazard Control Assistance Fund for the Department of the Treasury's administrative costs, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Property Assessment Management System (PAMS) is appropriated for the same purpose. There are appropriated, out of revenues derived from escheated property under the various escheat acts, such sums as may be necessary to administer such acts and such sums as may be required for refunds.

There are appropriated out of the State Lottery Fund such sums as may be necessary for costs required to implement the "State Lottery Law," P.L.1970, c.13 (C.5:9-1 et seq.) and for payment for commissions, prizes and expenses of developing and implementing games pursuant to section 7 of P.L.1970, c.13 (C.5:9-7).

In addition to the amounts hereinabove, State Lottery Fund receipts in excess of anticipated contributions to education and State institutions, and reimbursement of administrative expenditures, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee.

Notwithstanding the provisions of any other law to the contrary, there are appropriated out of receipts derived from communications fees such sums as may be necessary for telecommunications costs required in the administration of the State Lottery.

Notwithstanding the provisions of any other law to the contrary, there are appropriated out of receipts derived from the sale of advertising and/or promotional products by the State Lottery, such sums as may be necessary for advertising costs required in the administration of the State Lottery pursuant to P.L.1970, c.13 (C.5:9-1 et seq.).

There are appropriated such sums as are necessary to fund the hospitals' share of monies collected pursuant to the hospital care payment act, P.L.2003, c.112 (C.17B:30-41 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Revenue Management System account are appropriated.

The Director of the Division of Budget and Accounting is hereby authorized to transfer or credit such sums as are necessary between the Department of Labor and the Department of the Treasury for the administration of revenue collection and processing functions related to Unemployment Insurance, Temporary

Disability Insurance, Workers' Compensation, Special Compensation Programs, the Health Care Subsidy Fund, and the Workforce Development Partnership program.

The amounts hereinabove for the Wage Reporting/Temporary Disability Insurance program are payable out of the State Disability Benefits Fund, and in addition to the amounts hereinabove, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to administer revenue collection associated with the Temporary Disability Insurance program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of those anticipated from the over-the-counter surcharges are appropriated to meet the costs of the Division of Revenue's commercial recording function, subject to the approval of the Director of the Division of Budget and Accounting.

Funds necessary to defray the cost of collection to implement the provisions of P.L.1994, c.64 (C.17:29A-35 et seq.), as well as the cost of billing and collection of surcharges levied on drivers in accordance with the New Jersey Automobile Insurance Reform Act of 1982-Merit Rating System Surcharge Program, P.L.1983, c.65 (C.17:29A-33 et al.) as amended, are appropriated from fees in lieu of actual cost of collection receipts and from surcharges derived, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated, out of receipts derived from service fees billed to authorities for the handling of investment transactions, such sums as may be necessary to administer the Management of State Investments program.

There are appropriated, out of receipts derived from the investments of State funds, such sums as may be necessary for bank service charges, custodial costs, mortgage servicing fees and advertising bank balances under section 1 of P.L.1956, c.174 (C.52:18-16.1).

Notwithstanding the provisions of any law to the contrary, the expenses of administration for the various retirement systems and employee benefit programs administered by the Division of Pensions and Benefits and the Division of Investments shall be charged to the pension and health benefits funds established by law to receive employer contributions or payments or to make benefit payments under the programs, as the case may be. In addition to the amounts hereinabove, there are appropriated such sums as may be necessary for administrative costs, which shall include bank service charges, investment services, and other such costs as are related to the management of the pension and health benefit programs as the Director of the Division of Budget and Accounting shall determine. In addition, revenue resulting from such charges to the various pensions and health benefit funds, payable on a schedule to be determined by the Director of the Division of Budget and Accounting, shall be credited to the General Fund as anticipated revenue.

Notwithstanding any provisions of law, regulation or Executive Order to the contrary, any receipts received from Nextel Corporation in accordance with a Plan Funding Agreement approved by Nextel and the 800 MHz Transition Administrator for costs of rebanding incurred by State agencies, and any local units of government that have entered into a memorandum of understanding with the Attorney General authorizing the State to receive Nextel funds on behalf of

such local unit, pursuant to Federal Communications Commission-ordered reconfiguration of the 800 MHz band, are appropriated to the Department of the Treasury. Such sums shall be expended or transferred to the various departments and agencies to reimburse administrative and procurement costs in accordance with the Plan Funding Agreement and in consultation with the Attorney General, subject to the approval of the Director of the Division of Budget and Accounting. In addition to the amount hereinabove for Administration of Casino Gambling, there are appropriated from the Casino Control Fund such additional sums as may be required for operation of the Casino Control Commission, subject to the approval of the Director of the Division of Budget and Accounting.

#### **74 General Government Services**

##### **DIRECT STATE SERVICES**

02-2069 Garden State Preservation Trust .....	\$468,000
09-2050 Purchasing and Inventory Management .....	9,518,000
21-2140 Pensions and Benefits .....	32,062,000
26-2067 Property Management and Construction --	
Property Management Services .....	14,638,000
37-2051 Risk Management .....	<u>1,957,000</u>
Total Direct State Services Appropriation,	
General Government Services .....	<u>\$58,643,000</u>

##### **Direct State Services:**

###### Personal Services:

Salaries and Wages .....	(\$37,812,000)
Materials and Supplies .....	(855,000)
Services Other Than Personal .....	(16,564,000)
Maintenance and Fixed Charges .....	(2,029,000)

###### Special Purpose:

02 Garden State Preservation Trust . . . .	(468,000)
09 Gubernatorial Transition - Governor	(250,000)
09 Gubernatorial Transition -	
Governor-Elect .....	(250,000)
09 Gubernatorial Inaugural Commission	(100,000)
21 State Pension System Audit .....	(180,000)
Additions, Improvements and Equipment . .	(135,000)

The Director of the Division of Budget and Accounting is empowered to transfer or credit to any central data processing center any appropriation made to any department which had been appropriated or allocated to such department for its share of costs of such data processing center including the replacement of data processing equipment and the purchase of additional data processing equipment.

There are appropriated, out of receipts derived from service fees billed to political subdivisions for the operating costs of the cooperative purchasing program, such sums as may be necessary to administer and operate the Purchase Bureau program.

There are appropriated, out of receipts derived from service fees billed to authorities for the handling of insurance procurement and risk management services, such sums as may be necessary to administer the Risk Management program.



- Notwithstanding the provisions of any other law to the contrary, there are appropriated, out of the receipts derived from third party subrogation, such sums as may be necessary for the administrative expenses of the Risk Management program.
- Notwithstanding the provisions of section 15 of article 6 of P.L.1944, c.112 (C.52:27B-67), revenues in excess of the anticipation derived from the sale of surplus state vehicles are available for the replacement of Central Motor Pool temporary assignment vehicles, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding the provisions of any other law to the contrary, there are appropriated, out of receipts derived from service fees billed to the various State departments for the purpose of travel services, such sums as may be necessary for the administrative expenses of the State Central Motor Pool program.
- The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Capitol Post Office revolving fund any appropriation made to any department for postage costs appropriated or allocated to such departments for their share of costs of the Capitol Post Office.
- The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Print Shop revolving fund any appropriation made to any department for printing costs appropriated or allocated to such departments for their share of costs of the Print Shop and the Office of Printing Control.
- The unexpended balances at the end of the preceding fiscal year in the State cafeteria accounts and receipts obtained from cafeteria operations are appropriated for the improvement and extension of cafeteria services and facilities pursuant to section 2 of P.L.1951, c.312 (C.52:18A-19.6).
- The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Property Management and Construction program classification, from appropriations for construction and improvements, a sufficient sum to pay for the cost of architectural work, superintendence and other expert services in connection with such work.
- From the receipts derived from the sale of real property, such sums are appropriated for the costs incurred in order to preserve and maintain the property's value and condition and for costs incurred in the selling of the real property, including appraisal, survey, advertising, maintenance, security and other costs related to the preservation and disposal, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding any law to the contrary, there are appropriated out of receipts derived from the pre-qualification service fees billed to contractors, architects, engineers, and professionals sufficient sums for expenses related to the administration of pre-qualification activities undertaken by the Division of Property Management and Construction.
- The unexpended balances at the end of the preceding fiscal year in excess of \$300,000 in the Management of the Department of Environmental Protection Properties account are appropriated for the same purpose.
- Receipts derived from the leasing of State surplus real property are appropriated for the maintenance of leased property subject to the approval of the Director of the Division of Budget and Accounting, provided that a sum not to exceed \$100,000 shall be available for the administrative expenses of the program.

There are appropriated such additional sums as may be necessary for the purchase of expert witness services related to the State's defense against inverse condemnation claims related to the Department of Environmental Protection's Land Use Regulation program.

Receipts from employee maintenance charges in excess of \$300,000 are appropriated for maintenance of employee housing and associated relocation costs; provided, however, that a sum not to exceed \$25,000 shall be available for management of the program, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated out of receipts derived from lease proceeds billed to the occupants of the James J. Howard Marine Science Laboratory, such sums as may be required to operate and maintain the facility and for the payment of interest and/or principal due from the issuance of bonds for this facility.

Notwithstanding any other law to the contrary, an amount not to exceed \$468,000 is transferred from the Garden State Farmland Preservation Trust Fund, the Garden State Green Acres Preservation Trust Fund and the Garden State Historic Preservation Trust Fund to the General Fund in an allocation to be determined by the Garden State Preservation Trust and approved by the Director of the Division of Budget and Accounting and such amount is appropriated to the Garden State Preservation Trust.

Notwithstanding any other law to the contrary, the Departments of the Treasury, Community Affairs, Environmental Protection, and Agriculture will provide such administrative services as are necessary to operate the Garden State Preservation Trust.

In addition to the amounts hereinabove, there are appropriated such additional sums as may be necessary for independent audits of the State's pension systems, provided that such appropriations shall be reimbursed to the General Fund from the resources available to the various pension funds.

Notwithstanding the provisions of any law to the contrary, administrative expenses for the various retirement systems and employee benefit programs administered by the Division of Pensions and Benefits and the Division of Investments shall be reimbursed by the pension and health benefits funds established by law to receive employer contributions or payments or to make benefit payments under the programs, as the case may be. In addition to the amounts hereinabove, there are appropriated such sums as may be necessary to reimburse the General Fund for such sums as may be reasonably necessary for administrative costs, which shall include bank service charges, investment services, and any other such costs as are related to the management of the pension and health benefit programs, as the Director of the Division of Budget and Accounting shall determine. In addition, revenue resulting from such charges to the various pensions and health benefit funds, payable on a schedule to be determined by the Director of the Division of Budget and Accounting, shall be credited to the General Fund as anticipated revenue.

There are appropriated sufficient sums as may be required for the expenses of the Pensions and Health Benefits Commission, provided that such appropriation shall be reimbursed to the General Fund from the resources available to the various pensions and health benefits funds.

In addition to the amounts hereinabove, there is appropriated an amount, not to exceed \$12,000,000, for the re-engineering of the pension and health benefits computer systems as referenced in the Division of Pensions and Benefits organizational study, provided that such appropriations shall be reimbursed to the General Fund from the resources available to the various pension funds.

The unexpended balance at the end of the preceding fiscal year in the Re-engineering of Pension and Health Benefits Computer Systems account is appropriated for the same purpose.

Notwithstanding the provisions of any law to the contrary, there are appropriated from the Capital City Redevelopment Loan and Grant Fund such sums as may be required to provide for expenses, programs, and strategies which will enhance the vitality of the capitol district as a place to live, visit, work and conduct business, subject to the approval of the Director of the Division of Budget and Accounting.

**2026 Office of Administrative Law  
DIRECT STATE SERVICES**

45-2026 Adjudication of Administrative Appeals . . . . .	<u>\$9,148,000</u>
<i>(From General Fund . . . . .</i>	<i>\$4,855,000)</i>
<i>(From All Other Funds . . . . .</i>	<i>4,293,000)</i>
Total Direct State Services Appropriation, Office of Administrative Law . . . . .	<u>\$9,148,000</u>
<i>(From General Fund . . . . .</i>	<i>\$4,855,000)</i>
<i>(From All Other Funds . . . . .</i>	<i>4,293,000)</i>

**Less:**

<i>All Other Funds . . . . .</i>	<i>4,293,000</i>
Total State Appropriation, Office of Administrative Law . . . . .	<u>\$4,855,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages . . . . .	(\$8,133,000)
Employee Benefits . . . . .	(147,000)
Materials and Supplies . . . . .	(95,000)
Services Other Than Personal . . . . .	(692,000)
Maintenance and Fixed Charges . . . . .	(75,000)

Special Purpose:

45 Affirmative Action and Equal Employment Opportunity . . . . .	(6,000)
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**Less:**

<i>All Other Funds . . . . .</i>	<i>4,293,000</i>
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In addition to the amount hereinabove, such sums as may be received or receivable from any department or non-State fund source for administrative hearing costs or rule-making costs by the Office of Administrative Law and the unexpended balance at the end of the preceding fiscal year of such sums are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Office of Administrative Law any appropriation made to any

department for administrative hearing costs which had been appropriated or allocated to such department for its share of such costs.

Receipts derived from annual license fees, payable to the Office of Administrative Law, and the unexpended balance at the end of the preceding fiscal year of such receipts, are appropriated.

Receipts derived from royalties, payable to the Office of Administrative Law, and the unexpended balance at the end of the preceding fiscal year of such receipts, are appropriated.

### **75 State Subsidies and Financial Aid**

#### **GRANTS-IN-AID**

33-2078 Homestead Exemptions . . . . .	<u>\$789,888,000</u>
<i>(From Property Tax Relief Fund . . . \$789,888,000)</i>	
Total Grants-in-Aid Appropriation, State Subsidies and Financial Aid . . . . .	<u>\$789,888,000</u>
<i>(From Property Tax Relief Fund . . . \$789,888,000)</i>	

#### **Grants-in-Aid:**

33 Homestead Property Tax Rebates for Homeowners (PTRF) . . . . .	(\$566,488,000)
33 Homestead Property Tax Rebates for Tenants (PTRF) . . .	(125,000,000)
33 Senior and Disabled Citizens' Property Tax Freeze (PTRF) . . .	(98,400,000)

From the amount hereinabove appropriated for the Homestead Property Tax Rebates for Homeowners and Homestead Property Tax Rebates for Tenants programs, there are appropriated such sums as may be necessary for the administration of those programs, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1997, c.348 (C.54:4-8.67 et seq.), the amount hereinabove for the Homestead Property Tax Reimbursement (Senior and Disabled Citizens' Property Tax Freeze), and any additional sum which may be required for this purpose, is appropriated from the Property Tax Relief Fund.

In addition to the amount hereinabove, there are appropriated from the Property Tax Relief Fund such additional sums as may be required for payments of property tax credits to homeowners and tenants pursuant to the "Property Tax Deduction Act," P.L.1996, c.60 (C.54A:3A-15 et seq.).

The amounts hereinabove appropriated for the Homestead Property Tax Rebates for Homeowners program and the Homestead Property Tax Rebates for Tenants program shall be available to pay homestead rebates pursuant to the provisions of section 3 of P.L.1990, c.61 (C.54:4-8.59) and section 4 of P.L.1990, c.61 (C.54:4-8.60), respectively, for residents who are 65 years of age or older at the close of the tax year, or who are allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, excluding any cost-of-living adjustment pursuant to subsection h. of section 3 and subsection g. of section 4 of that act. Notwithstanding the provisions of P.L.1990, c.61 (C.54:4-8.59 et seq.), as amended by P.L.2004, c.40, to the contrary, the amounts

hereinabove appropriated for the Homestead Property Tax Rebates for Homeowners program and the Homestead Property Tax Rebates for Tenants program shall only be available to pay homestead rebates pursuant to the provisions of that law but not in excess of the following maximum amounts for tax year 2004: (a) \$350 for residents who are not 65 years of age or older at the close of the tax year, and who are not allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, with gross income not in excess of \$125,000 for the taxable year for property taxes paid, (b) \$300 for residents who are not 65 years of age or older at the close of the tax year, and who are not allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, with gross income in excess of \$125,000 but not in excess of \$200,000 for the taxable year for property taxes paid, (c) \$75 for residents who are not 65 years of age or older at the close of the tax year, or who are not allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1 for rent constituting property taxes paid for the tax year 2004. If the amounts hereinabove appropriated are not sufficient, there are appropriated from the Property Tax Relief Fund such additional sums as may be required for payment of such rebates, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove from the Property Tax Relief Fund are appropriated for the Homestead Property Tax Rebates for Homeowners program and the Homestead Property Tax Rebates for Tenants program, notwithstanding the provisions of section 19 of P.L.2004, c.40 (C.54A:9-20), to the contrary.

The amount of any gross income tax revenue that shall be determined by the State Treasurer, before December 31, 2005, as anticipated to be collected during fiscal year 2006 in excess of the amount of gross income tax revenue certified as anticipated upon approval of this act, shall be reserved exclusively for appropriation by the Legislature for additional real property tax relief during fiscal year 2006.

#### STATE AID

28-2078	County Boards of Taxation	\$1,481,000
29-2078	Locally Provided Assistance	77,068,000
34-2078	Reimbursement of Senior/Disabled Citizens' and Veterans' Tax Deductions	109,000,000
	<i>(From Property Tax Relief Fund . . . \$109,000,000)</i>	
35-2078	Consolidated Police and Firemen's Pension Fund	<u>72,878,000</u>
	<i>(From General Fund . . . . . 43,414,000)</i>	
	<i>(From Property Tax Relief Fund . . . 29,464,000)</i>	
	Total State Aid Appropriation, State Subsidies and Financial Aid	<u>\$260,427,000</u>
	<i>(From General Fund . . . . . \$121,963,000)</i>	
	<i>(From Property Tax Relief Fund . . 138,464,000)</i>	

#### State Aid:

28	County Boards of Taxation	(\$1,481,000)
29	South Jersey Port Corporation Debt Service Reserve Fund	(4,200,000)

29	South Jersey Port Corporation Property Tax Reserve Fund . . . . .	(2,540,000)
29	Highlands Protection Fund - Incentive Planning Aid . . . . .	(2,650,000)
29	Highlands Protection Fund - Regional Master Plan Compliance Aid . . . . .	(1,750,000)
29	Highlands Protection Fund - Watershed Moratorium Offset Aid . . . . .	(2,200,000)
29	Highlands Protection Fund - Highlands Property Tax Stabilization Aid . . . . .	(3,600,000)
29	Highlands Protection Fund - Pinelands Property Tax Stabilization Aid . . . . .	(1,800,000)
29	Cherry Hill Township -- Library Debt Service . . . . .	(1,000,000)
29	Solid Waste Management - County Environmental Investment Debt Service Aid . . . . .	(57,328,000)
34	Reimbursement to Municipalities -- Senior and Disabled Citizens' Tax Deductions (PTRF) . . . . .	(23,000,000)
34	State Reimbursement for Veterans' Property Tax Deductions (PTRF) . . . . .	(86,000,000)
35	State Contribution to Consolidated Police and Firemen's Pension Fund . . . . .	(6,397,000)
35	Debt Service on Pension Obligation Bonds (PTRF) . . . . .	(8,575,000)
35	Police and Firemen's Retirement System - Post Retirement Medical (PTRF) . . . . .	(20,889,000)
35	Police and Firemen's Retirement System . . . . .	(23,700,000)
35	Police and Firemen's Retirement System (P.L.1979, c.109) . . . . .	(13,317,000)

There are appropriated such additional sums as may be certified to the Governor by the South Jersey Port Corporation as necessary to meet the requirements of the "South Jersey Port Corporation Debt Service Reserve Fund" under section 14 of P.L.1968, c.60 (C.12:11A-14), the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

The State Treasurer may pay the amount hereinabove appropriated for the South Jersey Port Corporation Property Tax Reserve Fund directly to the city of

Camden, any provision of law to the contrary notwithstanding and in the absence of an approved agreement between the corporation and the city pursuant to section 20 of P.L.1968, c.60 (C.12:11A-20), upon notification from the Commissioner of the Department of Community Affairs that the payment is anticipated as revenue in any city budget adopted by the city with the approval of the Chief Operating Officer and the Director of Local Government Services in the Department of Community Affairs.

The amounts hereinabove for Highlands Protection Fund appropriations are payable from the receipts of the portion of the realty transfer fee directed to be credited to the Highlands Protection Fund and the unexpended balances at the end of the preceding fiscal year in the Highlands Protection Fund accounts are appropriated, subject to the approval of the Director of the Division of Budget and Accounting. Further, the Department of the Treasury may transfer funds as necessary between the Highlands Protection Fund-Incentive Planning Aid account, the Highlands Protection Fund-Regional Master Plan Compliance Aid account, and the Highlands Protection Fund-Watershed Moratorium Offset Aid account, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated an amount not to exceed \$1,500,000 for expenses associated with municipal economic recovery efforts as determined by the chair of the Economic Recovery Board for Camden, subject to the approval of the Director of the Division of Budget and Accounting.

Such additional sums as may be necessary are appropriated to subsidize county and county authority debt service payments for environmental investments incurred pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and the "Solid Waste Utility Control Act," P.L.1970, c.40 (C.48:13A-1 et seq.) as determined by the State Treasurer based upon the need for such financial assistance after taking into account all financial resources available or attainable to pay such debt service. Such sums shall be subject to the approval of the Director of the Division of Budget and Accounting and shall be provided upon such terms and conditions as the State Treasurer may determine. The unexpended balance at the end of the preceding fiscal year in the Solid Waste Management-County Environmental Investment Debt Service Aid account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), the sum apportioned to the several counties of the State shall not be distributed and shall be anticipated as revenue for general State purposes.

Notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et seq.), the amounts collected from banking corporations pursuant to the "Corporation Business Tax Act (1945)" shall not be distributed to the counties and municipalities and shall be anticipated as revenue for general State purposes.

There is appropriated from the Energy Tax Receipts Property Tax Relief Fund the sum of \$788,492,000 and an amount not to exceed \$46,185,000 which is transferred from the Consolidated Municipal Property Tax Relief Aid (PTRF) account to the fund and shall be allocated to municipalities in accordance with the provisions of subsection b. of section 2 of P.L.1997, c.167 (C.52:27D-439). Each

municipality that receives an allocation from the amount so transferred shall have its allocation from the Consolidated Municipal Property Tax Relief Aid program reduced by the same amount. Of the amount herein appropriated from the Energy Tax Receipts Property Tax Relief Fund, an amount equal to \$25,000,000 shall be allocated to municipalities proportionately based on population, except that Newark and Jersey City shall each receive \$390,000 of the \$25,000,000 and Paterson shall receive \$375,000 of the \$25,000,000.

Notwithstanding the provisions of paragraph (1) of subsection c. of section 2 of P.L.1997, c.167 (C.52:27D-439) to the contrary, the amount hereinabove appropriated for Energy Tax Receipts Property Tax Relief Fund payments shall be distributed on the following schedule: on or before August 1, 45% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due.

The unexpended balance at the end of the preceding fiscal year from the taxes collected pursuant to P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) shall lapse.

There is appropriated from taxes collected from certain insurance companies, pursuant to the insurance tax act, so much as may be required for payments to counties pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.).

The Director of the Division of Budget and Accounting shall reduce amounts provided to any municipality from the appropriations hereinabove by the difference, if any, between pension contribution savings, and the amount of Consolidated Municipal Property Tax Relief Aid payable to such municipality.

In addition to the amount hereinabove, there is appropriated from the Property Tax Relief Fund such additional sums as may be required for State reimbursement to municipalities for senior and disabled citizens' and veterans' property tax deductions.

In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

Such additional sums as may be required for Police and Firemen's Retirement System-Post Retirement Medical are appropriated, as the Director of the Division of Budget and Accounting shall determine.

### ***76 Management and Administration***

#### **DIRECT STATE SERVICES**

98-2006 Contract Compliance and Equal Employment	
Opportunity in Public Contracts . . . . .	\$1,763,000
99-2000 Administration and Support Services . . . . .	<u>11,325,000</u>
Total Direct State Services Appropriation,	
Management and Administration . . . . .	<u>\$13,088,000</u>

#### ***Direct State Services:***

Personal Services:



Salaries and Wages . . . . . (\$10,963,000)  
 Materials and Supplies . . . . . (65,000)  
 Services Other Than Personal . . . . . (1,972,000)  
 Maintenance and Fixed Charges . . . . . (65,000)

Special Purpose:

99 Federal Liaison Office,  
 Washington, D.C. . . . . (23,000)

There are appropriated from the investment earnings of general obligation bond proceeds, such sums as may be necessary for the payment of debt service administrative costs.

There is appropriated from revenue estimated to be received as a fee in connection with the issuance of debt an amount not to exceed \$700,000 to provide funds for public finance activities.

There are appropriated from revenue to be received from investment earnings of State funds, from fees in connection with the cost of debt issuance and from service fees billed to State authorities, such sums as may be required for public finance activities.

Pursuant to the provisions of P.L.1999, c.12 (C.54A:9-25.12 et seq.) deposits made to the "Drug Abuse Education Fund" and the unexpended balance at the end of the preceding fiscal year of such deposits are appropriated for collection or administration costs of the Department of the Treasury and for transfer to the Department of Education such sums as are necessary for Project DARE (Drug Abuse Resistance Education), subject to the approval of the Director of the Division of Budget and Accounting.

An amount equivalent to the amount due to be paid in fiscal year 2006 to the State by the Port Authority of New York and New Jersey pursuant to the regional economic development agreement dated January 1, 1990 among the States of New York and New Jersey and the Port Authority of New York and New Jersey is appropriated to the Economic Recovery Fund established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12) for the purposes of P.L.1992, c.16 (C.34:1B-7.10 et seq.).

Notwithstanding the provisions of any law to the contrary, there are appropriated from the "Drug Enforcement and Demand Reduction Fund" such sums as may be required to provide for the administrative expenses of the Governor's Council on Alcoholism and Drug Abuse and for programs and grants to other agencies, subject to the approval of the Director of the Division of Budget and Accounting.

Fees collected on behalf of the Contract Compliance and Equal Employment Opportunity in Public Contracts program and the unexpended balance at the end of the preceding fiscal year of such fees are appropriated for program costs, subject to allotment by the Director of the Division of Budget and Accounting.

There are appropriated such additional sums as may be required to pay for the operating expenses of the Casino Revenue Fund Advisory Commission, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

The unexpended balance at the end of the preceding fiscal year in the NJ Competitiveness Fund account is appropriated and an amount up to \$1,500,000 shall be

transferred to the New Jersey Stem Cell Research Institute account in the Department of the Treasury, subject to the approval of the Director of the Division of Budget and Accounting.

**80 Special Government Services**  
**82 Protection of Citizens' Rights**  
**DIRECT STATE SERVICES**

06-2024	Appellate Services to Indigents	\$8,781,000
57-2021	Trial Services to Indigents and Special Programs	75,874,000
58-2022	Mental Health Screening Services	3,340,000
61-2023	Dispute Settlement	360,000
99-2025	Administration and Support Services	<u>2,365,000</u>
	Total Direct State Services Appropriation, Protection of Citizens' Rights	<u>\$90,720,000</u>

**Direct State Services:**

Personal Services:

Salaries and Wages	(\$57,407,000)
Materials and Supplies	(754,000)
Services Other Than Personal	(23,532,000)
Maintenance and Fixed Charges	(557,000)

Special Purpose:

57 Continuous Representation -- Title 9 to Title 30	(4,722,000)
57 Public Defender Pilot Program	(193,000)
57 Law Guardian - Kinship Guardianship	(1,803,000)
57 Parental Representation Unit - Child Welfare Reform	(838,000)
58 Representation of Civilly Committed Sexual Offenders	(626,000)
99 Affirmative Action and Equal Employment Opportunity	(64,000)
Additions, Improvements and Equipment	(224,000)

Sums provided for legal and investigative services are available for payment of obligations applicable to prior fiscal years.

In addition to the amount hereinabove for the operation of the Public Defender's office there are appropriated additional sums as may be required for Trial and Appellate services to indigents, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other provision of law, no State funds are appropriated to fund the expenses associated with the legal representation of persons before the State Parole Board or the Parole Bureau.

Lawsuit settlements and legal costs awarded by any court to the Office of the Public Defender are appropriated for the expenses associated with the representation of indigent clients.

The funds appropriated to the Office of the Public Defender are available for expenses associated with the defense of pool attorneys hired by the Public Defender for the representation of indigent clients.

The unexpended balances at the end of the preceding fiscal year are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

57-2021 Trial Services to Indigents and Special Programs . . . . .	<u>\$16,400,000</u>
Total Grants-in-Aid Appropriation, Protection of Citizens' Rights . . . . .	<u>\$16,400,000</u>

**Grants-in-Aid:**

57 State Legal Services Office . . . . . (\$8,400,000)

57 Legal Services of New Jersey --  
Legal Assistance in Civil  
Matters (P.L.1996, c.52) . . . . . (8,000,000)

Receipts in excess of the amount hereinabove for Legal Services of New Jersey--Legal Assistance in Civil Matters, P.L.1996, c.52, are appropriated for the same purposes, subject to the approval of the Director of the Division of Budget and Accounting.

*2029 Public Advocate*  
**DIRECT STATE SERVICES**

64-2029 Public Advocate . . . . .	<u>\$2,000,000</u>
Total Direct State Services Appropriation, Public Advocate . . . . .	<u>\$2,000,000</u>

**Direct State Services:**

Special Purpose:

64 Public Advocate . . . . . (\$2,000,000)

Of the amounts hereinabove appropriated for the operations of the Public Advocate, such sums as are required for employee benefits, including fringe and indirect costs, shall be transferred to the Inter-Departmental account for costs attributable to the staff and operations of the Public Advocate, subject to the approval of the Director of the Division of Budget and Accounting.

**Less:**

*Savings from Administrative Efficiencies* . . . . . **\$5,750,000**

Department of the Treasury, Total State Appropriation . . . . .	<u>\$1,896,395,000</u>
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Of the Savings from Administrative Efficiencies, \$1,000,000 shall be allocated to the Office of the Public Defender and \$250,000 shall be allocated to the New Jersey Commerce, Economic Growth and Tourism Commission.

**Summary of Department of The Treasury Appropriations  
(For Display Purposes Only)**

*Appropriations by Category:*

Direct State Services .....	\$405,554,000
Grants-in-Aid .....	1,020,835,000
State Aid .....	470,006,000
<i>Appropriations by Fund:</i>	
General Fund .....	\$910,801,000
Property Tax Relief Fund .....	956,908,000
Casino Control Fund .....	8,686,000

**90 MISCELLANEOUS COMMISSIONS**

**40 Community Development and Environmental Management**

**43 Science and Technical Programs**

**9130 Interstate Environmental Commission**

**DIRECT STATE SERVICES**

03-9130 Interstate Environmental Commission .....	<u>\$383,000</u>
Total Direct State Services Appropriation, Interstate Environmental Commission .....	<u>\$383,000</u>

**Direct State Services:**

Special Purpose:

03 Expenses of the Commission .....	(\$383,000)
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**9140 Delaware River Basin Commission**

**DIRECT STATE SERVICES**

03-9140 Delaware River Basin Commission .....	<u>\$857,000</u>
Total Direct State Services Appropriation, Delaware River Basin Commission .....	<u>\$857,000</u>

**Direct State Services:**

Special Purpose:

03 Expenses of the Commission .....	(\$857,000)
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**9148 Council on Local Mandates**

**DIRECT STATE SERVICES**

03-9148 Council on Local Mandates .....	<u>\$163,000</u>
Total Direct State Services Appropriation, Council on Local Mandates .....	<u>\$163,000</u>

**Direct State Services:**

Special Purpose:

03 Council on Local Mandates .....	(\$163,000)
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The unexpended balance at the end of the preceding fiscal year in this account is appropriated.

Miscellaneous Commissions, Total State Appropriation . \$1,403,000

**Summary of Miscellaneous Commissions Appropriations  
(For Display Purposes Only)**

*Appropriations by Category:*

Direct State Services .....	\$1,403,000
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*Appropriations by Fund:*

General Fund .....	\$1,403,000
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**94 INTER-DEPARTMENTAL ACCOUNTS**  
**70 Government Direction, Management and Control**  
**74 General Government Services**  
**DIRECT STATE SERVICES**

01-9400 Property Rentals .....	\$227,355,000
02-9400 Insurance and Other Services .....	94,011,000
06-9400 Utilities and Other Services .....	<u>35,184,000</u>
Subtotal Direct State Services,	
General Government Services .....	<u>\$356,550,000</u>

**Less:**

<i>Direct Charges and Charges to</i>	
<i>Non-State Fund Sources</i> .....	<b>\$85,435,000</b>
<i>Total Income Deductions</i> .....	<u><b>\$85,435,000</b></u>
Total Direct State Services Appropriation,	
General Government Services .....	<u><b>\$271,115,000</b></u>

**Direct State Services:**

## Property Rentals:

01 Existing and Anticipated Leases (\$188,687,000)	
01 Economic Development Authority (16,183,000)	
01 Other Debt Service Leases and	
Tax Payments .....	(17,822,000)

**Less:**

<i>Direct Charges and Charges to</i>	
<i>Non-State Fund Sources</i> .....	<u><b>85,435,000</b></u>

Additions, Improvements and Equipment (4,663,000)

## Insurance and Other Services:

02 Tort Claims Liability Fund .....	(11,000,000)
02 Workers' Compensation Self-	
Insurance Fund .....	(55,500,000)
02 Property Insurance Premium	
Payments .....	(3,636,000)
02 Casualty Insurance Premium	
Payments .....	(2,030,000)
02 Special Insurance Policy Premium	
Payment .....	(220,000)
02 UMDNJ Self-Insurance	
Reserve Fund .....	(18,000,000)
02 Vehicle Claims Liability Fund ...	(2,000,000)
02 Self-Insurance Deductible Fund ..	(1,500,000)
02 Self-Insurance Fund-	
Foster Parents .....	(125,000)

## Utilities and Other Services:

06 Fuel and Utilities .....	(27,495,000)
06 Household and Security .....	(7,689,000)

The Director of the Division of Budget and Accounting is empowered to allocate to any State agency occupying space in any State-owned building equitable charges

for the rental of such space to include, but not be limited to, the costs of operation and maintenance thereof, and the amounts so charged shall be credited to the General Fund; and, to the extent that such charges exceed the amounts appropriated for such purposes to any agency financed from any fund other than the General Fund, the required additional appropriation shall be made out of such other fund.

Receipts derived from direct charges and charges to non-State fund sources are appropriated for the rental of property, including the costs of operation and maintenance of such properties.

Notwithstanding any other provision of law, and except for leases negotiated by the Division of Property Management and Construction and subject to the approval or disapproval by the State Leasing and Space Utilization Committee pursuant to P.L.1992, c.130 (C.52:18A-191.1 et seq.), and except as hereinafter provided, no lease for the rental of any office or building shall be executed without 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.

To the extent that sums appropriated for property rental payments are insufficient, there are appropriated such additional sums, not to exceed \$3,000,000 as may be required to pay property rental obligations, subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed \$2,500,000 shall be appropriated for the costs of security, maintenance, utilities and other operating expenses related to the Marlboro Psychiatric Hospital and North Princeton Developmental Center closure initiatives, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated such additional sums as may be required to pay debt service costs for the Greystone Park Psychiatric Hospital Project, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Master Lease Program Fund is appropriated for the same purpose.

In order to permit flexibility, amounts may be transferred between various items of appropriation within the Insurance and Other Services program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

There are appropriated such additional sums as may be required to pay tort claims under N.J.S.59:12-1, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

The funds appropriated to the Tort Claims Liability Fund are available for the payment of claims of a tortious nature, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

The funds appropriated to the Tort Claims Liability Fund are available for the payment of direct costs of legal, administrative and medical services related to the investigation, mitigation and litigation of tort claims under N.J.S.59:12-1, and claims of a tortious nature, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

The funds appropriated to the Tort Claims Liability Fund are available for the indemnification of pool attorneys engaged by the Public Defender for the defense of indigents.

The funds appropriated to the Tort Claims Liability Fund are available for the indemnification of designated pathologists engaged by the State Medical Examiner.

Notwithstanding any other law to the contrary, claims paid from the Tort Claims Liability Fund on behalf of entities funded, in whole or in part, from non-State funds, may be reimbursed from such non-State fund sources as determined by the Director of the Division of Budget and Accounting.

There are appropriated such additional sums as may be required to pay claims not payable from the Tort Claims Liability Fund or payable under the New Jersey Contractual Liability Act, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine. The funds appropriated are available for the payment of direct costs of legal, administrative and medical services related to the investigation, mitigation and litigation of claims not payable from the Tort Claims Liability Fund or payable under the New Jersey Contractual Liability Act, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine. Notwithstanding any other law to the contrary, claims or costs paid from the monies appropriated under this paragraph on behalf of entities funded, in whole or in part from non-State funds, may be reimbursed from such non-State fund sources as determined by the Director of the Division of Budget and Accounting. Appropriations under this paragraph shall not be available to pay punitive damages and shall not be deemed a waiver of any immunity by the State.

To the extent that sums appropriated to pay Workers' Compensation claims under R.S.34:15-1 et seq. are insufficient, there are appropriated such additional sums as may be required to pay Workers' Compensation claims, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for the Workers' Compensation Self-Insurance Fund under R.S.34:15-1 et seq. is available for the payment of direct costs of legal, investigative, administrative and medical services related to the investigation, mitigation, litigation and administration of claims against the fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, benefits provided to community work experience participants shall be borne by the Work First New Jersey Program funded through the Department of Human Services and any costs related to administration, mitigation, litigation and investigation of claims will be reimbursed to the Bureau of Risk Management by the Work First New Jersey Program funded through the Department of Human Services, subject to the approval of the Director of the Division of Budget and Accounting.

Providing that expenditures during fiscal year 2006 on workers' compensation claims attributable to the Departments of Human Services, Transportation, Corrections, and Law and Public Safety are less than the respective amounts expended by those departments for claims attributable to the preceding fiscal year, all or a portion of that savings is appropriated to those departments or the Bureau of Risk

Management within the Department of the Treasury for the purpose of improving worker safety and reducing workers' compensation costs, subject to the approval of the Director of the Division of Budget and Accounting.

To the extent that sums appropriated to pay auto insurance claims are insufficient, there are appropriated such additional sums as may be required to pay auto insurance claims, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for the Vehicle Claims Liability Fund is available for the payment of direct costs of legal, investigative and medical services related to the investigation, mitigation and litigation of claims against the fund.

The unexpended balance at the end of the preceding fiscal year in the Self-Insurance Deductible Fund is appropriated for the same purposes.

The amount hereinabove appropriated for the Self-Insurance Fund-Foster Parents is available for the payment of direct costs of legal, investigative and medical services related to the investigation, mitigation and litigation of claims against the fund.

The sums hereinabove appropriated are available for payment of obligations applicable to prior fiscal years.

There are appropriated out of revenues received from utility companies such sums as may be required for implementation and administration of the Energy Conservation Initiatives Program, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the sums hereinabove appropriated for Fuel and Utilities, the Director of the Division of Budget and Accounting shall transfer or credit to this account such sums that accrue from appropriations made to various spending agencies for Fuel and Utilities and Salaries and Wages, to reflect savings associated with electrical deregulation, fuel switch and other energy-conservation initiatives.

Of the unexpended balances in the Petroleum Overcharge Reimbursement Fund available for "Green Power," such sums shall be transferred to the various departments and agencies participating in the State electricity contract, as applicable, to reimburse additional costs associated with "Green Power" sources, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Global Energy Statewide Account is appropriated for the same purpose.

Notwithstanding any law to the contrary, the Division of Property Management and Construction is empowered to renegotiate lease terms, provided that such renegotiations result in cost savings to the State for State fiscal year 2006 and for the term of the lease. Any lease amendments made as a result of these renegotiations are subject to the review and approval of the State Leasing and Space Utilization Committee.

#### **GRANTS-IN-AID**

09-9400 Aid to Independent Authorities . . . . .	<u>\$101,553,000</u>
Total Grants-in-Aid Appropriation,	
General Government Services . . . . .	<u>\$101,553,000</u>

***Grants-in-Aid:***



Sports and Exposition Authority Operations -  
Debt Service:

09 Sports Complex . . . . .	(\$25,724,000)
09 Atlantic City Projects . . . . .	(15,440,000)
09 Higher Education and Other Projects . . . . .	(2,818,000)
09 Wildwood Convention Center . . . . .	(4,795,000)
09 New Jersey Performing Arts Center, EDA . . . . .	(5,559,000)
09 Business Employment Incentive Program, EDA -- Debt Service . . . . .	(28,694,000)
09 Liberty Science Center -- EDA . . . . .	(598,000)
09 Municipal Rehabilitation and Economic Recovery, EDA . . . . .	(9,314,000)
09 Camden Children's Garden . . . . .	(625,000)
09 Designated Industries Economic Growth & Development -- EDA . . . . .	(7,596,000)
09 Battleship New Jersey Utilities . . . . .	(390,000)

In addition to the amounts hereinabove appropriated for the Sports and Exposition Authority Operations-Debt Service there are appropriated such additional sums as may be necessary, subject to the approval of the Director of the Division of Budget and Accounting.

The amount for the New Jersey Performing Arts Center, EDA account shall be used to pay the State's obligations pursuant to a lease with the New Jersey Economic Development Authority, for the lease of real property and infrastructure improvements and the Performing Arts Center structure constructed thereon purchased by the authority for the State in the city of Newark, for the purpose of constructing buildings to comprise a Performing Arts Center. Notwithstanding any other provision of law, the State Treasurer may enter into a lease with the New Jersey Economic Development Authority to lease the real property and improvements thereon purchased or caused to be constructed by the authority for the State in the city of Newark for the Performing Arts Center, subject to the prior written consent of the Director of the Division of Budget and Accounting, the President of the Senate and the Speaker of the General Assembly. Upon the final payment of the State's obligations pursuant to the lease for the real property and infrastructure improvements purchased by the authority, the title to the real property and improvements shall revert to the State. The State may sublease the land and facilities for the purpose of operating, maintaining or financing a Performing Arts Center in Newark. Any sublease for use of land and improvements acquired for the State by the New Jersey Economic Development Authority for the Performing Arts Center shall be subject to the prior written approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee, or its successor. There are appropriated such additional sums as may be necessary to pay debt service for the New Jersey Performing Arts Center.

The amount hereinabove appropriated for the Camden Children's Garden shall be subject to the execution of an agreement between the State Treasurer and the operator of the Camden Children's Garden.

Fiscal year 2006 debt service payments attributable to the New Jersey Performing Arts Center, EDA program and to the Municipal Rehabilitation and Economic Recovery, EDA program shall be paid by the New Jersey Economic Development Authority from resources available from unexpended balances. There are appropriated such additional sums as may be necessary to pay debt service and other costs for the Municipal Rehabilitation and Economic Recovery, EDA program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the Battleship New Jersey Utilities shall be used for the utility expenses of the Battleship New Jersey as shall be substantiated by the Home Port Alliance in a submission to the Director of the Division of Budget and Accounting, and shall not be expended without the approval of the Director and the State Treasurer.

#### **CAPITAL CONSTRUCTION**

08-9400 Capital Projects -- Statewide .....	<u>\$179,327,000</u>
Total Capital Construction Appropriation,	
General Government Services .....	<u>\$179,327,000</u>

**Capital Projects:**

Statewide Capital Projects:

08 Capital Improvements, Capitol Complex .....	(\$700,000)
08 Americans with Disabilities Act Compliance Projects -- Statewide .....	(2,000,000)
08 Hazardous Materials Removal Projects -- Statewide .....	(2,000,000)
08 Statewide Security Projects .....	(3,000,000)

New Jersey Building Authority Debt Service:

General State Projects:

08 Southwoods State Prison .....	(20,414,000)
08 State House Renovations .....	(13,326,000)
08 Hughes Justice Complex .....	(7,461,000)
08 Other State Projects .....	(18,135,000)
08 9/11 Memorial .....	(864,000)

Counter-Terrorism Projects:

08 State Police Multipurpose Building/Troop "C" Headquarters .....	(5,122,000)
08 State Police Emergency Operations Center .....	(955,000)
08 Renovation Projects, Existing and Anticipated Leases .....	(2,000,000)

Enterprise Initiatives:

08 Network Infrastructure .....	(3,950,000)
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- 08 Office of Information Technology-  
Availability and Recovery Site  
(OARS) . . . . . (1,400,000)
- Open Space Preservation Program:
- 08 Garden State Preservation Trust  
Fund Account . . . . . (98,000,000)

There are appropriated such additional sums as may be required to pay future debt service costs for projects undertaken by the New Jersey Building Authority, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1997, c.258 (C.30:4-177.53 et seq.) or the provisions of any other law or regulation to the contrary, the amounts hereinabove appropriated to the New Jersey Building Authority Debt Service General State Projects shall be payable in part from monies derived from the sale or conveyance of the former North Princeton Developmental Center, Montgomery, New Jersey, and the former Marlboro Psychiatric Hospital, Marlboro, New Jersey.

In addition to the amounts appropriated under P.L.2004, c.71, donations for the 9/11 Memorial Design Costs from public and private sources, including those collected from the Port Authority of New York and New Jersey, for the purposes of planning, designing, maintaining and constructing a memorial to the victims of the terrorist attacks of September 11, 2001, on the World Trade Center in New York City, the Pentagon in Washington, D.C., and United Airlines Flight 93 in Somerset County, Pennsylvania, shall be deposited by the State Treasurer in a dedicated account established for this purpose and are appropriated for the purposes set forth under P.L.2004, c.71.

Notwithstanding the provisions of any other law to the contrary, in order to provide flexibility in administering the amounts provided for Statewide Fire, Life Safety and Renovation Projects, such sums as may be necessary may be transferred to individual project line items within various departments, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances at the end of the preceding fiscal year of appropriations from the "1996 Economic Development Site Fund," established pursuant to section 20 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70, are appropriated.

In addition to the amount hereinabove appropriated for the Garden State Preservation Trust Fund Account, interest earned and accumulated is appropriated.

**9410 Employee Benefits  
DIRECT STATE SERVICES**

03-9410 Employee Benefits . . . . .	<u>\$1,434,797,000</u>
Total Direct State Services Appropriation,	
Employee Benefits . . . . .	<u>\$1,434,797,000</u>

**Direct State Services:**

Special Purpose:

- 03 Public Employees' Retirement  
System - Post Retirement  
Medical . . . . . (\$183,596,000)

03 Public Employees' Retirement System	(22,314,000)
03 Police and Firemen's Retirement System	(31,710,000)
03 Police and Firemen's Retirement System (P.L.1979, c.109)	(2,328,000)
03 Alternate Benefits Program -- Employer Contributions	(1,232,000)
03 State Police Retirement System	(12,941,000)
03 Judicial Retirement System	(7,972,000)
03 Teachers' Pension and Annuity Fund	(311,000)
03 Teachers' Pension and Annuity Fund Post Retirement Medical - State	(3,148,000)
03 Pension Adjustment Program	(1,689,000)
03 Veterans Act Pensions	(74,000)
03 PERS Minimum Pension Benefit Act -- Pre-1955 Retirees	(5,000)
03 Heath Act Pensions	(5,000)
03 Debt Service on Pension Obligation Bonds	(64,651,000)
03 Volunteer Emergency Survivor Benefit	(135,000)
03 State Employees' Health Benefits	(492,126,000)
03 Other Pension Systems Post-Retirement Medical	(57,367,000)
03 State Employees' Prescription Drug Program	(189,721,000)
03 State Employees' Dental Program -- Shared Cost	(25,423,000)
03 State Employees' Vision Care Program	(1,000,000)
03 Social Security Tax -- State	(337,295,000)
03 Temporary Disability Insurance Liability	(9,968,000)
03 Unemployment Insurance Liability	(2,786,000)
<b>Less:</b>	
<i>Credit for Cash Management Reserve Refund</i>	<b>12,000,000</b>
<i>Savings from Office of Information Technology Administrative Efficiencies</i>	<b>1,000,000</b>

There is appropriated a sufficient amount in order that upon application to the Director of the Division of Budget and Accounting, an annuity of \$4,000 shall be paid to the widow or widower of any person, now deceased, who was elected and served as Governor of the State; provided such widow or widower was the spouse of such person for all or part of the period during which he or she served as

Governor; and provided further, that this shall not apply to any widow or widower receiving a pension granted under R.S.43:8-2, and continued by R.S.43:7-1 et seq., R.S.43:8-1 et seq., and R.S.43:8-8 et seq.

Such additional sums as may be required for Social Security Tax-State may be allotted from the various departmental operating appropriations to this account, as the Director of the Division of Budget and Accounting shall determine.

Such additional sums as may be required for State Employees' Health Benefits may be allotted from the various departmental operating appropriations to this account, as the Director of the Division of Budget and Accounting shall determine.

Of the amounts hereinabove for the Pension Adjustment Program, such sums as are appropriated in advance for increased retirement benefits for local employee members of State-administered retirement systems shall be repaid to the General Treasury upon reimbursement from local public employers.

Such additional sums as may be required for Public Employees' Retirement System-Post Retirement Medical, Alternate Benefits Program-Employer Contributions, Teachers' Pension and Annuity Fund Post Retirement Medical-State, State Employees' Health Benefits, Other Pension Systems Post-Retirement Medical, State Employees' Prescription Drug Program, State Employees' Dental Program-Shared Cost, State Employees' Vision Care Program, Social Security Tax-State, Temporary Disability Insurance Liability, and Unemployment Insurance Liability are appropriated, as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding the provisions of the Pension Adjustment Act, P.L.1958, c.143 (C.43:3B-1 et seq.), pension adjustment benefits for members and beneficiaries of the Consolidated Police and Firemen's Pension Fund shall be paid by the fund. Employer appropriations for these benefits as required under the act shall be paid to the fund.

In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

The amounts hereinabove appropriated for Employee Benefits may be transferred to the Grants-In-Aid accounts for the same purposes.

The unexpended balance at the end of the preceding fiscal year in the Debt Service on Pension Obligation Bonds account is appropriated for the same purpose.

No monies appropriated herein shall be used to provide additional health insurance coverage to a State or local elected official when that official receives health insurance coverage as a result of holding other public office or employment.

Notwithstanding any provision of law to the contrary, in addition to the amount hereinabove appropriated for the Public Employees' Retirement System-Post Retirement Medical, there is hereby appropriated an amount as determined by the State Treasurer to fund the pension cost contribution by the State to the Public Employees' Retirement System, payment for which shall be credited against

amounts on deposit in the benefit enhancement fund created pursuant to section 22 of P.L.1954, c.84 (C.43:15A-22).

Notwithstanding any provision of law to the contrary, in addition to the amount hereinabove appropriated for the Teachers' Pension and Annuity Fund, there is hereby appropriated an amount as determined by the State Treasurer to fund the pension cost contribution by the State to the Teachers' Pension and Annuity Fund, payment for which shall be credited against amounts on deposit in the Benefit Enhancement Fund created pursuant to N.J.S.18A:66-16.

Notwithstanding any provisions of any other law to the contrary, amounts hereinabove appropriated for the State Health Benefits Program are subject to the condition that: (i) increases in co-payments for the prescription drug plan, the co-payment for office visits in the managed care plans, and the deductible for the Traditional Plan agreed to by bargaining units representing State employees and employees of State authorities, State commissions, State colleges and State universities for Fiscal Year 2005 shall continue at the same levels for this fiscal year; and (ii) the following increases implemented by the State Health Benefits Commission for Fiscal Year 2005 shall continue in this fiscal year for (a) employees paid through the State centralized payroll for whom there is no majority representative for collective negotiations purposes; and (b) employees of State authorities, State commissions, State colleges and State universities for whom there is no majority representative for collective negotiations purposes who receive health benefits through the State Health Benefits Program and such health benefits are funded in whole or in part by State appropriations: a \$10 co-payment for NJ PLUS and HMO primary care physician and specialist office visits; co-payments for the Employee Prescription Drug: Retail Pharmacy-\$3 generic and \$10 brand name for up to a 30-day supply, and Mail Order Pharmacy-\$5 generic and \$15 brand name for up to a 90-day supply; and a Traditional Plan deductible of \$250.

Notwithstanding the provisions of any other law to the contrary, the amounts hereinabove appropriated for State Employees' Health Benefits are subject to the condition that: as expeditiously as is administratively feasible to elect health care coverage by the affected groups, as determined by the State Health Benefits Commission, no such amounts shall be used to pay for State share of the cost of the Traditional Plan coverage as agreed to by bargaining units listed below representing employees in the following bargaining units and employees in such units who retire after July 1, 2005: (1) New Jersey State Corrections Association Inc. (NJSCA), affiliated with Fraternal Order of Police Lodge 200; (2) New Jersey Law Enforcement Supervisors Association Inc. (NJLESA), affiliated with Fraternal Order of Police Lodge 185; (3) New Jersey Superior Officers Law Enforcement Association, Inc. (NJSOLEA), affiliated with Fraternal Order of Police Lodge 183; (4) New Jersey Superior Officers Association, Captains, Inc. (NJSOA), affiliated with Fraternal Order of Police Lodge 187; (5) New Jersey Investigators Association Inc. (NJIA), affiliated with Fraternal Order of Police Lodge 174, including employees holding titles covered by this bargaining unit employed at the Juvenile Justice Commission and the State Parole Board; (6) State Troopers Fraternal Association of New Jersey (STFA); (7) State Troopers Non-Commissioned Officers Association of New Jersey (STNCOA) (Trooper

Sergeants); (8) State Troopers Superior Officers Association of New Jersey (STSOA); and (9) Nonaligned sworn members of the Division of State Police. From the amounts appropriated in this act that are designated as State Aid or Grants-In-Aid to be distributed by the State to governmental units that participate in the State of New Jersey Cash Management Fund reserve fund, there shall be a corresponding reduction in such payments from those appropriations amounts, as the Director of the Division of Budget and Accounting shall determine, up to the amount of the funds returned from the reserve fund to those participating governmental units. The Director of the Division of Budget and Accounting shall provide notice of the payment reductions to the Legislative Budget and Finance Officer on the effective date of any payment reductions. An amount up to the total reduced payments shall be transferred by the Director of the Division of Budget and Accounting from such appropriations to the appropriations made in the Employee Benefits program classification accounts in the Inter-Departmental accounts for the purposes of those accounts, which transferred amounts shall be deemed a "Base Year Appropriation" for the purposes of the "State Appropriations Limitation Act," P.L.1990, c.94 (C.52:9H-24 et seq.).

Such additional sums not to exceed \$60,000,000 representing operating efficiencies and other savings may be transferred from the various Executive Branch departmental operating appropriations to the State Employees' Health Benefits account, as determined by the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall transfer from departmental operating appropriations Statewide that are available for payments for services provided by the Office of Information Technology amounts not to exceed \$1,000,000 which are appropriated for the Employee Benefits program classification.

**GRANTS-IN-AID**

03-9410 Employee Benefits .....	<u>\$663,958,000</u>
Total Grants-in-Aid Appropriation,	
Employee Benefits .....	<u>\$663,958,000</u>

***Grants-in-Aid:***

Special Purpose:

03 Public Employees' Retirement	
System - Post Retirement	
Medical .....	(\$26,767,000)
03 Public Employees' Retirement	
System .....	(2,186,000)
03 Police and Firemen's Retirement	
System .....	(2,486,000)
03 Alternate Benefits Program --	
Employer Contributions .....	(119,482,000)
03 Teachers' Pension and	
Annuity Fund .....	(66,000)
03 Teachers' Pension and Annuity	
Fund Post-Retirement Medical -	
State .....	(6,576,000)

03 Debt Service on Pension	
Obligation Bonds . . . . .	(3,730,000)
03 State Employees'	
Health Benefits . . . . .	(233,266,000)
03 Other Pension Systems Post-	
Retirement Medical . . . . .	(17,837,000)
03 State Employees' Prescription	
Drug Program . . . . .	(78,989,000)
03 State Employees' Dental Program --	
Shared Cost . . . . .	(10,399,000)
03 Social Security Tax -- State . . . .	(155,622,000)
03 Temporary Disability Insurance	
Liability . . . . .	(4,540,000)
03 Unemployment Insurance Liability	(2,012,000)

Such additional sums as may be required for Public Employees' Retirement System-Post Retirement Medical, Alternate Benefits Program-Employer Contributions, Teachers' Pension and Annuity Fund Post Retirement Medical-State, State Employees' Health Benefits, Other Pension Systems Post-Retirement Medical, State Employees' Prescription Drug Program, State Employees' Dental Program-Shared Cost, Social Security Tax-State, Temporary Disability Insurance Liability, and Unemployment Insurance Liability are appropriated, as the Director of the Division of Budget and Accounting shall determine.

The amounts hereinabove appropriated for Employee Benefits may be transferred to the Direct State Services accounts for the same purposes.

In addition to the sum hereinabove appropriated to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

No monies appropriated herein shall be used to provide additional health insurance coverage to a State or local elected official when that official receives health insurance coverage as a result of holding other public office or employment.

Notwithstanding any provision of law to the contrary, in addition to the amount hereinabove appropriated for the Public Employees' Retirement System-Post Retirement Medical, an amount as determined by the State Treasurer, from amounts in the benefit enhancement fund created pursuant to section 22 of P.L.1954, c.84 (C.43:15A-22), shall be applied to pay the pension contribution by the State for the Public Employees' Retirement System.

The unexpended balance at the end of the preceding fiscal year in the Debt Service on Pension Obligation Bonds account is appropriated for the same purpose.

Notwithstanding any provision of law to the contrary, in addition to the amount hereinabove appropriated for the Teachers' Pension and Annuity Fund, there is hereby appropriated an amount as determined by the State Treasurer to fund the pension cost contribution by the State to the Teachers' Pension and Annuity Fund, payment for which shall be credited against amounts on deposit in the benefit enhancement fund created pursuant to N.J.S.18A:66-16.



Notwithstanding the provisions of any other law to the contrary, amounts hereinabove appropriated for the State Health Benefits Program are subject to the condition that: (i) increases in co-payments for the prescription drug plan, the co-payment for office visits in the managed care plans, and the deductible for the Traditional Plan agreed to by bargaining units representing State employees and employees of State authorities, State commissions, State colleges and State universities for Fiscal Year 2005 shall continue at the same levels for this fiscal year; and (ii) the following increases implemented by the State Health Benefits Commission for Fiscal Year 2005 shall continue in this fiscal year for (a) employees paid through the State centralized payroll for whom there is no majority representative for collective negotiations purposes; and (b) employees of State authorities, State commissions, State colleges and State universities for whom there is no majority representative for collective negotiations purposes who receive health benefits through the State Health Benefits Program and such health benefits are funded in whole or in part by State appropriations: a \$10 co-payment for NJ PLUS and HMO primary care physician and specialist office visits; co-payments for the Employee Prescription Drug: Retail Pharmacy-\$3 generic and \$10 brand name for up to a 30-day supply, and Mail Order Pharmacy-\$5 generic and \$15 brand name for up to a 90-day supply; and a Traditional Plan deductible of \$250.

**9420 Other Inter-Departmental Accounts**

**DIRECT STATE SERVICES**

04-9420 Other Inter-Departmental Accounts . . . . .	<u>\$79,421,000</u>
Total Direct State Services Appropriation, Other	
Inter-Departmental Accounts . . . . .	<u>\$79,421,000</u>

**Direct State Services:**

Special Purpose:

04 To the Governor, for allotment to the various departments or agencies, to meet any condition of emergency or necessity; provided however, that a sum not in excess of \$5,000 shall be available for expenses of officially receiving dignitaries and for incidental expenses, including lunches for non-salaried board members and others for whom official reception shall be beneficial to the State. . . . .	(\$1,750,000)
04 Contingency Funds . . . . .	(1,250,000)
04 Interest on Short Term Notes . . . . .	(46,000,000)
04 Debt Issuance - Special Purpose . . . . .	(1,100,000)
04 Catastrophic Illness in Children Relief Fund -- Employer Contributions . . . . .	(672,000)

04	Payment of Military Leave Benefits .	(350,000)
04	Statewide 911 Emergency	
	Telephone System . . . . .	(17,567,000)
04	Network Infrastructure . . . . .	(7,200,000)
04	Garden State Network Infrastructure	(282,000)
04	Automated Document Factory . . . . .	(450,000)
04	Automated Cartridge	
	System Upgrade . . . . .	(300,000)
04	Information Technology On-Line	
	State Portal . . . . .	(1,000,000)
04	Office of Emergency	
	Telecommunication Services . . .	(1,500,000)

Unless otherwise indicated, the above amounts may be allotted by the Director of the Division of Budget and Accounting to the various departments and agencies.

Notwithstanding the provisions of N.J.S.2A:153-1 et seq., there is allocated at the discretion of the Governor, an amount up to \$50,000, from the Special Purpose amount hereinabove appropriated to meet any condition of emergency or necessity, as a reward for the capture and return of Joanne Chesimard.

The amount hereinabove appropriated for the Office of Emergency Telecommunication Services is subject to the approval of a spending plan to be submitted to the Director of the Division of Budget and Accounting.

There are appropriated to the Emergency Services Fund such sums as are required to meet the costs of any emergency occasioned by aggression, civil disturbance, sabotage, or disaster as recommended by the Emergency Services Council and approved by the Governor, and subject to the approval of the Director of the Division of Budget and Accounting. In the event that the Emergency Services Council is unable to convene due to any such emergency described above, there shall be appropriated to the Emergency Services Fund such sums as are required to meet the costs of any such emergency described above, and payments from the fund shall be made by the State Treasurer upon approval of the Governor and the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Governor's Contingency Fund is appropriated for the same purpose.

Such sums as may be necessary for payment of expenses incurred by issuing officials appointed under the several bond acts of the State are appropriated for the purposes and from the sources defined in those acts.

There are appropriated such sums for Geographic Information System (GIS) Integration as may be received from federal, county, municipal governments or agencies and nonprofit organizations for orthoimagery and parcel data mapping.

The unexpended balance at the end of the preceding fiscal year in Payment of Military Leave Benefits is appropriated for the same purpose.

**GRANTS-IN-AID**

04-9420	Other Inter-Departmental Accounts . . . . .	<u>\$54,925,000</u>
	Total Grants-in-Aid Appropriation, Other	
	Inter-Departmental Accounts . . . . .	<u>\$54,925,000</u>

***Grants-in-Aid:***

04 Property Tax Assistance and  
Community Development  
Grants . . . . . (\$40,000,000)  
04 Enhanced 911 County Grants . . . (14,925,000)

Grant awards and expenditures supported by the appropriation for Enhanced 911 County Grants shall be determined in accordance with grant criteria to be jointly developed by the 911 Commission and the Departments of Treasury, Community Affairs, and the Attorney General's Office, the purpose of which will be to create incentives for the regional consolidation of 911 call services and public safety answering points.

The unexpended balance at the end of the preceding fiscal year in the Enhanced 911 County Grants account is appropriated for the same purpose.

From the amount hereinabove appropriated for Property Tax Assistance and Community Development Grants, the State Treasurer shall provide State assistance to municipalities, school districts and counties for their local purposes as the State Treasurer shall determine, for the payment of Grants-In-Aid awards to non-governmental entities for health, welfare, educational, or other purposes as the State Treasurer shall determine, and for assistance to departments or agencies of state government or state authority, commissions or public institutions of higher education as the State Treasurer shall determine, subject to the approval of the Director of the Division of Budget and Accounting and review and approval by the Joint Budget Oversight Committee. The committee shall be provided periodically with a list of grantees approved by the director to review and shall approve the list or disapprove the list as provided within 10 working days or the list of grantees shall be deemed approved by the committee. No recipient of State assistance or a grant shall receive more than \$5,000,000 from this appropriation. The amount distributed to a municipality, school district or county from this appropriation may be expended by the recipient notwithstanding any law to the contrary.

**9430 Salary Increases and Other Benefits**  
**DIRECT STATE SERVICES**

05-9430 Salary Increases and Other Benefits . . . . . \$147,624,000  
Total Direct State Services Appropriation, Salary  
Increases and Other Benefits . . . . . \$147,624,000

Special Purpose:

05 Salary Increases and  
Other Benefits . . . . . (\$140,124,000)  
05 Unused Accumulated Sick  
Leave Benefits . . . . . (7,500,000)

The sums hereinabove appropriated to the various State departments, agencies or commissions for the cost of salaries, wages, or other benefits shall be allotted as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding the provisions of any other law, including R.S.34:15-49 and section 1 of P.L.1981, c.353 (C.34:15-49.1), the State Treasurer, the Commissioner of Personnel, and the Director of the Division of Budget and Accounting shall establish directives governing salary ranges and rates of pay, including salary

increases. The implementation of such directives shall be made effective at the first full pay period of Fiscal Year 2006 as determined by such directives, with timely notification of such directives to the Joint Budget Oversight Committee or its successor. Such directives shall not be considered an "administrative rule" or "rule" within the meaning of subsection (e) of section 2 of P.L.1968, c.410 (C.52:14B-2), but shall be considered exempt under paragraphs (1) and (2) of subsection (e) of section 2 of P.L.1968, c.410 (C.52:14B-2), and shall not be subject to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Nothing herein shall be construed as applicable to the Presidents of the State Colleges, Rutgers, The State University, the University of Medicine and Dentistry of New Jersey and the New Jersey Institute of Technology.

No salary range or rate of pay shall be increased or paid in any State department, agency, or commission without the approval of the Director of the Division of Budget and Accounting. Nothing herein shall be construed as applicable to unclassified personnel of the Legislative Branch or unclassified personnel of the Judicial Branch.

In addition to the amount hereinabove for Unused Accumulated Sick Leave Payments, there are appropriated such sums as may be necessary for payments of unused accumulated sick leave.

Any sums appropriated for Salary Increases and Other Benefits shall be made available for any person holding State office, position or employment whose compensation is paid directly or indirectly, in whole or in part, from State funds, including any person holding office, position or employment under the Palisades Interstate Park Commission.

The unexpended balance at the end of the preceding fiscal year in the Salary Increases and Other Benefits Account is appropriated for the same purposes.

**GRANTS-IN-AID**

05-9430 Salary Increases and Other Benefits . . . . .	<u>\$35,546,000</u>
Total Grants-in-Aid Appropriation, Salary Increases and Other Benefits . . . . .	<u>\$35,546,000</u>

**Grants-in-Aid:**

05 Salary Increases and Other Benefits . . . . .	(\$35,546,000)
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Inter-Departmental Accounts, Total State Appropriation . . . . .	<u>\$2,968,266,000</u>
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**Summary of Inter-Departmental Accounts Appropriations  
(For Display Purposes Only)**

*Appropriations by Category:*

Direct State Services . . . . .	\$1,932,957,000
Grants-in-Aid . . . . .	855,982,000
Capital Construction . . . . .	179,327,000

*Appropriations by Fund:*

General Fund . . . . .	\$2,968,266,000
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**THE JUDICIARY**  
**10 Public Safety and Criminal Justice**  
**15 Judicial Services**

**DIRECT STATE SERVICES**

01-9710 Supreme Court .....	\$5,466,000
02-9715 Superior Court -- Appellate Division .....	19,205,000
03-9720 Civil Courts .....	92,483,000
04-9725 Criminal Courts .....	109,776,000
05-9730 Family Courts .....	95,965,000
06-9735 Municipal Courts .....	1,075,000
07-9740 Probation Services .....	119,347,000
08-9745 Court Reporting .....	7,849,000
09-9750 Public Affairs and Education .....	2,618,000
10-9755 Information Services .....	16,353,000
11-9760 Trial Court Services .....	70,812,000
12-9765 Management and Administration .....	<u>13,077,000</u>
Total Direct State Services Appropriation,	
Judicial Services .....	<u>\$554,026,000</u>

**Direct State Services:**

Personal Services:

Chief Justice .....	(\$164,000)
Associate Justices .....	(951,000)
Judges .....	(61,295,000)
Salaries and Wages .....	(364,773,000)
Materials and Supplies .....	(7,755,000)
Services Other Than Personal .....	(32,549,000)
Maintenance and Fixed Charges .....	(1,852,000)

Special Purpose:

01 Rules Development .....	(200,000)
04 Drug Court Treatment/Aftercare .....	(20,618,000)
04 Drug Court Operations .....	(6,780,000)
04 Drug Court Judgeships .....	(1,498,000)
05 Child Placement Review	
Advisory Council .....	(82,000)
05 Kinship Legal Guardianship .....	(3,311,000)
05 Child Support and Paternity	
Program Title IV-D	
(Family Court) .....	(8,957,000)
07 Intensive Supervision Program ..	(11,380,000)
07 Juvenile Intensive Supervision	
Program .....	(2,169,000)
07 Child Support and Paternity	
Program Title IV-D (Probation) ..	(24,919,000)
12 Affirmative Action and Equal	
Employment Opportunity .....	(770,000)
Additions, Improvements and Equipment ..	(4,003,000)

The unexpended balances at the end of the preceding fiscal year in the Civil Arbitration Program are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, receipts derived from fees under the Special Civil Part service of process via certified mailers are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts appropriated hereinabove in the Drug Courts Treatment and Aftercare account shall be transferred to the Department of Human Services to fund treatment, aftercare and administrative services associated with the drug court program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the increase in fees collected by the Judiciary pursuant to P.L.2002, c.34 and related increases provided by operation of N.J.S.22A:2-5 and section 2 of P.L.1993, c.74 (C.22A:5-1) are appropriated from the Court Technology Improvement Fund for the purpose of offsetting the costs of development, establishment, operation and maintenance of the Judiciary computerized court information systems, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from charges to certain Special Purpose accounts listed hereinabove are appropriated for services provided to these funds.

Receipts from charges to the Superior Court Trust Fund, NJ Lawyers Fund for Client Protection, Disciplinary Oversight Committee, Board on Attorney Certification, Bar Admission Financial Committee, Parents' Education Fund, Automated Traffic System Fund, Municipal Court Administrator Certification, Comprehensive Enforcement Program, and Courts Computerized Information Systems Fund are appropriated for services provided to these funds.

The unexpended balances at the end of the preceding fiscal year not to exceed \$3,000,000 in these respective accounts are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

The Judiciary, Total State Appropriation . . . . . \$554,026,000

***Summary of Judiciary Appropriations  
(For Display Purposes Only)***

*Appropriations by Category:*

Direct State Services . . . . . \$554,026,000

*Appropriations by Fund:*

General Fund . . . . . \$554,026,000

**DEBT SERVICE**

**42 DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**40 Community Development and Environmental Management**

**46 Environmental Planning and Administration**

99-4800 Interest on Bonds . . . . . \$25,128,000

99-4800 Bond Redemption . . . . . 3,815,000

Total Debt Service Appropriation, Department of  
Environmental Protection . . . . . \$28,943,000

## Special Purpose:

## Interest:

Water Conservation Bonds (P.L.1969, c.127) . . . . .	(\$163,000)
State Recreation and Conservation Land Acquisition and Development Bonds (P.L.1974, c.102) . . . . .	(38,000)
Clean Waters Bonds (P.L.1976, c.92) . . . . .	(31,000)
Beaches and Harbors Bonds (P.L.1977, c.208) . . . . .	(12,000)
State Land Acquisition and Development Bonds (P.L.1978, c.118) . . . . .	(204,000)
Natural Resources Bonds (P.L.1980, c.70) . . . . .	(1,637,000)
Hazardous Discharge Bonds (P.L.1981, c.275) . . . . .	(172,000)
1983 New Jersey Green Acres Bonds (P.L.1983, c.354) . . . . .	(22,000)
Shore Protection Bonds (P.L.1983, c.356) . . . . .	(5,000)
Resource Recovery and Solid Waste Disposal Facility Bonds (P.L.1985, c.330) . . . . .	(630,000)
Hazardous Discharge Bonds (P.L.1986 c.113) . . . . .	(2,196,000)
1987 Green Acres, Cultural Centers and Historic Preservation Bonds (P.L.1987, c.265) . . . . .	(292,000)
1989 New Jersey Open Space Preservation Bonds (P.L.1989, c.183) . . . . .	(1,752,000)
Stormwater Management and Combined Sewer Overflow Abatement Bonds (P.L.1989, c.181) . . . . .	(425,000)
Green Acres, Clean Water, Farmland and Historic Preservation Bonds (P.L.1992, c.88) . . . . .	(5,393,000)
Green Acres, Farmland and Historic Preservation and Blue Acres Bonds (P.L.1995, c.204) . . . . .	(7,489,000)
Port of New Jersey Revitalization, Dredging Bonds (P.L.1996, c.70) . . . . .	(3,124,000)
Savings from Refunding and Other Initiatives . . . . .	865,000
Payments on Future Bond Sales . . . . .	(2,408,000)

## Redemption:

Water Conservation Bonds (P.L.1969, c.127) .....	(715,000)
State Recreation and Conservation Land Acquisition and Development Bonds (P.L.1974, c.102) .....	(743,000)
Clean Waters Bonds (P.L.1976, c.92) ..	(180,000)
Beaches and Harbors Bonds (P.L.1977, c.208) .....	(300,000)
State Land Acquisition and Development Bonds (P.L.1978, c.118) .....	(666,000)
Natural Resources Bonds (P.L.1980, c.70) .....	(947,000)
Hazardous Discharge Bonds (P.L.1981, c.275) .....	(593,000)
1983 New Jersey Green Acres Bonds (P.L.1983, c.354) .....	(85,000)
Shore Protection Bonds (P.L.1983, c.356)	(48,000)
Resource Recovery and Solid Waste Disposal Facility Bonds (P.L.1985, c.330) .....	(2,045,000)
Hazardous Discharge Bonds (P.L.1986, c.113) .....	(9,818,000)
1987 Green Acres, Cultural Centers and Historic Preservation Bonds (P.L.1987, c.265) .....	(555,000)
1989 New Jersey Open Space Preservation Bonds (P.L.1989, c.183) .....	(6,835,000)
Stormwater Management and Combined Sewer Overflow Abatement Bonds (P.L.1989, c.181) .....	(445,000)
Green Acres, Clean Water, Farmland and Historic Preservation Bonds (P.L.1992, c.88) .....	(12,654,000)
Green Acres, Farmland and Historic Preservation and Blue Acres Bonds (P.L.1995, c.204) .....	(11,075,000)
Port of New Jersey Revitalization, Dredging Bonds (P.L.1996, c.70)	(2,435,000)
Savings from Refunding and Other Initiatives .....	46,324,000
Total Debt Service Appropriation, Department of Environmental Protection .....	<u>\$28,943,000</u>



**82 DEPARTMENT OF THE TREASURY**  
**70 Government Direction, Management and Control**  
**76 Management and Administration**

99-2000 Interest on Bonds .....	\$130,527,000
99-2000 Bond Redemption .....	<u>9,856,000</u>
Total Debt Service Appropriation, Department of the Treasury .....	<u>\$140,383,000</u>
Special Purpose:	
Interest:	
State Mortgage Assistance Bonds (P.L.1976, c.94) .....	(\$8,000)
Institutions Construction Bonds (P.L.1976, c.93) .....	(23,000)
Institutional Construction Bonds (P.L.1978, c.79) .....	(12,000)
Transportation Rehabilitation and Improvement Bonds (P.L.1979, c.165) .....	(186,000)
Energy Conservation Bonds (P.L.1980, c.68) .....	(61,000)
Community Development Bonds (P.L.1981, c. 486) .....	(100,000)
Human Services Facilities Construction Bonds (P.L.1984, c.157) .....	(22,000)
Refunding Bonds (P.L.1985, c.74, as amended by P.L.1992, c.182) ..	(98,019,000)
Jobs, Education and Competitiveness Bonds (P.L.1988, c.78) .....	(1,238,000)
Public Purpose Buildings and Community-Based Facilities Construction Bonds (P.L.1989, c.184) .....	(888,000)
1989 Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Bonds (P.L.1989, c.180) .....	(1,114,000)
Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Bonds (P.L.1994, c.108) .....	(3,294,000)
Urban and Rural Centers Unsafe Buildings Demolition Bonds (P.L.1997, c.125) .....	(579,000)
Statewide Transportation and Local Bridge Bond Act of 1999 (P.L.1999, c.181) .....	(16,254,000)
Payments on Future Bond Sales .....	(13,629,000)

Savings from Refunding and Other Initiatives .....	4,900,000	
Redemption:		
State Mortgage Assistance Bonds (P.L.1976, c.94) .....	(200,000)	
Institutions Construction Bonds (P.L.1976, c.93) .....	(600,000)	
Institutional Construction Bonds (P.L.1978, c.79) .....	(300,000)	
Transportation Rehabilitation and Improvement Bonds (P.L.1979, c.165) .....	(3,713,000)	
Energy Conservation Bonds (P.L.1980, c.68) .....	(190,000)	
Community Development Bonds (P.L.1981, c.486) .....	(914,000)	
Human Services Facilities Construction Bonds (P.L.1984, c.157) .....	(214,000)	
Refunding Bonds (P.L.1985, c.74, as amended by P.L.1992, c.182) .	(167,391,000)	
Jobs, Education and Competitiveness Bonds (P.L.1988, c.78) .....	(5,002,000)	
Public Purpose Buildings and Community-Based Facilities Construction Bonds (P.L.1989, c.184) .....	(1,190,000)	
1989 Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Bonds (P.L.1989, c.180) .....	(3,250,000)	
Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Bonds (P.L.1994, c.108) .....	(6,823,000)	
Urban and Rural Centers Unsafe Buildings Demolition Bonds (P.L.1999, c.181) .....	(3,230,000)	
Statewide Transportation and Local Bond Act of 1999 (P.L.1999, c.181) .....	(14,325,000)	
Savings from Refunding and Other Initiatives .....	197,486,000	
Total Debt Service Appropriation, Department of The Treasury .....		<u>\$140,383,000</u>
Total Appropriation, Debt Service .....		<u>\$169,326,000</u>

Notwithstanding the provision of any law, rule or regulation to the contrary, such sums as may be needed for the payment of interest and/or principal due from the issuance of any bonds authorized under the several bond acts of the State are appropriated and shall first be charged to the earnings from the investments of such bond proceeds and/or repayments of loans from the applicable bond funds established under such bond acts, and monies are appropriated from such bond funds for the purpose of paying interest and/or principal on the bonds issued pursuant to such bond acts. Where required by law, such sums shall be used to fund a reserve for the payment of interest and/or principal on the bonds authorized under the bond act. Furthermore, where required by law, the amounts appropriated herein are allocated to the projects heretofore approved by the Legislature pursuant to those bond acts.

There are appropriated such sums as may be needed for the payment of debt service administrative costs.

Subsequent to the refunding of bonds in fiscal year 2006, the Director of the Division of Budget and Accounting is authorized to reallocate amounts appropriated hereinabove among the various debt service accounts to reflect the debt service savings of the refunding and to permit the proper debt service payments.

***Summary of Appropriations -- All Departments  
(For Display Purposes Only)***

*Appropriations by Category:*

Direct State Services .....	\$5,940,442,000
Grants-in-Aid .....	9,287,012,000
State Aid .....	11,431,888,000
Capital Construction .....	1,091,220,000
Debt Service .....	169,326,000

*Appropriations by Fund:*

General Fund .....	\$17,093,267,000
Property Tax Relief Fund .....	10,275,000,000
Casino Revenue Fund .....	481,311,000
Casino Control Fund .....	69,285,000
Gubernatorial Elections Fund .....	1,025,000

Total Appropriation, All State Funds ..... \$27,919,888,000

**FEDERAL FUNDS**

**10 DEPARTMENT OF AGRICULTURE**

***40 Community Development and Environmental Management***

***49 Agricultural Resources, Planning, and Regulation***

01-3310 Animal Disease Control .....	\$718,000
02-3320 Plant Pest and Disease Control .....	1,473,000
05-3350 Food and Nutrition Services .....	271,534,000
06-3360 Marketing and Development Services .....	508,000
08-3380 Farmland Preservation .....	<u>12,301,000</u>
Total Appropriation, Agricultural Resources, Planning, and Regulation .....	<u>\$286,534,000</u>

Personal Services:	
Salaries and Wages	(\$5,440,000)
Employee Benefits	(1,050,000)
Materials and Supplies	(443,000)
Services Other Than Personal	(482,000)
Maintenance and Fixed Charges	(210,000)
Special Purpose:	
Federal Organic Certification Cost Share	(30,000)
State Aid and Grants:	
Farmland Preservation	(2,796,000)
Child Nutrition -- School Lunch	(158,050,000)
Child Nutrition -- Special Milk	(1,500,000)
Child Nutrition -- School Breakfast	(40,000,000)
Child Care Food	(52,320,000)
Child Care Sponsor	(1,600,000)
Cash in Lieu of Commodities	(2,289,000)
Child Nutrition -- Summer Programs	(8,720,000)
Summer Sponsor Administration	(800,000)
State Aid and Grants	(7,473,000)
Additions, Improvements and Equipment	(3,331,000)
Total Appropriation, Department of Agriculture	<u>\$286,534,000</u>

**22 DEPARTMENT OF COMMUNITY AFFAIRS**

***40 Community Development and Environmental Management***

***41 Community Development Management***

02-8020 Housing Services	\$216,062,000
18-8017 Uniform Fire Code	<u>65,000</u>
Total Appropriation, Community Development Management	<u>\$216,127,000</u>
Personal Services:	
Salaries and Wages	(\$11,786,000)
Employee Benefits	(3,919,000)
Materials and Supplies	(249,000)
Services Other Than Personal	(1,146,000)
Maintenance and Fixed Charges	(1,306,000)
Special Purpose:	
Shelter Plus Care Program	(58,000)
Moderate Rehabilitation	
Housing Assistance	(111,000)
Section 8 Housing Voucher Program	(1,069,000)
Housing Opportunities for Persons with AIDS	(25,000)
Lead-Based Paint Abatement in Low and Moderate Income Housing	(9,000)
Small Cities Block Grant Program	(16,000)

National Affordable Housing -- HOME  
 Investment Partnerships . . . . . (67,000)  
 Other Special Purpose . . . . . (6,000)  
 State Aid and Grants . . . . . (196,307,000)  
 Additions, Improvements and Equipment . . (53,000)

**50 Economic Planning, Development and Security**  
**55 Social Services Programs**

05-8050 Community Resources . . . . . \$70,601,000  
 15-8051 Women's Programs . . . . . 1,447,000  
 Total Appropriation, Social Services Programs . . . . . \$72,048,000  
 Personal Services:  
     Salaries and Wages . . . . . (\$2,092,000)  
     Employee Benefits . . . . . (689,000)  
 Materials and Supplies . . . . . (10,000)  
 Services Other Than Personal . . . . . (103,000)  
 Maintenance and Fixed Charges . . . . . (23,000)  
 Special Purpose:  
     Other Special Purpose . . . . . (226,000)  
 State Aid and Grants:  
     Rape Prevention and Education . . . . . (1,138,000)  
 State Aid and Grants . . . . . (67,734,000)  
 Additions, Improvements and Equipment . . (33,000)

Total Appropriation, Department of  
 Community Affairs . . . . . \$288,175,000

**26 DEPARTMENT OF CORRECTIONS**  
**10 Public Safety and Criminal Justice**  
**16 Detention and Rehabilitation**

08-7040 Institutional Care and Treatment . . . . . \$124,000  
 08-7050 Institutional Care and Treatment . . . . . 87,000  
 08-7060 Institutional Care and Treatment . . . . . 88,000  
 08-7065 Institutional Care and Treatment . . . . . 88,000  
 08-7070 Institutional Care and Treatment . . . . . 88,000  
 08-7075 Institutional Care and Treatment . . . . . 80,000  
 08-7080 Institutional Care and Treatment . . . . . 360,000  
 08-7085 Institutional Care and Treatment . . . . . 68,000  
 08-7090 Institutional Care and Treatment . . . . . 134,000  
 08-7110 Institutional Care and Treatment . . . . . 397,000  
 08-7120 Institutional Care and Treatment . . . . . 164,000  
 08-7130 Institutional Care and Treatment . . . . . 203,000  
 13-7025 Institutional Program Support . . . . . 7,004,000  
 Total Appropriation, Detention and Rehabilitation . . . . . \$8,885,000  
 Personal Services:  
     Salaries and Wages . . . . . (\$1,296,000)  
     Employee Benefits . . . . . (431,000)

Materials and Supplies .....	(28,000)
Special Purpose:	
Edna Mahan Visitation Program .....	(98,000)
Individuals with Disabilities Act -- Part B .....	(28,000)
Prison Rape Elimination Grant .....	(452,000)
Crime Prevention Funding .....	(300,000)
SSA Incentive Payments .....	(50,000)
Body Alarms Technology Grant .....	(500,000)
State Criminal Alien Assistance Program .....	(5,000,000)
Project In-Side .....	(602,000)
National Institute of Justice Grants for Corrections Research .....	(100,000)

**17 Parole**

03-7010 Parole .....	<u>\$2,100,000</u>
Total Appropriation, Parole .....	<u>\$2,100,000</u>

**19 Central Planning, Direction and Management**

99-7000 Administration and Support Services .....	<u>\$180,000</u>
Total Appropriation, Central Planning, Direction and Management .....	<u>\$180,000</u>
Special Purpose .....	(\$136,000)
State Aid and Grants .....	(44,000)

Total Appropriation, Department of Corrections .....

\$11,165,000

**34 DEPARTMENT OF EDUCATION****30 Educational, Cultural and Intellectual Development****31 Direct Educational Services and Assistance**

05-5060 Bilingual Education .....	\$19,000,000
05-5064 Bilingual Education .....	1,130,000
06-5060 Programs for Disadvantaged Youths .....	297,818,000
06-5063 Programs for Disadvantaged Youths .....	2,710,000
06-5064 Programs for Disadvantaged Youths .....	1,056,000
07-5060 Special Education .....	310,465,000
07-5065 Special Education .....	<u>28,774,000</u>
Total Appropriation, Direct Educational Services and Assistance .....	<u>\$660,953,000</u>

## Personal Services:

Salaries and Wages .....	(\$8,049,000)
Employee Benefits .....	(2,675,000)
Materials and Supplies .....	(125,000)
Services Other Than Personal .....	(17,161,000)

## Special Purpose:

Vocational Education -- Basic Grants ...	(10,000)
Language Acquisition State Grants ....	(438,000)

Migrant Education -- Administration/ Discretionary . . . . .	(57,000)
Title I -- Reading First State Grant . . . . .	(258,000)
Reading First Discretionary Admin . . . . .	(1,127,000)
Bilingual and Compensatory Education -- Homeless Children and Youth . . . . .	(99,000)
Even Start Family Literacy Grant -- Discretionary . . . . .	(40,000)
Title I - Administration Program Improvement . . . . .	(87,000)
State Improvement Grant, Administration . . . . .	(596,000)
Individuals with Disabilities Education Act -- Basic State Grant . . . . .	(567,000)
Individuals with Disabilities Education Act -- Preschool Grants . . . . .	(28,000)
Pre-School Regional T.A. Project LRC -- Central . . . . .	(49,000)
IDEA Part B -- Discretionary Administration . . . . .	(2,304,000)
State Aid and Grants . . . . .	(627,283,000)

### ***32 Operation and Support of Educational Institutions***

12-5011 Marie H. Katzenbach School for the Deaf . . . . .	<u>\$826,000</u>
Total Appropriation, Operation and Support of Educational Institutions . . . . .	<u>\$826,000</u>
Personal Services:	
Salaries and Wages . . . . .	(\$312,000)
Employee Benefits . . . . .	(104,000)
Services Other Than Personal . . . . .	(15,000)
Special Purpose:	
IDEA (State Institutions), Handicapped . . . . .	(279,000)
State Aid and Grants . . . . .	(116,000)

### ***33 Supplemental Education and Training Programs***

20-5060 General Vocational Education . . . . .	\$22,734,000
20-5062 General Vocational Education . . . . .	<u>2,827,000</u>
Total Appropriation, Supplemental Education and Training Programs . . . . .	<u>\$25,561,000</u>
Personal Services:	
Salaries and Wages . . . . .	(\$1,787,000)
Employee Benefits . . . . .	(593,000)
Materials and Supplies . . . . .	(40,000)
Services Other Than Personal . . . . .	(113,000)
Special Purpose:	
Vocational Education -- Basic Grants, Administration . . . . .	(80,000)

Vocational Education -- Title II B	
Leadership Activities	(214,000)
State Aid and Grants	(22,734,000)

### **34 Educational Support Services**

29-5029 Educational Technology	\$280,000
29-5060 Educational Technology	9,476,000
30-5060 Educational Programs and Assessment	75,908,000
30-5063 Educational Programs and Assessment	22,043,000
31-5060 Grants Management	2,458,000
33-5067 Service to Local Districts	1,736,000
34-5068 Office of School Choice	207,000
40-5060 Health, Safety, and Community Services	27,201,000
40-5064 Health, Safety, and Community Services	3,876,000
Total Appropriation, Educational Support Services	<u>\$143,185,000</u>
Personal Services:	
Salaries and Wages	(\$5,690,000)
Employee Benefits	(1,529,000)
Materials and Supplies	(10,000)
Services Other Than Personal	(4,288,000)
Special Purpose:	
Technology Literacy Challenge Fund	(5,000)
State Assessments	(204,000)
Mathematics and Science	
Partnerships Grants	(3,013,000)
Teacher Quality Enhancement -- DA	(106,000)
Teacher Quality Enhancement --	
Administration	(800,000)
State Grants for Improving	
Teacher Quality	(1,089,000)
Vocational Education -- Administration	(37,000)
IDEA -- Elementary School Proficiencies	(3,000)
Title V -- Innovative Program Strategies	(58,000)
Title V -- Innovative Program Strategy	(30,000)
Vocational Education -- Leadership	(130,000)
National Assessment of Educational	
Progress State Coordinator	(4,000)
Grants Management	(182,000)
IDEA, Part B -- Child Study	
Supervisors, Admin	(31,000)
IDEA, Part B -- Child	
Study Supervisors	(215,000)
School Choice	(18,000)
21st Century Schools	(559,000)
Vocational Education -- Administration	(4,000)
IDEA -- Handicapped (Part B)	(7,000)
AIDS Prevention Education	(51,000)



SDFSCA -- Governor's Portion --	
Program Expenses . . . . .	(736,000)
SDFSCA -- Governor's Portion, Admin . . .	(6,000)
Character Education Partnership . . . . .	(5,000)
Other Special Purpose . . . . .	(10,000)
State Aid and Grants . . . . .	(124,343,000)
Additions, Improvements and Equipment . .	(22,000)

**35 Education Administration and Management**

42-5120 School Finance . . . . .	\$385,000
43-5092 Compliance and Auditing . . . . .	375,000
99-5093 Administration and Support Services . . . . .	11,000
99-5095 Administration and Support Services . . . . .	<u>5,106,000</u>
Total Appropriation, Education Administration and Management . . . . .	<u>\$5,877,000</u>

Personal Services:

Salaries and Wages . . . . .	(\$3,474,000)
Employee Benefits . . . . .	(1,156,000)
Materials and Supplies . . . . .	(6,000)
Services Other Than Personal . . . . .	(16,000)

Special Purpose:

IDEA Part B -- Finance/Single Audit . . . .	(10,000)
Vocational Education -- State Admin. --	
Compliance . . . . .	(9,000)
IDEA Part B -- Finance . . . . .	(210,000)
NCES Performance Based Data	
Management Initiative . . . . .	(11,000)
Improving America's Schools Act --	
Consolidated Administration . . . . .	(670,000)
Other Special Purpose . . . . .	(313,000)
Additions, Improvements and Equipment . . .	(2,000)

Total Appropriation, Department of Education . . . . . \$836,402,000

**42 DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**40 Community Development and Environmental Management**

**42 Natural Resource Management**

11-4870 Forest Resource Management . . . . .	\$6,555,000
12-4875 Parks Management . . . . .	38,827,000
13-4880 Hunters' and Anglers' License Fund . . . . .	12,305,000
14-4885 Shellfish and Marine Fisheries Management . . . . .	3,505,000
20-4880 Wildlife Management . . . . .	1,630,000
21-4895 Natural Resources Engineering . . . . .	<u>390,000</u>
Total Appropriation, Natural Resource Management . .	<u>\$63,212,000</u>

Personal Services:

Salaries and Wages . . . . .	(\$3,549,000)
Employee Benefits . . . . .	(1,139,000)

Materials and Supplies .....	(1,538,000)
Services Other Than Personal .....	(1,835,000)
Maintenance and Fixed Charges .....	(402,000)
Special Purpose:	
Rural Community Fire	
Protection Program .....	(67,000)
Forest Resource Management --	
Cooperative Forest Fire Control ..	(947,000)
Southern Pine Beetle .....	(100,000)
Consolidated Forest Management .....	(719,000)
Firewise in the Pines .....	(40,000)
Wildland/Urban Interface II .....	(500,000)
Defensible Space .....	(400,000)
Incentives Program .....	(20,000)
Multi-Year Forest Stewardship Project	
for Non-Industrial Private .....	(50,000)
Land and Water Conservation Fund ..	(5,000,000)
Pinelands Grant -- Acquisition .....	(6,000,000)
Historic Preservation Survey	
and Planning .....	(300,000)
Cape May Peninsula Project	
(Sandritter Property) .....	(1,000,000)
Endangered Plant Species	
Supplemental Funding .....	(4,000)
Cheesequake Marshland Acquisition ..	(1,000,000)
Sussex Branch Trail Improvements .....	(500,000)
Seashore Line .....	(500,000)
Delaware and Raritan Canal East	
Side Path (ISTEA) .....	(565,000)
Delaware Bay and Great Egg Harbor	
Corridor Project (SV Farming) ..	(1,000,000)
Forest Legacy .....	(10,000,000)
Forest Legacy Administration .....	(40,000)
National Recreational Trails .....	(298,000)
National Coastal Wetlands	
Conservation .....	(1,000,000)
Sussex Branch Trail	
Connector (ISTEA) .....	(75,000)
Cape May Point State Park	
Bikeway (ISTEA) .....	(200,000)
Liberty State Park Ferry Slip	
Restoration (ISTEA) .....	(1,600,000)
Paulinskill Valley Trail	
Improvements (ISTEA) .....	(605,000)
Delaware & Raritan Canal State	
Park Old Rose to Mulberry St.	
(ISTEA) .....	(900,000)

Liberty State Park Train Sheds --	
Structural Report (ISTEA) . . . . .	(500,000)
Appalachian Trail Viewshed	
Acquisition (ISTEA) . . . . .	(500,000)
Liberty State Park Archival	
Facility (ISTEA) . . . . .	(660,000)
Delaware & Raritan Canal State Park/	
Bordentown Outlet (ISTEA) . . . . .	(1,250,000)
Appalachian Trail	
Improvement (ISTEA) . . . . .	(50,000)
Archaeological & History/GIS	
Inventory (ISTEA) . . . . .	(1,500,000)
D&R Canal Route 1	
Crossing (ISTEA) . . . . .	(1,575,000)
NJ Coastal Heritage Program . . . . .	(90,000)
State Wetlands Conservation Plan . . . . .	(178,000)
Hunters' and Anglers' License Fund . . . . .	(925,000)
Hunter Safety Training . . . . .	(220,000)
Endangered Species . . . . .	(17,000)
Hunter's & Anglers License Fund/N.J.	
Statewide Fisheries Development . . . . .	(445,000)
Boat Access (Fish and Wildlife) . . . . .	(1,000,000)
NJ Landowners Incentive . . . . .	(1,270,000)
Investigation and Management of NJ's	
Nongame Freshwater Fisheries . . . . .	(150,000)
Grassland Habitat Project . . . . .	(31,000)
Wildlife Management Area Planning . . . . .	(18,000)
Fish & Wildlife Input to Activities --	
Projects of Others . . . . .	(156,000)
State Wildlife Grant Projects . . . . .	(1,500,000)
Lower Cohansey Watershed . . . . .	(1,000,000)
Shortnose Sturgeon Research . . . . .	(25,000)
Chronic Wasting Disease . . . . .	(50,000)
Bob White Evaluation . . . . .	(80,000)
NJ Fish, Wildlife and Anadromous	
Fishery Coordination . . . . .	(64,000)
Research In Freshwater	
Fisheries Management . . . . .	(95,000)
Fish, Culture and Stocking Project . . . . .	(200,000)
Aquatic Recreational Resource	
Awareness & Education Project . . . . .	(59,000)
Wildlife Research and Management . . . . .	(90,000)
Fish and Wildlife Health . . . . .	(51,000)
Marine Fisheries Investigation and	
Management . . . . .	(260,000)
Fisheries Management Council . . . . .	(30,000)
Atlantic Coastal Fisheries . . . . .	(77,000)

Inventory of New Jersey Surf	
Clam Resources .....	(20,000)
Artificial Reef Program -- PSE&G/	
NJPDES Permit Fees .....	(135,000)
Clean Vessels .....	(310,000)
Marine Fisheries Law Enforcement ...	(250,000)
Atlantic Coastal Cooperative Program .	(200,000)
US Army Corps of Engineers	
Beachnesters .....	(80,000)
NJ Field Office Bog Turtle Cooperative	
Agreement .....	(50,000)
Endangered and Nongame Species	
Program State Wildlife Grants ...	(620,000)
Community Assistance Program .....	(58,000)
Map Modernization	
Management Support .....	(100,000)
National Dam Safety Program (FEMA) ..	(40,000)
Other Special Purpose .....	(1,051,000)
State Aid and Grants .....	(3,686,000)
Additions, Improvements and Equipment ..	(603,000)

#### ***43 Science and Technical Programs***

05-4840 Water Supply .....	\$22,200,000
07-4850 Water Monitoring and Standards .....	4,750,000
15-4801 Land Use Regulation .....	8,084,000
15-4890 Land Use Regulation .....	1,288,000
18-4810 Science, Research and Technology .....	1,880,000
22-4861 New Jersey Geological Survey .....	350,000
90-4801 Watershed Management .....	<u>6,488,000</u>
Total Appropriation, Science and Technical Programs .	<u>\$45,040,000</u>
Personal Services:	
Salaries and Wages .....	(\$4,919,000)
Employee Benefits .....	(1,263,000)
Materials and Supplies .....	(50,000)
Services Other Than Personal .....	(1,360,000)
Maintenance and Fixed Charges .....	(54,000)
Special Purpose:	
Safe Drinking Water Act .....	(111,000)
Drinking Water State	
Revolving Fund .....	(20,000,000)
Water Pollution Control Program .....	(1,022,000)
Ocean Hypoxia Study .....	(500,000)
Clean Lakes Program .....	(500,000)
Coastal Estuarine Land Program .....	(6,000,000)
State Wetlands Conservation Plan .....	(250,000)
Coastal Zone Management 310 .....	(112,000)
Assessment of Brown Tides .....	(600,000)

CONEG	(30,000)
Multi-Media	(275,000)
Offshore Beach Replenishment	(70,000)
National Geologic Mapping Program	(86,000)
Conashank Point	(215,000)
Coastal Wetlands Conservation (Land Acquisition)	(1,000,000)
Americorps	(300,000)
Beach Monitoring and Notification	(300,000)
Other Special Purpose	(803,000)
State Aid and Grants	(4,190,000)
Additions, Improvements and Equipment	(1,030,000)

#### **44 Site Remediation and Waste Management**

19-4815 Publicly-Funded Site Remediation	\$30,450,000
23-4815 Solid and Hazardous Waste Management	360,000
23-4910 Solid and Hazardous Waste Management	2,035,000
27-4815 Remediation Management and Response	7,185,000
Total Appropriation, Site Remediation	<u>\$40,030,000</u>
Personal Services:	
Salaries and Wages	(\$3,058,000)
Employee Benefits	(898,000)
Materials and Supplies	(43,000)
Services Other Than Personal	(367,000)
Maintenance and Fixed Charges	(29,000)
Special Purpose:	
Superfund Grants	(30,000,000)
Hazardous Waste -- Resource Conservation Recovery Act	(290,000)
Preliminary Assessments/ Site Inspections	(2,003,000)
Brownfields	(1,600,000)
Environmental Monitoring for Public Access and Community Tracking	(50,000)
Underground Storage Tanks	(588,000)
Underground Storage Tanks	(58,000)
Other Special Purpose	(1,011,000)
Additions, Improvements and Equipment	(35,000)

#### **45 Environmental Regulation**

01-4820 Radiation Protection	\$500,000
02-4892 Air Pollution Control	4,915,000
09-4860 Public Wastewater Facilities	57,600,000
16-4891 Water Monitoring and Planning	710,000
Total Appropriation, Environmental Regulation	<u>\$63,725,000</u>
Personal Services:	
Salaries and Wages	(\$3,068,000)

Employee Benefits .....	(1,008,000)
Materials and Supplies .....	(109,000)
Services Other Than Personal .....	(332,000)
Maintenance and Fixed Charges .....	(62,000)
Special Purpose:	
Radon Program .....	(140,000)
Particulate Monitoring Grant .....	(714,000)
Clean Water State Revolving Fund ..	(57,600,000)
National Pollutant Discharge Elimination System Implementation .....	(100,000)
Other Special Purpose .....	(253,000)
Additions, Improvements and Equipment .	(339,000)

**46 Environmental Planning and Administration**

26-4805 Regulatory and Governmental Affairs .....	\$150,000
99-4800 Administration and Support Services .....	<u>2,500,000</u>
Total Appropriation, Environmental Planning and Administration .....	<u>\$2,650,000</u>
Special Purpose:	
New Jersey Classroom Reform Grant .	(\$150,000)
National Information Exchange Network .....	(2,300,000)
Environmental Justice .....	(100,000)
National Spatial Data Infrastructure ....	(100,000)

**47 Compliance and Enforcement Policy**

02-4855 Air Pollution Control .....	\$1,802,000
04-4835 Pesticide Control .....	740,000
08-4855 Water Pollution Control .....	1,000,000
15-4855 Land Use Regulation .....	600,000
23-4855 Solid and Hazardous Waste Management .....	<u>1,886,000</u>
Total Appropriation, Compliance and Enforcement Policy .....	<u>\$6,028,000</u>
Personal Services:	
Salaries and Wages .....	(\$2,341,000)
Employee Benefits .....	(772,000)
Materials and Supplies .....	(22,000)
Services Other Than Personal .....	(147,000)
Maintenance and Fixed Charges .....	(13,000)
Special Purpose:	
Air Pollution Maintenance Program ...	(575,000)
Pesticide Control Consolidated .....	(79,000)
Southern New Jersey Drinking Water Sampling Project .....	(50,000)
Pesticide Mosquito Control Project .....	(50,000)
Multi-Media Enforcement Grant ....	(1,000,000)

Coastal Zone Management Implementation . . . . .	(58,000)
Hazardous Waste -- Resource Conservation Recovery Act . . . . .	(339,000)
Other Special Purpose . . . . .	(508,000)
Additions, Improvements and Equipment . .	(74,000)
 Total Appropriation, Department of Environmental Protection . . . . .	 <u>\$220,685,000</u>

**46 DEPARTMENT OF HEALTH AND SENIOR SERVICES***20 Physical and Mental Health**21 Health Services*

01-4215 Vital Statistics . . . . .	\$850,000
02-4220 Family Health Services . . . . .	161,038,000
03-4230 Public Health Protection Services . . . . .	71,198,000
08-4280 Laboratory Services . . . . .	4,773,000
12-4245 AIDS Services . . . . .	<u>74,863,000</u>
Total Appropriation, Health Services . . . . .	<u>\$312,722,000</u>
Personal Services:	
Salaries and Wages . . . . .	(\$36,582,000)
Employee Benefits . . . . .	(12,118,000)
Materials and Supplies . . . . .	(2,885,000)
Services Other Than Personal . . . . .	(15,237,000)
Maintenance and Fixed Charges . . . . .	(826,000)
Special Purpose:	
Supplemental Food Program -- Women, Infants, and Children . . . . .	(69,979,000)
N.J. Project: Providing a MED Home in a Neighborhood of Services . . . . .	(49,000)
WIC Farmer's Market Nutrition Program . . . . .	(1,793,000)
Surveillance, Epidemiology and End Results (SEER) . . . . .	(597,000)
Other Special Purpose . . . . .	(5,782,000)
State Aid and Grants:	
Preventative Health and Health Services Block Grant . . . . .	(674,000)
National Cancer Prevention and Control . . . . .	(3,215,000)
Planning Capacity for Rape Prevention . . .	(79,000)
Evaluation of Lead Dust Study . . . . .	(57,000)
Health Program for Indochinese Refugees . . . . .	(118,000)
Federal Lead Abatement Program . . . . .	(70,000)
Immunization Project . . . . .	(3,152,000)

Research on Ecology of Lyme  
 Disease in US ..... (325,000)  
 Emergency Preparedness  
 For Bioterrorism ..... (14,491,000)  
 State Aid and Grants ..... (142,615,000)  
 Additions, Improvements and Equipment (2,078,000)

**22 Health Planning and Evaluation**

06-4260 Long Term Care Systems ..... \$16,826,000  
 07-4270 Health Care Systems Analysis ..... 70,577,000  
 Total Appropriation, Health Planning and Evaluation .. \$87,403,000  
 Personal Services:  
 Salaries and Wages ..... (\$7,861,000)  
 Employee Benefits ..... (2,613,000)  
 Materials and Supplies ..... (76,000)  
 Services Other Than Personal ..... (1,008,000)  
 Maintenance and Fixed Charges ..... (770,000)  
 Special Purpose:  
 Long Term Care -- Medicaid ..... (454,000)  
 Nurse Aide Certification Program .... (1,000,000)  
 Other Special Purpose ..... (5,456,000)  
 State Aid and Grants:  
 State Office of Rural Health ..... (150,000)  
 State Aid and Grants ..... (67,609,000)  
 Additions, Improvements and Equipment .. (406,000)

**25 Health Administration**

99-4210 Administration and Support Services ..... \$4,717,000  
 Total Appropriation, Health Administration ..... \$4,717,000  
 Personal Services:  
 Salaries and Wages ..... (\$1,258,000)  
 Employee Benefits ..... (412,000)  
 Materials and Supplies ..... (40,000)  
 Services Other Than Personal ..... (1,404,000)  
 Special Purpose:  
 Other Special Purpose ..... (348,000)  
 State Aid and Grants:  
 Preventative Health and Health  
 Services Block Grant ..... (52,000)  
 Minority AIDS Demo ..... (82,000)  
 State Aid and Grants ..... (997,000)  
 Additions, Improvements and Equipment .. (124,000)

**26 Senior Services**

22-4275 Medical Services for the Aged ..... \$1,119,516,000  
 24-4275 Pharmaceutical Assistance to the  
 Aged and Disabled ..... 102,360,000



55-4275 Programs for the Aged .....	45,432,000
56-4275 Office of the Ombudsman .....	800,000
57-4275 Office of the Public Guardian .....	<u>801,000</u>
Total Appropriation, Senior Services .....	<u>\$1,268,909,000</u>
Personal Services:	
Salaries and Wages .....	(\$21,992,000)
Employee Benefits .....	(3,085,000)
Materials and Supplies .....	(190,000)
Services Other Than Personal .....	(3,040,000)
Maintenance and Fixed Charges .....	(458,000)
Special Purpose:	
Administration of U.S. Department of Health and Human Services Programs .....	(3,735,000)
ADM DHSS Federal Programs -- SBUM .....	(1,120,000)
Ombudsman for the Institutionalized Elderly: Medicaid Reimbursement .	(380,000)
Other Special Purpose .....	(2,643,000)
State Aid and Grants:	
Alternate Family Care .....	(2,500,000)
Assisted Living Residence .....	(17,000,000)
Comprehensive Personal Care Home .....	(15,000,000)
Assisted Living Program .....	(26,040,000)
Counseling on Health Insurance for Medicare Enrollees .....	(187,000)
Social Services Block Grant -- Senior Services .....	(2,422,000)
NJ Ease for Caregivers -- Building Support Systems .....	(124,000)
State Aid and Grants .....	(1,168,634,000)
Additions, Improvements and Equipment .	(359,000)
 Total Appropriation, Department of Health and Senior Services .....	 <u>\$1,673,751,000</u>

**54 DEPARTMENT OF HUMAN SERVICES***20 Physical and Mental Health**23 Mental Health Services**7700 Division of Mental Health Services*

08-7700 Community Services .....	\$14,114,000
99-7700 Administration and Support Services .....	<u>2,444,000</u>
Total Appropriation, Division of Mental Health Services .....	<u>\$16,558,000</u>
Personal Services:	
Salaries and Wages .....	(\$505,000)

## Special Purpose:

Fraud and Abuse Initiative .....	(719,000)
Title XIX Indirect Costs .....	(1,725,000)
State Aid and Grants .....	(13,609,000)

**24 Special Health Services****7540 Division of Medical Assistance and Health Services**

21-7540 Health Services Administration and Management .....	\$66,739,000
22-7540 General Medical Services .....	<u>2,142,323,000</u>
Total Appropriation, Division of Medical Assistance and Health Services .....	<u>\$2,209,062,000</u>

## Personal Services:

Salaries and Wages .....	(\$19,723,000)
Materials and Supplies .....	(180,000)
Services Other Than Personal .....	(6,300,000)
Maintenance and Fixed Charges .....	(2,511,000)

## Special Purpose:

Payments to Fiscal Agent .....	(25,412,000)
Professional Standards Review Organization -- Utilization Review .....	(3,537,000)
Drug Utilization Review Board -- Administrative Costs .....	(60,000)
NJ KidCare A -- Administration .....	(3,467,000)
NJ KidCare B-C- D -- Administration .	(5,169,000)

## State Aid and Grants:

Payments for Medical Assistance Recipients -- Personal Care ...	(20,892,000)
Managed Care Initiative .....	(589,794,000)
Hospital Health Care Subsidy .....	(30,655,000)
Hospital Relief Offset Payment .....	(70,845,000)
Payments for Medical Assistance Recipients -- Other Treatment Facilities .....	(5,411,000)
Payments for Medical Assistance Recipients -- Inpatient Hospital .....	(267,698,000)
Payments for Medical Assistance Recipients -- Prescription Drugs .....	(497,502,000)
Payments for Medical Assistance Recipients -- Outpatient Hospital .....	(146,835,000)
Payments for Medical Assistance Recipients -- Physician Services .....	(31,992,000)

Payments for Medical Assistance	
Recipients -- Home	
Health Care . . . . .	(16,897,000)
Payments for Medical Assistance	
Recipients -- Medicare	
Premiums . . . . .	(97,963,000)
Payments for Medical Assistance	
Recipients -- Dental Services . .	(12,815,000)
Payments for Medical Services	
Recipients -- Psychiatric	
Hospital . . . . .	(9,683,000)
Payments for Medical Services	
Recipients -- Medical Supplies .	(19,271,000)
Payments for Medical Services	
Recipients -- Clinic Services . . .	(74,616,000)
Payments for Medical Services	
Recipients -- Transportation	
Services . . . . .	(28,954,000)
Payments for Medical Services	
Recipients -- Other Services . . .	(10,209,000)
Home Health Background	
Checks -- Title XIX federal	
matching funds . . . . .	(1,800,000)
Eligibility Determination Services . . .	(4,876,000)
Health Benefit Coordination Services .	(4,489,000)
State Aid and Grants . . . . .	(202,526,000)
Additions, Improvements and Equipment .	(380,000)

**27 Disability Services**

27-7545 Division of Disability Services . . . . .	\$189,189,000
Total Appropriation, Disability Services . . . . .	<u>\$189,189,000</u>
Personal Services:	
Salaries and Wages . . . . .	(\$492,000)
Materials and Supplies . . . . .	(4,000)
Services Other Than Personal . . . . .	(31,000)
State Aid and Grants . . . . .	(188,662,000)

**30 Educational, Cultural and Intellectual Development**

**32 Operation and Support of Educational Institutions**

01-7601 Purchased Residential Care . . . . .	\$178,027,000
02-7601 Social Supervision and Consultation . . . . .	32,007,000
03-7601 Adult Activities . . . . .	38,037,000
05-7610 Residential Care and Habilitation Services . . . . .	8,144,000
05-7620 Residential Care and Habilitation Services . . . . .	40,761,000
05-7630 Residential Care and Habilitation Services . . . . .	25,326,000
05-7640 Residential Care and Habilitation Services . . . . .	27,185,000
05-7650 Residential Care and Habilitation Services . . . . .	36,652,000

05-7660 Residential Care and Habilitation Services . . . . .	31,075,000
05-7670 Residential Care and Habilitation Services . . . . .	31,200,000
99-7600 Administration and Support Services . . . . .	6,874,000
99-7610 Administration and Support Services . . . . .	2,569,000
99-7620 Administration and Support Services . . . . .	2,113,000
99-7630 Administration and Support Services . . . . .	1,923,000
99-7640 Administration and Support Services . . . . .	3,812,000
99-7650 Administration and Support Services . . . . .	4,218,000
99-7660 Administration and Support Services . . . . .	1,521,000
99-7670 Administration and Support Services . . . . .	<u>3,742,000</u>
Total Appropriation, Operation and Support of Educational Institutions . . . . .	<u>\$475,186,000</u>
Personal Services:	
Salaries and Wages . . . . .	(\$252,898,000)
Materials and Supplies . . . . .	(34,000)
Services Other Than Personal . . . . .	(34,000)
Maintenance and Fixed Charges . . . . .	(2,000)
Special Purpose	
Developmental Center Enhancement . . . . .	(703,000)
Developmental Center Enhancement . . . . .	(1,095,000)
State Aid and Grants . . . . .	(220,420,000)

**33 Supplemental Education and Training Programs**

11-7560 Services for the Blind and Visually Impaired . . . . .	<u>\$9,875,000</u>
99-7560 Administration and Support Services . . . . .	<u>2,208,000</u>
Total Appropriation, Supplemental Education and Training Programs . . . . .	<u>\$12,083,000</u>
Personal Services:	
Salaries and Wages . . . . .	(\$4,730,000)
Materials and Supplies . . . . .	(147,000)
Services Other Than Personal . . . . .	(820,000)
Maintenance and Fixed Charges . . . . .	(325,000)
State Aid and Grants . . . . .	(5,658,000)
Additions, Improvements and Equipment . . . . .	(403,000)

**50 Economic Planning, Development and Security**

**53 Economic Assistance and Security**

15-7550 Income Maintenance Management . . . . .	<u>\$858,461,000</u>
Total Appropriation, Economic Assistance and Security . . . . .	<u>\$858,461,000</u>
Personal Services:	
Salaries and Wages . . . . .	(\$17,548,000)
Materials and Supplies . . . . .	(432,000)
Services Other Than Personal . . . . .	(14,685,000)
Maintenance and Fixed Charges . . . . .	(1,148,000)
Special Purpose:	

Electronic Benefits Transfer, Evaluation & Development, Food Stamps . . . .	(240,000)
Work First New Jersey -- Electronic Benefits Transfer -- Design & Development . . . . .	(64,000)
Work First New Jersey Technology Investment -- Food Stamps . . . . .	(5,332,000)
EBT -- Operational Food Stamp Match for CWA's . . . . .	(2,400,000)
Work First New Jersey -- Benefits Transfer Operational . . . . .	(720,000)
Work First New Jersey -- Technology Investments . . . . .	(6,997,000)
Child Support Medical Notice . . . . .	(1,409,000)
Federal Energy Assistance Program . . . .	(174,000)
Work First New Jersey -- Technology Investments -- Title XIX . . . . .	(2,723,000)
Hospital Paternity Program . . . . .	(959,000)
Work First New Jersey -- Technology Investment -- Title IV-D . . . . .	(30,279,000)
Work First New Jersey -- Child Support -- Program Legislative Initiatives . . . . .	(8,318,000)
SSI Attorney Fees . . . . .	(1,000,000)
Child Support Initiatives -- New Hires -- TANF . . . . .	(6,000)
State Aid and Grants:	
Faith Based Initiatives . . . . .	(1,055,000)
Domestic Violence and Prevention Training and Assessment . . . . .	(450,000)
Homeless Assistance . . . . .	(2,000,000)
SSBG CWA Administration TANF Transfer . . . . .	(2,814,000)
State Aid and Grants . . . . .	(757,544,000)
Additions, Improvements and Equipment .	(164,000)

**55 Social Services Programs**

04-7565 Education Services . . . . .	\$2,008,000
09-7555 Addiction Services . . . . .	57,460,000
16-7570 Child Protective and Permanency Services . . . .	223,968,000
26-7566 Child Behavioral Health Services . . . . .	106,966,000
36-7567 Prevention and Community Partnership Services . .	383,000
95-7565 Child Welfare Training Academy Services and Operations . . . . .	1,788,000
99-7565 Administration and Support Services . . . . .	2,641,000
99-7566 Administration and Support Services . . . . .	11,956,000
99-7567 Administration and Support Services . . . . .	1,118,000

99-7570 Administration and Support Services .....	<u>16,153,000</u>
Total Appropriation, Social Services Programs .....	<u>\$424,441,000</u>
Personal Services:	
Salaries and Wages .....	(\$166,889,000)
Employee Benefits .....	(1,603,000)
Materials and Supplies .....	(2,141,000)
Services Other Than Personal .....	(25,566,000)
Maintenance and Fixed Charges .....	(12,427,000)
Special Purpose:	
Safety and Permanency in the Courts ..	(1,812,000)
Other Special Purpose .....	(607,000)
State Aid and Grants:	
Substance Abuse Block Grant .....	(43,791,000)
State Aid and Grants .....	(157,102,000)
Additions, Improvements and Equipment	(12,503,000)

**70 Government Direction, Management and Control**

**76 Management and Administration**

**7500 Division of Management and Budget**

94-7500 Children's Services Support .....	\$1,775,000
99-7500 Administration and Support Services .....	<u>82,104,000</u>
Total Appropriation, Division of Management and Budget .....	<u>\$83,879,000</u>
Personal Services:	
Salaries and Wages .....	(\$1,905,000)
Materials and Supplies .....	(11,000)
Services Other Than Personal .....	(37,000)
Maintenance and Fixed Charges .....	(129,000)
Special Purpose:	
Community Based Residential	
Program Grant .....	(1,000,000)
DHS Adult Basic Education Program ..	(211,000)
Federal Cost Recoveries .....	(39,701,000)
Child Support Enforcement Program ...	(299,000)
Title IV-B Child Welfare Services .....	(134,000)
Title IV-E Foster Care .....	(288,000)
Low Income Energy Assistance	
Block Grant .....	(126,000)
Title XIX, ICF/MR .....	(8,243,000)
Title XIX, Medical Assistance .....	(2,600,000)
Refugee Resettlement Program .....	(18,000)
Social Service Block Grant .....	(2,326,000)
Vocational Rehabilitation Act --	
Section 120 .....	(100,000)
Food Stamp Program .....	(447,000)
Temporary Assistance to Needy	
Families Block Grant .....	(604,000)

Title IV-E Information Technology . . . . (878,000)  
 State Aid and Grants . . . . . (24,822,000)

Total Appropriation, Department of  
 Human Services . . . . . \$4,268,859,000

**62 DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

*50 Economic Planning, Development and Security*

*51 Economic Planning and Development*

18-4570 Planning and Analysis . . . . . \$9,813,000

Total Appropriation, Economic Planning  
 and Development . . . . . \$9,813,000

Personal Services:

Salaries and Wages . . . . . (\$5,700,000)  
 Employee Benefits . . . . . (1,897,000)  
 Materials and Supplies . . . . . (170,000)  
 Services Other Than Personal . . . . . (731,000)  
 Maintenance and Fixed Charges . . . . . (173,000)

Special Purpose:

Reports and Analysis --  
 Unemployment Insurance . . . . . (25,000)  
 E S 202 Covered Employment  
 and Wages . . . . . (86,000)  
 Current Employment Statistics . . . . . (78,000)  
 Local Area Unemployment Statistics . . . . . (17,000)  
 Occupational Employment Statistics . . . . . (116,000)  
 Labor Market Information -- ES . . . . . (10,000)  
 ES Cost Reimbursable Grants -- Alien  
 Labor Certification . . . . . (1,000)  
 Permanent Mass Layoff Plant Closings . . . . . (15,000)  
 Current Employment Statistics Additional  
 to Maintain Current Issue . . . . . (2,000)  
 ES 202 RELATED . . . . . (1,000)  
 Redesigned Occupational Safety and  
 Health (ROSH) . . . . . (26,000)  
 One Stop Labor Market Information . . . . . (117,000)  
 Occupation Safety and Health  
 Administration Data  
 Collection Survey . . . . . (10,000)  
 JTPA Title III LMI -- PROS . . . . . (356,000)  
 Occupational Information  
 Coordinating Program . . . . . (5,000)  
 Other Special Purpose . . . . . (26,000)  
 State Aid and Grants:  
 JTPA Title III CIDS . . . . . (62,000)  
 Additions, Improvements and Equipment . . . . . (189,000)

**53 Economic Assistance and Security**

01-4510 Unemployment Insurance ..... \$133,100,000  
 02-4515 Disability Determination ..... 49,000,000

Total Appropriation, Economic Assistance and Security ..... \$182,100,000

## Personal Services:

Salaries and Wages ..... (\$79,115,000)  
 Employee Benefits ..... (25,632,000)  
 Materials and Supplies ..... (2,098,000)  
 Services Other Than Personal ..... (17,523,000)  
 Maintenance and Fixed Charges ..... (11,720,000)

## Special Purpose:

Unemployment Insurance ..... (2,538,000)  
 Reed Act Improvements ..... (30,000,000)  
 Employment Security Revenue ..... (666,000)  
 Disability Determination Services ..... (3,450,000)  
 State Aid and Grants ..... (8,758,000)  
 Additions, Improvements and Equipment .. (600,000)

**54 Manpower and Employment Services**

07-4535 Vocational Rehabilitation Services ..... \$50,667,000  
 09-4545 Employment Services ..... 34,585,000  
 10-4545 Employment and Training Services ..... 130,422,000  
 12-4550 Workplace Standards ..... 3,967,000

Total Appropriation, Manpower and Employment Services ..... \$219,641,000

## Personal Services:

Salaries and Wages ..... (\$46,650,000)  
 Employee Benefits ..... (15,980,000)  
 Materials and Supplies ..... (623,000)  
 Services Other Than Personal ..... (7,684,000)  
 Maintenance and Fixed Charges ..... (6,476,000)

## Special Purpose:

Vocational Rehabilitation Act of 1973 . (1,500,000)  
 Work Incentive -- Project Access ..... (1,000)  
 Employment Services ..... (1,500,000)  
 Employment Service Intermittents ..... (100,000)  
 Disabled Veterans' Outreach Program .. (200,000)  
 Local Veterans' Employment  
 Representatives ..... (470,000)  
 Trade Adjustment Assistance Project ..... (5,000)  
 Employment Services Grants -- Alien  
 Labor Certification ..... (100,000)  
 Work Opportunity Tax Credit ..... (72,000)  
 Employment Services Cost Reimbursable  
 Grants -- Migrant Housing ..... (5,000)  
 Agricultural Wage Surveys ..... (3,000)



Employment Services	
Reemployment Services . . . . .	(109,000)
Workforce Investment Act . . . . .	(275,000)
Employment Services Rapid	
Response Team . . . . .	(115,000)
Workforce Investment Act -- Title IIID	
Discretionary Funding . . . . .	(200,000)
National Council on Aging -- Senior	
Community Services Employment . .	(10,000)
Adult and Continuing Education --	
Workforce Investment Act . . . . .	(89,000)
ADULT BASIC ED LEADERSHIP . .	(1,007,000)
ADULT BASIC ED CIVICS	
ADMINISTRATION . . . . .	(63,000)
ADULT BASIC EDUCATION	
CIVICS LEADERSHIP . . . . .	(290,000)
Occupational Safety Health Act,	
On-Site Consultation . . . . .	(141,000)
Other Special Purpose . . . . .	(949,000)
State Aid and Grants:	
Technology Related Assistance Project . .	(350,000)
ADULT BASIC ED NON-ADMIN .	(10,903,000)
ADULT BASIC ED CIVICS NON	
ADMINISTRATION . . . . .	(3,130,000)
State Aid and Grants . . . . .	(120,014,000)
Additions, Improvements and Equipment .	(627,000)
 Total Appropriation, Department of Labor and Workforce Development . . . . .	 <u>\$411,554,000</u>

**66 DEPARTMENT OF LAW AND PUBLIC SAFETY***10 Public Safety and Criminal Justice**12 Law Enforcement*

06-1200 State Police Operations . . . . .	\$82,096,000
09-1020 Criminal Justice . . . . .	<u>35,765,000</u>
Total Appropriation, Law Enforcement . . . . .	<u>\$117,861,000</u>
Personal Services:	
Salaries and Wages . . . . .	(\$8,517,000)
Food in Lieu of Cash . . . . .	(10,000)
Cash in Lieu of Maintenance . . . . .	(239,000)
Employee Benefits . . . . .	(1,296,000)
Special Purpose:	
Federal Highway Hazardous	
Materials Transportation . . . . .	(78,000)
Forensic DNA Testing Program . . . . .	(1,000,000)
Domestic Marijuana Eradication	
Suppression Program . . . . .	(200,000)

D.W.I. Training	(93,000)
Flood Mitigation Assistance	(946,000)
Breathalyzer Training OHTS	(50,000)
Forensic Crime Laboratory Improvement Program	(2,000,000)
National Forensic Sciences Improvement Act Program	(400,000)
Internet Crimes Against Children	(300,000)
Community Emergency Response Team Program	(550,000)
Convicted Offender In-House (DNA)	(1,500,000)
State Homeland Security Grant Program	(36,600,000)
Hazardous Materials Transportation	(261,000)
Protecting Our Urban Areas	(25,000,000)
NIEHS Worker Health Safety Training	(43,000)
Incident Command	(497,000)
Emergency Management Performance Grant -- Non-Terrorism	(3,121,000)
Pre-Disaster Mitigation Grant -- FEMA	(300,000)
Buffer Zone Protection	(1,400,000)
Casework DNA Backlog Reduction Program	(1,300,000)
Bulletproof Vest Partnership	(800,000)
High Intensity Drug Trafficking Area (HIDTA)	(50,000)
Justice Assistance Grant (JAG)	(10,500,000)
New Jersey Anti-Money Laundering Initiative	(750,000)
State Aid and Grants	(19,000,000)
Additions, Improvements and Equipment	(1,060,000)

***13 Special Law Enforcement Activities***

03-1160 Office of Highway Traffic Safety	\$20,940,000
21-1400 Regulation of Alcoholic Beverages	360,000
25-1421 Election Management and Coordination	<u>2,210,000</u>
Total Appropriation, Special Law Enforcement Activities	<u>\$23,510,000</u>
Personal Services:	
Salaries and Wages	(\$1,479,000)
Employee Benefits	(234,000)
Materials and Supplies	(269,000)
Services Other Than Personal	(544,000)
Maintenance and Fixed Charges	(13,000)
Special Purpose:	
FHWA Program Management	(2,000)
Pedestrian Safety Grant	(146,000)

Selective Enforcement Management . . . .	(526,000)
Highway Safety Data Improvement Grant . . . . .	(1,500,000)
Section 163 Prevent Operations of Motor Vehicles by Intoxicated Persons . . . . .	(3,000,000)
Highway Safety -- Alcohol Education and Public Awareness Coordinator . . . . .	(116,000)
Child Passenger Protection Education . . . . .	(500,000)
Innovative Seat Belt Use . . . . .	(1,500,000)
Combating Underage Drinking . . . . .	(360,000)
Help America Vote Act . . . . .	(2,210,000)
Other Special Purpose . . . . .	(125,000)
State Aid and Grants:	
Pedestrian Safety Grant . . . . .	(286,000)
Safety Incentive Grants . . . . .	(5,000,000)
Innovative Seat Belt Use . . . . .	(1,500,000)
State Aid and Grants . . . . .	(4,197,000)
Additions, Improvements and Equipment . . . . .	(3,000)

**18 Juvenile Services**

34-1500 Juvenile Community Programs . . . . .	\$3,266,000
99-1500 Administration and Support Services . . . . .	<u>4,276,000</u>
Total Appropriation, Juvenile Services . . . . .	<u>\$7,542,000</u>
Personal Services:	
Salaries and Wages . . . . .	(\$2,282,000)
Employee Benefits . . . . .	(707,000)
Special Purpose:	
Juvenile Mentoring Programs -- Juvenile Justice Initiative . . . . .	(117,000)
Juvenile Accountability Incentive Block Grant . . . . .	(1,200,000)
Challenge Grant . . . . .	(47,000)
Title V Funding . . . . .	(1,500,000)
Other Special Purpose . . . . .	(279,000)
State Aid and Grants . . . . .	(1,410,000)

**19 Central Planning, Direction and Management**

99-1000 Administration and Support Services . . . . .	<u>\$7,000,000</u>
Total Appropriation, Central Planning, Direction and Management . . . . .	<u>\$7,000,000</u>
Special Purpose:	
Financial Investigations and Money Laundering Initiative . . . . .	(5,000,000)
National Criminal History Program -- OAG . . . . .	(2,000,000)

**80 Special Government Services****82 Protection of Citizens' Rights**

16-1350 Protection of Civil Rights .....	\$715,000
19-1440 Victims of Crime Compensation Board .....	<u>7,000,000</u>
Total Appropriation, Protection of Citizens' Rights .....	<u>\$7,715,000</u>

## Personal Services:

Salaries and Wages .....	(\$715,000)
State Aid and Grants .....	(7,000,000)

Total Appropriation, Department of Law and Public Safety .....	<u>\$163,628,000</u>
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**67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS****10 Public Safety and Criminal Justice****14 Military Services**

40-3620 New Jersey National Guard Support Services ..	\$21,102,000
99-3600 Administration and Support Services .....	<u>6,000,000</u>
Total Appropriation, Military Services .....	<u>\$47,102,000</u>

## Personal Services:

Salaries and Wages .....	(\$7,361,000)
Employee Benefits .....	(1,600,000)
Materials and Supplies .....	(7,524,000)
Services Other Than Personal .....	(1,544,000)
Maintenance and Fixed Charges .....	(231,000)

## Special Purpose:

Dining Facility Operations .....	(700,000)
Army National Guard Transportation ..	(125,000)
Federal Distance Learning Program ...	(200,000)
Atlantic City Environmental .....	(5,000)
Armory Renovations and Improvements .....	(1,800,000)
New Jersey National Guard Counter Drug Program Interservice State ..	(12,000)
Combined Logistics Facility .....	(26,000,000)

**80 Special Government Services****83 Services to Veterans**

20-3630 Domiciliary and Treatment Services .....	\$1,725,000
20-3640 Domiciliary and Treatment Services .....	2,317,000
20-3650 Domiciliary and Treatment Services .....	1,000,000
50-3610 Veterans' Outreach and Assistance .....	925,000
70-3610 Burial Services .....	<u>8,500,000</u>
Total Appropriation, Services to Veterans .....	<u>\$14,467,000</u>

## Personal Services:

Salaries and Wages .....	(\$378,000)
Employee Benefits .....	(113,000)
Materials and Supplies .....	(8,574,000)

## Special Purpose:

Medicare Part A Receipts for Resident Care and Operational Costs . . . . .	(5,042,000)
Transitional Housing . . . . .	(360,000)
Total Appropriation, Department of Military and Veterans' Affairs . . . . .	<u>\$61,569,000</u>

**74 DEPARTMENT OF STATE*****30 Educational, Cultural and Intellectual Development******36 Higher Educational Services***

45-2405 Student Assistance Programs . . . . .	\$24,444,000
80-2400 Statewide Planning and Coordination of Higher Education . . . . .	<u>3,500,000</u>
Total Appropriation, Higher Educational Services . . . . .	<u>\$27,944,000</u>

## Personal Services:

Salaries and Wages . . . . .	(\$8,340,000)
Employee Benefits . . . . .	(3,097,000)
Materials and Supplies . . . . .	(440,000)
Services Other Than Personal . . . . .	(8,212,000)
Maintenance and Fixed Charges . . . . .	(921,000)

## Special Purpose:

Student Loan Administrative Cost Deduction and Allowance . . . . .	(266,000)
State Aid and Grants . . . . .	(5,685,000)
Additions, Improvements and Equipment . . . . .	(983,000)

***30 Educational, Cultural and Intellectual Development******37 Cultural and Intellectual Development Services***

05-2530 Support of the Arts . . . . .	\$750,000
06-2535 Museum Services . . . . .	715,000
10-2570 Public Broadcasting Services . . . . .	<u>625,000</u>
Total Appropriation, Cultural and Intellectual Development Services . . . . .	<u>\$2,090,000</u>

## Personal Services:

Salaries and Wages . . . . .	(\$83,000)
Employee Benefits . . . . .	(37,000)

## Special Purpose:

National Endowment for the Arts Partnership . . . . .	(62,000)
National Telecommunications Information Agency . . . . .	(625,000)

## State Aid and Grants:

National Endowment for the Arts Partnership . . . . .	(568,000)
State Aid and Grants . . . . .	(715,000)

**74 General Government Services**

01-2505 Office of the Secretary of State .....	<u>\$6,126,000</u>
Total Appropriation, General Government Services ....	<u>\$6,126,000</u>
Personal Services:	
Salaries and Wages .....	(\$364,000)
Employee Benefits .....	(156,000)
Services Other Than Personal .....	(348,000)
Special Purpose:	
Homeland Security .....	(40,000)
Reading Partners .....	(6,000)
State Aid and Grants .....	(5,212,000)
 Total Appropriation, Department of State .....	 <u>\$36,160,000</u>

**78 DEPARTMENT OF TRANSPORTATION**

**60 Transportation Programs**

**61 State and Local Highway Facilities**

02-6200 Transportation Systems	
Improvements--Planning .....	\$40,239,000
10-6300 Interstate Program .....	69,869,000
28-6300 Demonstration Program .....	69,943,570
29-6300 Congestion Mitigation and Air Quality Program .....	53,640,000
36-6300 National Highway System .....	183,807,000
37-6300 Surface Transportation Program .....	215,528,000
40-6300 Bridge Program .....	209,513,000
50-6300 Minimum Guarantee .....	58,592,000
55-6300 Ferry Program .....	27,700,000
02-6200 National Boating Infrastructure Grant Program ...	1,600,000
71-6200 Supportive Services Program .....	<u>500,000</u>
Total Appropriation, State and Local Highway Facilities .....	<u>\$930,931,570</u>
Special Purpose:	
Highway Planning and Research ...	(\$19,500,000)
Metropolitan Planning Funds .....	(12,039,000)
Transportation Planning Assistance ...	(8,700,000)
Supportive Services .....	(500,000)

<u>Route</u>	<u>Section</u>	<u>Description</u>	<u>County</u>	<u>Amount</u>
10-6300		Interstate Program		
1.		Construction		
		Congestion Relief, Operational Improvements (Fast Move Program)	Various	(\$1,000,000)
		Interstate Pavement Preservation Resurfacing, Interstate Fast Track Program	Various	(\$3,000,000)
			Various	(2,000,000)

78		Interchange 15 Vicinity, Interim Improvements	Hunterdon	(5,830,000)
78		Union/Essex Rehabilitation, Springfield Avenue to Route 1 & 9	Union Essex	(15,500,000)
280		Garden State Parkway, Interchange 145	Essex	(7,000,000)
295		I-195 to Route 1, Rehabilitation	Mercer	(7,000,000)
295	42	Missing Moves, Bellmawr	Camden	(11,230,000)
2.	Design			
80	287	I-80/I-287 Safety Improvement	Morris	(1,300,000)
80	287	Parsippany-Troy Hills Rehabilitation	Morris	(5,900,000)
295	38	Missing Moves, Mount Laurel	Burlington	(4,709,000)
3.	Right of Way			
78	CR 655	Diamond Hill Road Interchange	Union	(400,000)
28-6300		Demonstration Program		
1.	Concept Development			
		Baldwin Avenue, Intersection Improvements	Hudson	(2,562,748)
2.	Construction			
		CARGOMATE	Essex Union	(750,000)
		Carteret Industrial Road	Middlesex	(2,075,299)
		Delaware River Tram	Camden	(8,200,795)
		Garden State Parkway, Interchange Improvements in Cape May	Cape May	(3,410,614)
		Hudson River Waterfront Walkway	Hudson	(1,000,000)
		North Sinatra Drive	Hudson	(2,200,000)
		Princeton Township Roadway Improvements	Mercer	(748,350)
		Public Lands Highway Discretionary Program	Various	(2,000,000)
		Recreational Trails Program	Various	(807,000)
		Secaucus Connector	Hudson	(3,587,847)
		TRANSCOM/Project Funding	Various	(1,000,000)
		Transportation and Community System Preservation Program	Various	(4,850,000)
		Union City Intermodal Facility, Bergenline Avenue	Hudson	(2,050,199)
		University Heights Connector (ADA I-280, Downtown Connector, Phase II)	Essex	(1,702,060)
295	42	Missing Moves, Bellmawr	Camden	(6,769,531)
295		Paulsboro Brownsfields Access	Gloucester	(1,000,000)
3.	Design			
		Halls Mill Road	Monmouth	(700,000)
22		Sustainable Corridor Short term projects	Somerset	(500,000)
130		Campus Drive	Burlington	(500,000)
4.	Feasibility Assessment			

		Bergen Arches through Jersey City Palisades	Hudson	(5,193,391)
17		NYS&W Bridge	Bergen	(1,051,089)
17		Route 120 (Paterson Plank Road) to Garden State Parkway	Bergen	(2,115,384)
168		I-295 Interim Interchange Improvements	Camden	(250,000)
5.	Preliminary Design			
9	CR 520	Robertsville Road Intersection Improvements	Monmouth	(1,905,685)
21		Newark Waterfront Community Access	Essex	(1,025,100)
35		Eatontown/Shrewsbury Operational Improvements	Monmouth	(2,500,000)
57	CR 519	County Route 519 Intersection Improvement	Warren	(1,300,000)
130		Cinnaminson Avenue/Church Road/Branch Pike	Burlington	(688,432)
295	42/I-76	Direct Connection, Camden County	Camden	(1,250,000)
6.	Right of Way			
		Freehold Roadway Improvements	Monmouth	(249,450)
	CR 530	South Pemberton Road Sustainable Corridor Short-term projects	Burlington	(4,650,596)
22			Somerset	(1,250,000)
130		Pedestrian Bridge, Washington Twp.	Mercer	(100,000)
29-6300	Congestion Mitigation and Air Quality Program			
1.	Construction			
		69th Street Bridge	Hudson	(11,000,000)
		Bicycle and pedestrian facilities/accommodations	Various	(3,000,000)
		Bicycle Projects, Local System	Various	(4,000,000)
		Congestion Relief, Intelligent Transportation System Improvements (Smart Move Program)	Various	(2,500,000)
		Hutchinson Trail, Washington Township	Mercer	(150,000)
		Intelligent Transportation Systems	Various	(1,000,000)
		Local CMAQ Initiatives	Various	(2,920,000)
		Ozone Action Program in New Jersey	Various	(40,000)
		Park and Ride/Transportation Demand Management Program	Various	(6,700,000)
		Real-time Traveler Information	Various	(1,000,000)
		TMA-DVRPC	Various	(2,000,000)
		TMA-NJTPA	Various	(3,300,000)
		Transit Village Program	Various	(2,000,000)
		TransitChek Mass Marketing Efforts -- NJ	Various	(40,000)



9		Bus Shoulder Use and Pedestrian Improvements	Middlesex	(7,460,000)
38		Pedestrian Bridge	Camden	(3,650,000)
139		Traffic Mitigation	Hudson	(2,150,000)
2.	Planning	Transportation Demand Management Program Support	Various	(230,000)
3.	Right of Way	Franklin Road Pedestrian Improvements	Morris	(500,000)
46				
36-6300	National Highway System			
1.	Construction			
1		South of Pierson Avenue to North of Garden State Parkway (7L)	Middlesex	(\$18,008,000)
1&9	35	Interchange, South of interchange to Tappan Street	Middlesex	(13,350,000)
1&9		Production Way to East Lincoln Avenue (1K 3M)	Union	(15,400,000)
1&9		Secaucus Road to Broad Avenue (28)	Hudson Bergen	(18,000,000)
18		Route 1 to Northeast Corridor Amtrak Line north of Route 27 (2F 7E 11H)	Middlesex	(41,000,000)
23	94	Linwood Avenue to Walkill Avenue (7D 8C)	Sussex	(4,596,000)
30	130	Collingswood Circle (Phase A) Elimination, Comly Avenue to PATCO Bridge	Camden	(8,400,000)
46	80/23	Route 23 & 80 Interchange Improvements (43)	Passaic	(31,000,000)
202		Case Boulevard, Intersection Improvements	Hunterdon	(6,063,000)
206		Old York Road/Rising Sun Road (39)	Burlington	(13,865,000)
206 Bypass		Belle Mead-Griggstown Road to Old Somerville Road (14A 15A)	Somerset	(4,500,000)
2.	Design			
1		Loring Avenue, Drainage Improvements	Middlesex	(531,000)
23		Hardyston Twp., Silver Grove Road to Holland Mountain Road	Sussex	(3,300,000)
23		Sussex Borough Realignment and Papakating Creek Bridge	Sussex	(1,510,000)
30		Cooper River Drainage Improvements	Camden	(1,340,000)
206		Atsion Lake Dam	Burlington	(639,000)
206		Old Somerville Road to Brown Avenue (15N)	Somerset	(2,000,000)
3.	Right of Way			
10	53	Route 10/53 Interchange (2L 3J)	Morris	(200,000)
29		West Amwell Twp., Drainage (Sheet Flow)	Hunterdon	(105,000)

37-6300 Surface Transportation Program			
1.	Concept Development		
	CR 581	Commissioners Pike, Phase III, Woodstown Road to Watson Mill Road	Salem (300,000)
2.	Construction		
	CR563, 646	Accident Reduction Program	Various (3,250,000)
		Airport Circle Elimination	Atlantic (2,040,000)
		Barclay Street Viaduct	Passaic (3,500,000)
		Bridge Painting Federal	Various (11,500,000)
		Bridge Safety Program	Various (1,000,000)
	CR 553	Bridgeton-Port Norris Road Burlington County	Cumberland (790,000)
		Restriping Program	Burlington (500,000)
		Camden City Signal Upgrade	Camden (1,050,000)
		Camden County Road Striping Enhancement Program	Camden (500,000)
		Cross Median Crash Prevention Program	Various (7,000,000)
		Delaware River Heritage Trail, Burlington/Mercer	Burlington Mercer (400,000)
		Disadvantaged Business Enterprise	Various (100,000)
		Drainage Rehabilitation, Federal	Various (1,000,000)
		Duer Street Bridge over Green Brook	Somerset Union (700,000)
		DVRPC, Future Projects	Various (6,401,000)
	CR 667	Elm Street Bridge over South Branch of Raritan River	Somerset (3,800,000)
		Emergency Service Patrol	Various (9,300,000)
		Gloucester County Bus Purchase	Gloucester (65,000)
		Gloucester County Restriping Program	Gloucester (500,000)
		Gloucester County Resurfacing	Gloucester (1,500,000)
	CR 561	Haddonfield-Berlin Road Signalization	Camden (680,000)
		Hillery Street Bridge over Passaic River	Passaic (6,500,000)
	CR 552	Irving Avenue, Cumberland County	Cumberland (600,000)
		JFK Boulevard, Section XIV, 18th Street to 67th Street	Hudson (4,600,000)
		Local Safety Program	Various (2,000,000)
		Motor Vehicle Crash Record Processing	Various (3,000,000)
		NJTPA, Future Projects	Various (3,050,000)
	CR 540	Pecks Corner-Cohansey Road, Telegraph Road to Salem/ Cumberland County Line	Salem (470,000)
	CR 551	Pennsville-Auburn Road, Route 48 to Penns Grove- Auburn Road	Salem (400,000)

		Pre-Apprenticeship Training for Minorities and Females	Various	(500,000)
		Quality Assurance	Various	(1,000,000)
		Rail Grade Crossing Technologies, Demonstration Project	Various	(100,000)
		Rail Highway Grade Crossing Program, Cape May Seashore Lines	Cape May	(500,000)
		Rail Highway Grade Crossing Program, Federal	Various	(5,000,000)
		Restriping Program	Various	(4,500,000)
		Safe Corridors Program	Various	(2,000,000)
		Safety Management System	Various	(7,000,000)
CR 585		Shore Road/Main Street, Ridgewood Avenue to Verona Avenue (Rt. 40/322)	Atlantic	(681,000)
CR 533		South Main Street/Finderne Avenue Bridge over Raritan River	Somerset	(7,500,000)
		Southwest Boulevard, Sherman Avenue to Burns Avenue	Cumberland	(960,000)
		STAR: Station Revitalization Program	Various	(1,000,000)
		Traffic Operations Center (North)	Various	(4,100,000)
		Traffic Operations Center (South)	Various	(5,000,000)
		Traffic Signal Timing and Optimization	Various	(1,100,000)
		Training and Employee Development	Various	(800,000)
		Transportation Enhancements	Various	(5,000,000)
CR 631		Tuckahoe Road, Tuckahoe Extension to West of Church Road	Cape May	(1,556,000)
		University Heights Connector (AKA I-280, Downtown Connector, Phase II)	Essex	(5,068,000)
		Utility Reconnaissance and Relocation	Various	(2,000,000)
		Warren County, Highway Safety Improvements	Warren	(2,938,000)
		West Mountain Road Bridge (AKA Bridge Q-25)	Sussex	(1,400,000)
		Youth Employment and TRAC Programs	Various	(250,000)
9	CR 563	Tilton Road	Atlantic	(4,412,000)
82		Union County Streetscape and Intersection Improvements	Union	(10,257,000)
94		Hardyston/Vernon Township, Drainage Improvements	Sussex	(4,998,000)
181		Green Road, Drainage Improvements	Sussex	(770,000)
440		High Street Connector	Middlesex	(8,000,000)

3.	Design	Bloomfield Avenue Bridge over Branch Brook Park Road	Essex	(400,000)
		Camden County Civic Center Access Improvements, Pennsauken	Camden	(500,000)
	CR 581	Commissioner's Pike, Phase II, Route 40 to Salem/Gloucester County Line	Salem	(200,000)
		Helen Street, Antonett Street to Metuchen Road	Middlesex	(435,000)
		Monmouth County Bridges W7, W8, W9 over Glimmer Glass and Debbie's Creek	Monmouth	(3,000,000)
		Rockafellows Mill Road Bridge over South Branch of Raritan River (RQ-164)	Hunterdon	(150,000)
	CR 625	Route 17 at Passaic Street, Roadway Improvements	Bergen	(2,100,000)
		Sea Isle Blvd., Section II, Garden State Parkway to Ludlams Thorofare	Cape May	(525,000)
		South First Street Bridge over Elizabeth River	Union	(600,000)
		Trenton Amtrak Bridges Detour Route	Mercer	(300,000)
	CR 602	Wertsville Road Bridge (E-166) over Back Brook	Hunterdon	(275,000)
	CR 602	Wertsville Road Bridge (E-174) over Tributary of Back Brook	Hunterdon	(300,000)
9		Bennetts Crossing, Intersection Improvements	Cape May	(800,000)
9	CR 613	Breakwater Road Extension	Cape May	(800,000)
22		Madison Avenue, Drainage Improvements	Union	(500,000)
22		Michigan Avenue, Drainage Improvements	Union	(450,000)
22		Mountain Avenue, Drainage Improvements	Union	(550,000)
35		Restoration, Berkley Twp. to Dover Twp. (MP 0-4)	Ocean	(2,800,000)
35		Restoration, Dover Twp. to Mantoloking (MP 4-9)	Ocean	(2,200,000)
35		Restoration, Mantoloking to Point Pleasant (MP 9-12.5)	Ocean	(1,700,000)
46		Fifth Street/Jefferson Avenue	Bergen	(800,000)
46		Little Ferry Circle, Operational and Safety Improvements	Bergen	(800,000)
4.	Feasibility Assessment	DVRPC Project Development (Local Scoping)	Various	(2,000,000)
5.	Planning	Metropolitan Planning	Various	(1,401,000)

		Regional GIS Support, DVRPC	Various	(256,000)
6.		Preliminary Design		
		NJTPA Project Development	Various	(2,000,000)
7.		Right of Way		
	CR 615,	Bordentown Avenue/Ernston		
	CR 6	Road, Intersection Improvements	Middlesex	(1,000,000)
		Eden Lane Bridge over		
		Whippany River	Morris	(250,000)
		Green Pond Road Bridge over		
		Hibernia Brook	Morris	(350,000)
		Inamere Road Bridge over		
		Whippany River	Morris	(250,000)
		Right of Way Full-Service		
		Consultant Term Agreements	Various	(100,000)
		Springfield Avenue Pedestrian		
		Improvements, Summit	Union	(150,000)
30		Clementon at Gibbsboro Road	Camden	(2,400,000)
30	CR 575	Pomona Road	Atlantic	(5,300,000)
46		Main Street, Lodi	Bergen	(13,000,000)
166		Dover Twp., Highland Parkway		
		to Old Freehold Road, operational		
		improvements	Ocean	(2,000,000)
40-6300		Bridge Program		
1.		Construction		
		Bridge Deck Preservation		
		Program	Various	(\$8,700,000)
		Bridge Inspection, Local Bridges	Various	(6,200,000)
		Bridge Inspection, State		
		NBIS Bridges	Various	(9,930,000)
		Bridge Management System	Various	(225,000)
		Bridge Scour	Various	(3,300,000)
		Chesterfield-Sykesville		
		Road Bridge	Burlington	(2,650,000)
		Sparta Stanhope Road Bridge		
		(AKA Bridge K-07) over		
		Lackawanna Cutoff	Sussex	(8,356,000)
	CR 607	Tomlin Station Road Bridges		
		over Nehonsey Brook and		
		White Sluice Race	Gloucester	(1,900,000)
		Wilson Road Bridge	Gloucester	(1,000,000)
1 & 9		Magnolia Avenue Bridge (6)	Union	(8,170,000)
1&9T		St. Paul's Avenue/ Conrail		
		Bridge (25)	Hudson	(7,700,000)
52		Causeway Replacement,		
		Contract A	Cape May	(16,600,000)
56		Maurice River Bridge	Salem	
		Replacement	Cumberland	(5,720,000)
57		Merill's Creek Bridge (1B)	Warren	(2,712,000)
70		Manasquan River Bridge (4)	Monmouth	
			Ocean	(24,863,000)
139		Contract 2 (12th Street Viaduct,		
		14th Street Viaduct)	Hudson	(36,100,000)

202		Mine Brook Bridge Replacement	Somerset	(1,200,000)
280		Eastbound over Morristown-Erie Railroad	Essex	(5,000,000)
280		Passaic River Bridge (AKA Stickel Bridge), rehabilitation	Essex	(16,000,000)
2.	Design			
		Bloomfield Avenue Bridge over Montclair Line	Essex	(1,500,000)
	CR 623	New Bridge Road Bridge	Salem	(500,000)
7		Hackensack River Bridge (Wittpen Bridge) (2)	Hudson	(10,000,000)
22		Liberty Avenue & Conrail Bridge	Union	(1,600,000)
27		Six Mile Run Bridge (3E)	Middlesex Somerset	(700,000)
27		South Plainfield Branch (Lake Avenue Bridge)	Middlesex	(850,000)
36		Highlands Bridge over Shrewsbury River	Monmouth	(7,000,000)
49		Cape May Branch Bridge	Cape May	(1,000,000)
50		Tuckahoe River Bridge (2E 3B)	Cape May Atlantic	(1,200,000)
52		Causeway Replacement and Somers Point Circle Elimination, Contract B	Cape May Atlantic	(5,000,000)
206		Assiscunk Creek Bridge Replacement (40)	Burlington	(897,000)
3.	Feasibility Assessment			
		Project Development, Feasibility Assessment	Various	(500,000)
4.	Right of Way			
	CR 616	Hanover Street Bridge over Rancocas Creek	Burlington	(100,000)
		Maple Avenue (Pennsauken)/Chapel Avenue Bridges over Atlantic City Line	Camden	(1,300,000)
		Park Avenue Bridge, Monmouth County, over North Jersey Coast Line	Monmouth	(190,000)
	CR 684	Smithville Road Bridge over Rancocas Creek	Burlington	(50,000)
		South Salem Street Bridge over NJT Morristown Line	Morris	(550,000)
3		Passaic River Crossing	Bergen Passaic	(5,400,000)
33		Conrail Bridge Replacement	Mercer	(4,000,000)
206		Crusers Brook Bridge (41)	Somerset	(850,000)
50-6300	Minimum Guarantee			
1.	Construction			
		Pavement Management System	Various	(\$3,500,000)
		Resurfacing Program	Various	(10,000,000)
		State Police Enforcement and Safety Services	Various	(4,000,000)

		Statewide Incident Management Program	Various	(1,200,000)
46	62/ CR 646	Union Boulevard, Interchange Improvements (12K 13E 1E)	Passaic	(7,022,000)
2.	Design	Design, Emerging projects	Various	(2,000,000)
3.	Feasibility Assessment	Project Development, Feasibility Assessment	Various	(2,500,000)
4.	Planning	Traffic Monitoring Systems	Various	(7,500,000)
5.	Preliminary Design	Project Development, Preliminary Design	Various	(20,870,000)
55-6300	Ferry Program			
1.	Construction	Atlantic Highlands Ferry	Monmouth	(\$3,000,000)
		Cape May-Lewes Ferry	Cape May	(\$2,200,000)
		Elizabeth Ferry Project	Union	(\$9,500,000)
		Ferry Program	Various	(\$10,000,000)
		Highlands Ferry	Monmouth	(\$3,000,000)
02-6200	National Boating Infrastructure Grant			
1.	Construction	National Boating Infrastructure Grant Program	Various	(1,600,000)

In order to provide the department with the flexibility to administer appropriations of federal funds, the commissioner may use moneys from the federal programs identified hereinabove as Interstate Program, Demonstration Program, Congestion Mitigation and Air Quality Program, National Highway System, Surface Transportation Program, Bridge Program, Minimum Guarantee, Ferry Program, National Boating Infrastructure Grant Program, and Metropolitan Planning Funds to finance the cost of the construction, design, right-of-way, planning, and project development phases of work of any project listed under any federal program pursuant to the following transfer provisions. The Commissioner of Transportation may transfer federal funds among projects having the same phase of work, subject to the approval of the Director of the Division of Budget and Accounting. The commissioner shall apply to the Director of the Division of Budget and Accounting for permission to transfer federal funds among projects having different phases of work. If the Director of the Division of Budget and Accounting shall consent thereto, the request to transfer federal funds among projects having different phases of work shall be transmitted to the Legislative Budget and Finance Officer for approval or disapproval and returned to the Director of the Division of Budget and Accounting. The Joint Budget Oversight Committee or its successor shall be empowered to review all transfers submitted to the Legislative Budget and Finance Officer and may direct the Legislative Budget and Finance Officer to approve or disapprove any transfer.

**62 Public Transportation**

29-6310	Congestion Mitigation and Air Quality Program	\$75,000,000
96-6310	Federal Transit Administration	<u>416,792,000</u>
31-6310	Surface Transportation Program	<u>\$1,000,000</u>

Total Appropriation, Public Transportation . . . . .			<u>\$492,792,000</u>
29-6310	Congestion Mitigation and Air Quality		
Transit	Newark Broad Street Station		
	Improvements and Service Expansion	Essex	(\$26,190,000)
Transit	Operating Assistance Start-Up New		
	Transit Services	Various	(48,810,000)
96-6310	Federal Transit Administration:		
Transit	Access to Region's Core (ARC)	Various	(\$11,190,000)
Transit	ADA--Platforms/Stations	Various	(11,500,000)
Transit	Bus Acquisition Program	Various	(4,029,000)
Transit	Bus Support Facilities and Equipment	Various	(7,000,000)
Transit	Cumberland County Bus Program	Cumber- land	(940,000)
Transit	Hudson/Bergen LRT System MOS II	Hudson	(104,235,000)
Transit	Job Access and Reverse		
	Commute Program	Various	(4,000,000)
Transit	Newark City Subway Downtown		
	Extension	Essex	(956,000)
Transit	Newark Penn Station	Essex	(4,859,000)
Transit	Other Rail Station/Terminal		
	Improvements	Various	(36,419,000)
Transit	Preventive Maintenance- Bus	Various	(58,260,000)
Transit	Preventive Maintenance - Rail	Various	(91,130,000)
Transit	Private Carrier Equipment Program	Various	(9,300,000)
Transit	Rail Fleet Overhaul	Various	(3,000,000)
Transit	Rail Park and Ride	Various	(972,000)
Transit	Rail Rolling Stock Procurement	Various	(18,159,000)
Transit	Rail Support Facilities, Equipment		
	and Capacity Improvements	Various	(6,439,000)
Transit	Section 5310 Program	Various	(3,340,000)
Transit	Section 5311 Program	Various	(4,170,000)
Transit	Signals and Communications/Electric		
	Traction Systems	Various	(7,850,000)
Transit	Small/Special Services Program	Various	(464,000)
Transit	Study and Development	Various	(397,000)
Transit	Track Program	Various	(14,892,000)
Transit	Transit Enhancements	Various	(1,791,000)
Transit	Transit Rail Initiatives	Various	(11,500,000)
31-6310	Surface Transportation Program		
Transit	Newark Penn Station	Essex	(1,000,000)

**64 Regulation and General Management**

05-6070	Access and Use Management . . . . .		<u>\$27,308,000</u>
Total Appropriation, Regulation and			
General Management . . . . .			\$27,308,000
Special Purpose:			
	Aviation Block Grant Program . . . . .		(\$10,000,000)
	Motor Carrier Safety		
	Assistance Program . . . . .		(7,308,000)
	Homeland Security . . . . .		(10,000,000)



Total Appropriation, Department  
of Transportation ..... \$1,451,031,570

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

54-2007 Utility Regulation ..... \$600,000  
56-2014 Energy Resource Management ..... 4,019,000  
Total Appropriation, Economic Regulation ..... \$4,619,000

Personal Services:

Salaries and Wages ..... (\$750,000)  
Employee Benefits ..... (246,000)  
Materials and Supplies ..... (51,000)  
Services Other Than Personal ..... (2,270,000)  
Maintenance and Fixed Charges ..... (110,000)

Special Purpose:

Division of Gas Expansion ..... (600,000)  
Diamond Shamrock Administration ..... (42,000)

State Aid and Grants:

Future Industries ..... (500,000)  
Additions, Improvements and Equipment .. (50,000)

*80 Special Government Services*  
*82 Protection of Citizens' Rights*

57-2048 Trial Services to Indigents and Special Programs \$1,228,000  
58-2022 Mental Health Screening Services ..... 223,000  
Total Appropriation, Protection of Citizens' Rights ..... \$1,451,000

Personal Services:

Salaries and Wages ..... (\$69,000)  
Employee Benefits ..... (19,000)  
Materials and Supplies ..... (1,000)

Special Purpose:

State Legal Services Office ..... (1,000)  
Medicaid Reimbursement ..... (223,000)

State Aid and Grants ..... (1,138,000)

Total Appropriation, Department of the Treasury ..... \$6,070,000

**98 THE JUDICIARY**  
*10 Public Safety and Criminal Justice*  
*15 Judicial Services*

04-9725 Criminal Courts ..... \$450,000  
05-9730 Family Courts ..... 19,084,000  
07-9740 Probation Services ..... 60,545,000  
Total Appropriation, Judicial Services ..... \$80,079,000

Personal Services:

Salaries and Wages ..... (\$52,226,000)  
Employee Benefits ..... (17,364,000)

Materials and Supplies . . . . .	(1,054,000)
Services Other Than Personal . . . . .	(2,618,000)
Maintenance and Other Fixed Charges . . . .	(131,000)
Special Purpose:	
NJ State Court Improvement Grant . . . .	(475,000)
State Access and Visitation Program . . . .	(42,000)
State Aid and Grants . . . . .	(5,858,000)
Additions, Improvements and Equipment . .	(311,000)
 Total Appropriation, Judiciary . . . . .	<u>\$80,079,000</u>
 Total Appropriation, Federal Funds . . . . .	<u>\$9,795,662,570</u>

Notwithstanding any State law to the contrary, no State agency shall accept or expend federal funds except as appropriated by the Legislature or otherwise provided in this act.

In addition to the federal funds appropriated in this act, there are appropriated the following federal funds, subject to the approval of the Director of the Division of Budget and Accounting: emergency disaster aid funds; pass-through grants to political subdivisions of the State over which the State is not permitted to exercise discretion in the use or distribution of the funds and for which no State matching funds are required; the first 25% of unanticipated grant awards, and up to 25% of increases in previously anticipated grant awards for which no State matching funds are required except, for the purpose of this section, federal funds received by one executive agency that are ultimately expended by another executive agency shall not be considered pass-through grants; federal financial aid funds for students attending post-secondary educational institutions in excess of the amount specifically appropriated, and any such grants intended to prevent threats to homeland security up to 100% of previously anticipated or unanticipated grant award amounts for which no State matching funds are required, provided however, that the Director of the Division of Budget and Accounting shall notify the Legislative Budget and Finance Officer of such grants; and all other grants of \$500,000 or less which have been awarded competitively.

For the purposes of federal funds appropriations, "political subdivisions of the State" means counties, municipalities, school districts, or agencies thereof, regional, county or municipal authorities, or districts other than interstate authorities or districts; "discretion" refers to any action in which an agency may determine either the amount of funds to be allocated or the recipient of the allocation; and "grants" refers to one-time, or time limited awards, which are received pursuant to submission of a grant application in competition with other grant applications.

The unexpended balances at the end of the preceding fiscal year of federal funds are continued for the same purposes. The Director of the Division of Budget and Accounting shall inform the Legislative Budget and Finance Officer by November 1, 2005 of any unexpended balances which are continued.

The appropriate executive agencies shall prepare and submit to the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or their successors, by March 1, 2006, reports on proposed expenditures during

fiscal year 2006 for the following federal programs: the alcohol, drug abuse and mental health block grant; the education block grant; the community services block grant; the jobs training partnership block grant; the low income energy assistance block grant; the maternal and child health block grant; the preventive health and health services block grant; the small cities block grant; the social services block grant; and the child care block grant. These reports shall account for all federal, State and local funds which are anticipated to be expended on block grant programs, shall provide an accounting of block grant expenditures during the prior fiscal year, and shall provide a detailed list of contracts awarded to provide services under the block grants.

Out of the appropriations herein, the Director of the Division of Budget and Accounting is empowered to approve payments to liquidate any unrecorded liabilities for materials delivered or services rendered in prior fiscal years, upon the written recommendations of any department head or the department head's designated representative. The Director of the Division of Budget and Accounting shall reject any recommendations for payment which the Director deems improper.

The sum herein appropriated to the Department of Transportation for the Hudson-Bergen Light Rail Transit System is hereby appropriated, to the extent necessary, to pay the principal of and interest on the grant anticipation notes issued by the New Jersey Transit Corporation.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the General Medical Services program classification, and within the federal matching funding, in the Division of Medical Assistance and Health Services in the Department of Human Services, and within the Medical Services for the Aged program classification, and within the federal matching funding, in the Division of Senior Services in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding the provisions of any law, regulation or Executive Order to the contrary, any purchase by the State or by a State agency or local government unit of equipment, goods or services related to homeland security and domestic preparedness, that is paid for or reimbursed by federal funds awarded by the U.S. Department of Homeland Security or other federal agency, appropriated in this fiscal year, may be made through the receipt of public bids or as an alternative to public bidding and subject to the provisions of this paragraph, through direct purchase without advertising for bids or rejecting bids already received but not awarded. The equipment, goods or services purchased by a local government unit shall be referred to in the grant agreement issued by the State administrative agency administering such funds and shall be authorized by resolution of the governing body of the local government unit entering into the grant agreement. Such resolution may, without subsequent action of the local governing body, simultaneously accept the grant from the State administrative agency, authorize the insertion of the revenue and offsetting appropriation in the budget of the local

government unit, and authorize the contracting agent of the local government unit to procure the equipment, goods or services. A copy of such resolution shall be filed with the chief financial officer of the local government unit, the State Administrative agency and the Division of Local Government Services in the Department of Community Affairs. Purchases made without public bidding shall be from vendors that shall either (1) be holders of a current State contract for the equipment, goods or services sought, or (2) be participating in a federal procurement program established by a federal department or agency, or (3) have been approved by the State Treasurer in consultation with the New Jersey Domestic Security Preparedness Task Force. All homeland security purchases herein shall continue to be subject to all grant requirements and conditions approved by the State administrative agency. The Director of the Division of Purchase and Property may enter into or participate in purchasing agreements with one or more other states, or political subdivisions or compact agencies thereof, for the purchase of such equipment, goods or services, using monies appropriated under this act, to meet the domestic preparedness and homeland security needs of this State. Such purchasing agreement may provide for the sharing of costs and the methods of payments relating to such purchases. Furthermore, a county government awarding a contract for Homeland Security equipment, goods or services, may, with the approval of the vendor, extend the terms and conditions of the contract to any other county government that wants to purchase under that contract, subject to notice and documentation requirements issued by the Director of the Division of Local Government Services.

Grand Total Appropriation, All Funds . . . . . \$37,715,550,570

2. All dedicated funds are hereby appropriated for their dedicated purposes. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting and with the approval of the Legislative Budget and Finance Officer, private contributions, revolving funds and dedicated funds received, receivable or estimated to be received for the use of the State or its agencies in excess of those anticipated, unless otherwise provided herein, and the unexpended balances at the end of the preceding fiscal year of such funds, subject to the approval of the Director of the Division of Budget and Accounting.

3. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, the following: sums required to refund amounts credited to the State Treasury which do not represent State revenue; sums received representing insurance to cover losses by fire and other casualties and the unexpended balance at the end of the preceding fiscal year of such sums; sums received by any State department or agency from the sale of equipment, when such sums are received in lieu of trade-in value in the replacement of such equipment; and sums received in the State Treasury representing refunds of payments made from appropriations provided in this act.

4. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, sums required to satisfy receivables previously

established from which non-reimbursable costs and ineligible expenditures have been incurred.

5. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, from federal or other non-State sources amounts not to exceed the cost of services necessary to document and support retroactive claims.

6. There are appropriated such sums as may be required to pay interest liabilities to the federal government as required by the Treasury/State agreement pursuant to the provisions of the Cash Management Improvement Act of 1990, Pub.L.101-453 (31 U.S.C. s.6501 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

7. There are appropriated, subject to the approval of the Director of the Division of Budget and Accounting, from interest earnings of the various bond funds such sums as may be necessary for the State to comply with the federal "Tax Reform Act of 1986," Pub.L.99-514 (26 U.S.C. s.1 et seq.), which requires issuers of tax-exempt debt obligations to rebate any arbitrage earnings to the federal government.

8. There are appropriated from the General Fund, subject to the approval of the Director of the Division of Budget and Accounting, such sums as are necessary to pay interest, at the average rate of earnings during the fiscal year from the State's general investments, to those bond funds that have borrowed money from the General Fund or other bond funds and that have insufficient resources to accrue and pay the interest expense on such borrowing.

9. In addition to the amounts appropriated hereinabove, such additional sums as may be necessary are appropriated to fund the costs of the collection of debts, taxes and other fees and charges owed to the State, including but not limited to the services of auditors and attorneys and enhanced compliance programs, subject to the approval of the Director of the Division of Budget and Accounting.

10. There is appropriated \$11,600,000 from the Legal Services Trust Fund established pursuant to section 6 of P.L.1996, c.52 (C.22A:2-51), for transfer to the General Fund as State revenue to fund the following programs: \$8,000,000 for Legal Services of New Jersey grant, \$3,000,000 for ten additional judgeships in the Judiciary, and \$600,000 for Clinical Legal Programs for the Poor at the Rutgers-Camden Law School, the Rutgers-Newark Law School and Seton Hall Law School.

11. The unexpended balances at the end of the preceding fiscal year in the accounts of the several departments and agencies heretofore appropriated or established in the category of Additions, Improvements and Equipment are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

**New Jersey State Library**

12. The unexpended balances at the end of the preceding fiscal year in the Capital Construction accounts for all departments and agencies are appropriated.

13. Unless otherwise provided, unexpended balances at the end of the preceding fiscal year in accounts of appropriations enacted subsequent to April 1, 2005 are appropriated.

14. The unexpended balances at the end of the preceding fiscal year in accounts that are funded by Interfund Transfers are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

15. Notwithstanding any other provisions in this act or the provisions of any other law to the contrary, no unexpended balances at the end of the preceding fiscal year are appropriated without the approval of the Director of the Division of Budget and Accounting, except that the Legislative Branch of State government shall be exempt from this provision. The Director of the Division of Budget and Accounting shall notify the Legislative Budget and Finance Officer of those instances in which unexpended balances are not appropriated pursuant to this section.

16. The administrative costs of the Special Education Medicaid Initiative and the Early Periodic Screening, Diagnosis and Treatment (EPSDT) program, including the participation of a consultant, are appropriated and shall be paid from the revenue received, subject to the approval of the Director of the Division of Budget and Accounting.

17. The following transfer of appropriations rules are in effect for this fiscal year:

a. To permit flexibility in the handling of appropriations, any department or agency that receives an appropriation by law, may, subject to the provisions of this section, or unless otherwise provided in this act, apply to the Director of the Division of Budget and Accounting for permission to transfer funds from one item of appropriation to a different item of appropriation. For the purposes of this section, "item of appropriation" means the spending authority identified by an organization code, appropriation source, and program code, unique to the item. If the director consents to the transfer, the amount transferred shall be credited by the director to the designated item of appropriation and notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer. However, the director, after consenting thereto, shall submit the following transfer requests to the Legislative Budget and Finance Officer for legislative approval or disapproval unless otherwise provided in this act:

(1) Requests for the transfer of State and other nonfederal funds, in amounts greater than \$300,000, to or from any item of appropriation;

(2) Requests for the transfer of State and other nonfederal funds, in amounts greater than \$50,000, to or from any Special Purpose account, as defined by major object 5, or Grant account, as defined by major object 6, within an item of appropriation, from or to a different item of appropriation;

(3) Requests for the transfer of State and other nonfederal funds, in amounts greater than \$50,000, to or from any Special Purpose or Grant account in which the

identifying organization code, appropriation source, and program code, remain the same, provided that the transfer would effect a change in the legislative intent of the appropriations;

(4) Requests for the transfer of State funds, in amounts greater than \$50,000, between items of appropriation in different departments or between items of appropriation in different appropriation classifications herein entitled as Direct State Services, Grants-In-Aid, State Aid, Capital Construction and Debt Service;

(5) Requests for the transfer of federal funds, in amounts greater than \$300,000, from one item of appropriation to another item of appropriation, if the amount of the transfer to an item in combination with the amount of the appropriation to that item would result in an amount in excess of the appropriation authority for that item, as defined by the program class;

(6) Requests for such other transfers as are appropriate in order to ensure compliance with the legislative intent of this act.

b. The Joint Budget Oversight Committee or its successor may review all transfer requests submitted for legislative approval and may direct the Legislative Budget and Finance Officer to approve or disapprove any such transfer request. Transfers submitted for legislative approval pursuant to paragraph (4) of subsection a. of this section shall be made only if approved by the Legislative Budget and Finance Officer at the direction of the committee.

c. The Legislative Budget and Finance Officer shall approve or disapprove requests for the transfer of funds submitted for legislative approval within 10 working days of the physical receipt thereof and shall return them to the director. If any provision of this act or any supplement thereto requires the Legislative Budget and Finance Officer to approve or disapprove requests for the transfer of funds, the request shall be deemed to be approved by the Legislative Budget and Finance Officer if, within 20 working days of the physical receipt of the request, he has not disapproved the request and so notified the requesting officer. However, this time period shall not pertain to any transfer request under review by the Joint Budget Oversight Committee or its successor, provided notice of such review has been given to the director.

d. No amount appropriated for any capital improvement shall be used for any temporary purpose except extraordinary snow removal or extraordinary transportation maintenance subject to the approval of the Director of the Division of Budget and Accounting. However, an amount from any appropriation for an item of capital improvement may be transferred to any other item of capital improvement subject to the approval of the director, and, if in an amount greater than \$300,000, subject to the approval of the Legislative Budget and Finance Officer.

e. The provisions of subsections a. through d. of this section shall not apply to appropriations made to the Legislative or Judicial branches of State government. To permit flexibility in the handling of these appropriations, amounts may be transferred to and from the various items of appropriation by the appropriate officer or designee with notification given to the director on the effective date thereof.

f. Notwithstanding any provisions of this section to the contrary, transfers to and from the Special Purpose appropriation to the Governor for emergency or necessity under the Other Interdepartmental Accounts program classification and transfers from the appropriations to the various accounts in the category of Salary

Increases and Other Benefits, both in the Inter-Departmental Accounts, shall not be subject to legislative approval or disapproval.

18. The Director of the Division of Budget and Accounting shall make such correction of the title, text or account number of an appropriation necessary to make such appropriation available in accordance with legislative intent. Such correction shall be by written ruling, reciting in appropriate detail the facts thereof, and reasons therefor, attested by the signature of the Director of the Division of Budget and Accounting and filed in the Division of Budget and Accounting of the Department of the Treasury as an official record thereof, and any action thereunder, including disbursement and the audit thereof, shall be legally binding and of full force and virtue. An official copy of each such written ruling shall be transmitted to the Legislative Budget and Finance Officer, upon the effective date of the ruling.

19. The Legislative Budget and Finance Officer with the cooperation and assistance of the Director of the Division of Budget and Accounting is authorized to adjust this appropriations bill to reflect any reorganizations which have been implemented since the presentation of the Governor's Budget Recommendation Document dated March 1, 2005.

20. None of the funds appropriated to the Executive Branch of State government for Information Processing, Development, Telecommunications, and Related Services and Equipment shall be available to pay for any of these services or equipment without the review of the Office of Information Technology, and compliance with statewide policies and standards and an approved department Information Technology Strategic Plan; authorization and approval by the Office of Information Technology is required for expenditure of amounts in excess of \$25,000, as shall be specified by Circular Letter.

21. If the sum provided in this act for a State aid payment pursuant to formula is insufficient to meet the full requirements of the formula, all recipients of State aid shall have their allocation proportionately reduced, subject to the approval of the Director of the Division of Budget and Accounting.

22. When the duties or responsibilities of any department or branch, except for the Legislature and any of its agencies, are transferred to any other department or branch, it shall be the duty of the Director of the Division of Budget and Accounting and the director is hereby empowered to transfer funds appropriated for the maintenance and operation of any such department or branch to such department or branch as shall be charged with the responsibility of administering the functions so transferred. The Director of the Division of Budget and Accounting shall have the authority to create such new accounts as may be necessary to carry out the intent of the transfer. Information copies of such transfers shall be transmitted to the Legislative Budget and Finance Officer upon the effective date thereof. If such transfers may be required among appropriations made to the Legislature and its agencies, the Legislative Budget and Finance Officer, subject to the approval of the President of the Senate and the Speaker of the General Assembly, is hereby



empowered and it shall be that officer's duty to effect such transactions hereinabove described and to notify the Director of the Division of Budget and Accounting upon the effective date thereof.

23. The Director of the Division of Budget and Accounting is empowered and it shall be the director's duty in the disbursement of funds for payment of expenses classified as salary increases and other benefits, employee benefits, debt service, rent, telephone, data processing, motor pool, insurance, travel, postage, lease payments on equipment purchases, additions, improvements and equipment, and compensation awards to credit or transfer to the Department of the Treasury, to an Inter-Departmental account, or to the General Fund, as applicable, from any other department, branch or non-State fund source out of funds appropriated or credited thereto, such sums as may be required to cover the costs of such payment attributable to such other department, branch or non-State fund source, or to reimburse the Department of the Treasury, an Inter-Departmental account, or the General Fund for reductions made representing statewide savings in the above expense classifications, as the director shall determine. Receipts in any non-State funds are appropriated for the purpose of such transfer.

24. The Governor is empowered to direct the State Treasurer to transfer from any State department to any other State department such sums as may be necessary for the cost of any emergency occasioned by aggression, civil disturbance, sabotage, or disaster.

25. Upon request of any department receiving non-State funds, the Director of the Division of Budget and Accounting is empowered to transfer such funds from that department to other departments as may be charged with the responsibility for the expenditure thereof.

26. The Director of the Division of Budget and Accounting is empowered to transfer or credit appropriations to any State agency for services provided, or to be provided, by that agency to any other agency or department; provided further, however, that funds have been appropriated or allocated to such agency or department for the purpose of purchasing these services.

27. Notwithstanding any law to the contrary, should appropriations in the Property Tax Relief Fund exceed available revenues, the Director of the Division of Budget and Accounting is authorized to transfer General Fund unreserved, undesignated fund balances into the Property Tax Relief Fund, providing unreserved, undesignated fund balances are available from the General Fund, as determined by the Director of the Division of Budget and Accounting.

28. Notwithstanding any law to the contrary, should appropriations in the Casino Revenue Fund exceed available revenues, the Director of the Division of Budget and Accounting is authorized to transfer General Fund unreserved, undesignated fund balances into the Casino Revenue Fund, providing unreserved, undesignated

fund balances are available from the General Fund, as determined by the Director of the Division of Budget and Accounting.

29. No funds shall be expended by any State Department in the Executive Branch in connection with a contract for the production of films, videotapes, video conferences, video-assisted training or multi-media projects that include video images unless the New Jersey Public Broadcasting Authority (PBA) has the opportunity to match any successful bid as part of any formal or informal contract award process. This is not a requirement to award a contract to PBA since the decision to award a contract may also be based on non-cost considerations.

30. Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), sums appropriated for services for the various State departments and agencies may be expended for the purchase of contract services from the New Jersey Marine Sciences Consortium as if it were a State government agency pursuant to subsection (a) of section 5 of P.L.1954, c.48 (C.52:34-10).

31. Out of the appropriations herein, the Director of the Division of Budget and Accounting is empowered to approve payments to liquidate any unrecorded liabilities for materials delivered or services rendered in prior fiscal years, upon the written recommendation of any department head, or the department head's designated representative. The Director of the Division of Budget and Accounting shall reject any recommendations for payment which the director deems improper.

32. Whenever any county, municipality, school district or a political subdivision thereof withholds funds from a State agency, or causes a State agency to make payment on behalf of a county, municipality, school district or a political subdivision thereof, then the Director of the Division of Budget and Accounting may withhold State aid payments and transfer the same as payment for such funds, as the Director of the Division of Budget and Accounting shall determine.

33. The Director of the Division of Budget and Accounting is empowered to establish revolving and dedicated funds as required. Notice of the establishment of such funds shall be transmitted to the Legislative Budget and Finance Officer, upon the effective date thereof.

34. The Director of the Division of Budget and Accounting may, upon application therefor, allot from appropriations made to any official, department, commission or board, a sum to establish a petty cash fund for the payment of expenses under rules and regulations established by the director. Allotments thus made by the Director of the Division of Budget and Accounting shall be paid to such person as shall be designated as the custodian thereof by the official, department, commission or board making a request therefor, and the money thus allotted shall be disbursed by such custodian who shall require a receipt therefor from all persons obtaining money from the fund. The director shall make regulations governing disbursement from petty cash funds.

35. From appropriations to the various departments of State government, the Director of the Division of Budget and Accounting is empowered to transfer sums sufficient to pay any obligation due and owing in any other department or agency.

36. Notwithstanding the provision of any other law, the State Treasurer may transfer from any fund in the State Treasurer's custody, deposited with the State Treasurer pursuant to law, sufficient sums to enable payments from any appropriation made herein for any obligations due and owing. Any such transfer shall be restored out of the taxes or other revenue received in the Treasury in support of this act. Except for transfers from the several funds established pursuant to statutes that provide for interest earnings to accrue to those funds, all such transfers shall be without interest. If the statute provides for interest earnings, it shall be calculated at the average rate of earnings during the fiscal year from the State's general investments and such sums as are necessary shall be appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

37. Any qualifying State aid appropriation, or part thereof, made from the General Fund may be transferred and recorded as an appropriation from the Property Tax Relief Fund, as deemed necessary by the State Treasurer, in order that the Director of the Division of Budget and Accounting may warrant the necessary payments; provided however, that the available unreserved, undesignated fund balance in the Property Tax Relief Fund, as determined by the State Treasurer, is sufficient to support the expenditure.

38. Notwithstanding any other provisions of this act, the State Treasurer, upon warrant of the Director of the Division of Budget and Accounting, shall pay any claim not exceeding \$4,000 out of any appropriations made to the several departments, provided such claim is recommended for payment by the head of such department. The Legislative Budget and Finance Officer shall be notified of the amount and description of any such claim at the time such payment is made. Any claimant who has presented a claim not exceeding \$4,000, which has been denied or not recommended by the head of such department, shall be precluded from presenting said claim to the Legislature for consideration.

39. Unless otherwise provided, federal grant and project receipts representing reimbursement for agency and central support services, indirect and administrative costs, as determined by the Director of the Division of Budget and Accounting, shall be transmitted to the Department of the Treasury for credit to the General Fund; provided however, that a portion of the indirect and administrative cost recoveries received which are in excess of the amount anticipated may be reclassified into a dedicated account and returned to State departments and agencies, as determined by the Director of the Division of Budget and Accounting, who shall notify the Legislative Budget and Finance Officer of the amount of such funds returned, the departments or agencies receiving such funds and the purpose for which such funds will be used, within 10 working days of any such transaction. Such receipts shall be forwarded to the Director of the Division of Budget and Accounting upon completion of the project or at the end of the fiscal year, whichever occurs earlier.

40. Notwithstanding any other law to the contrary, each local school district that participates in the Special Education Medicaid Initiative (SEMI) shall receive a percentage of the federal revenue realized for current year claims. The percentage share shall be 15% of the first \$28,000,000 of federal reimbursements realized for claims submitted to the State by June 30. After federal reimbursements are realized in excess of \$28,000,000, local school districts shall receive 50% of their pro rata share of federal revenues realized in excess of \$28,000,000.

41. Notwithstanding any other law to the contrary, each local school district that participates in the Early Periodic Screening, Diagnosis and Treatment (EPSDT) initiative shall receive a percentage of the federal revenue realized for current year claims. The percentage share shall be 15% of federal reimbursements for claims submitted to the State by June 30.

42. Notwithstanding the provisions of P.L.1943, c.188 (C.52:14-17.1 et seq.), the rate of reimbursement for mileage allowed for employees traveling by personal automobile on official business shall be \$.31 per mile.

43. State agencies shall prepare and submit a copy of their agency or departmental budget requests for Fiscal Year 2007 by October 1, 2005 to the Director of the Division of Budget and Accounting and a copy of their spending plans involving all State, federal and other non-State funds to the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer by November 1, 2005, and updated spending plans on February 1, and May 1, 2006. The spending plans shall account for any changes in departmental spending which differ from this appropriations act and all supplements to this act. The spending plans shall be submitted on forms specified by the Director of the Division of Budget and Accounting.

44. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with copies of all BB-4s, Application for Non-State funds, and accompanying project proposals or grant applications, which require a State match and that may commit or require State support after the grant's expiration.

45. In order to provide effective cash flow management for revenues and expenditures of the General Fund and the Property Tax Relief Fund in the implementation of the fiscal year 2006 annual appropriations act, there are appropriated from the General Fund such sums as may be required to pay the principal of and interest on tax and revenue anticipation notes including notes in the form of commercial paper (hereinafter collectively referred to as short-term notes), together with any costs or obligations relating to the issuance thereof or contracts related thereto, according to the terms set forth herein. Provided further that, to the extent that short-term notes are issued for cash flow management purposes in connection with the Property Tax Relief Fund, there are appropriated from the

Property Tax Relief Fund such sums as may be required to pay the principal of those short-term notes.

46. The State Treasurer is authorized to issue short-term notes, which notes shall not constitute a general obligation of the State or a debt or a liability within the meaning of the State Constitution, and the State Treasurer is authorized to pay any costs or obligations relating to the issuance of such short-term notes or contracts relating thereto. Such short-term notes shall be issued in such amounts and at such times as the State Treasurer shall deem necessary for the above stated purposes and for the payment of related costs, and on such terms and conditions, sold in such manner and at such prices, bearing interest at such fixed or variable rate or rates, renewable at such time or times, and entitled to such security, and using such paying agents as shall be determined by the State Treasurer. The State Treasurer is authorized to enter into such contracts and to take such other actions, all as determined by the State Treasurer to be appropriate to carry out the above cash flow management purposes. The State Treasurer shall give consideration to New Jersey-based vendors in entering into such contracts. Whenever the State Treasurer issues such short-term notes, the State Treasurer shall report on each such issuance to the Chairman of the Senate Budget and Appropriations Committee and the Chairman of the Assembly Appropriations Committee.

47. The Tobacco Settlement Fund, created and established in the Department of the Treasury as a separate non-lapsing fund pursuant to section 53 of P.L.1999, c.138, is reestablished and continued. The unexpended balances at the end of the preceding fiscal year in the Tobacco Settlement Fund are appropriated. The Tobacco Settlement Fund shall be the repository for payments made by the tobacco manufacturers pursuant to the settlement agreement entered into by the tobacco manufacturers and the State on November 23, 1998 that resolved the State's pending claims against the tobacco industry and all other moneys, including interest earnings on balances in the fund, credited or transferred thereto from any other fund or source pursuant to law. Balances in the Tobacco Settlement Fund shall be deposited in such depositories as the State Treasurer may select. Amounts transferred from the Tobacco Settlement Fund to the General Fund as anticipated revenue shall be excluded when calculating deposits to the Surplus Revenue Fund pursuant to P.L.1990, c.44 (C.52:9H-14 et seq.).

48. Notwithstanding any other provision of law, funds derived from the sale or conveyance of any lands and buildings or proceeds from the sale of all fill material held by a department are appropriated for demolition, acquisition of land, rehabilitation or improvement of existing facilities and construction of new facilities subject to the approval of the Director of the Division of Budget and Accounting.

49. With respect to appropriations provided to various departments for services provided by the Office of Information Technology, any change by the Office of Information Technology to their rate structure that would affect the rates charged to the various State agencies for Office of Information Technology services shall first be approved by the Director of the Division of Budget and Accounting.

50. Notwithstanding the provisions of section 29 of P.L.1983, c.303 (C.52:27H-88), or any other law to the contrary, interest earned in fiscal 2006 on balances in the Enterprise Zone Assistance Fund, shall be credited to the General Fund.

51. Notwithstanding any other law to the contrary, funds may be transferred from the State Disability Benefits Fund to the General Fund during the fiscal year ending June 30, 2006, which transfer amount shall be based upon the actual receipt of revenue in the State Disability Benefits Fund as shall be determined by the State Treasurer in consultation with the Commissioner of Labor, subject to the approval of the Director of the Division of Budget and Accounting.

52. There is appropriated \$800,000 from the Casino Simulcasting Fund for transfer to the Casino Revenue Fund.

53. In all cases in which language authorizes the appropriation of additional receipts not to exceed a specific amount, and the specific amount is insufficient to cover the amount due for fringe benefits and indirect costs, there are appropriated from receipts such additional amounts as are required to fully cover the amount due for fringe benefits and indirect costs, subject to the approval of the Director of the Division of Budget and Accounting.

54. There are appropriated, out of receipts derived from any structured financing transaction, such sums as may be necessary to satisfy any obligation incurred in connection with any structured financing agreement, subject to the approval of the Director of the Division of Budget and Accounting. In addition, there are appropriated such sums as may be necessary to pay costs incurred in connection with any proposed structured financing transaction, subject to the approval of the Director of the Division of Budget and Accounting.

55. Notwithstanding the provisions of any departmental language or statute, no receipts in excess of those anticipated or appropriated as provided in the Departmental Revenue Statements (BB-103s) in the fiscal 2006 budget submission are available for expenditure until a comprehensive expenditure plan is submitted to and approved by the Director of the Division of Budget and Accounting.

56. Such sums as may be necessary are appropriated or transferred from existing appropriations for the purpose of promoting awareness to increase participation in programs that are administered by the State subject to the approval of the Director of the Division of Budget and Accounting.

57. There are appropriated such additional sums as may be required to pay the amount of any civil penalty imposed on a State officer, employee or custodian pursuant to section 12 of P.L.2001, c.404 (C.47:1A-11), as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

58. Receipts derived from the provision of copies and other materials related to compliance with P.L.2001, c.404, are appropriated for the purpose of offsetting agency and departmental expenses of complying with the public access law, subject to the approval of the Director of the Division of Budget and Accounting.

59. Notwithstanding any law to the contrary, there is appropriated from the Universal Service Fund \$72,468,000 for transfer to the General Fund as State revenue.

60. Notwithstanding the provisions of section 32 of P.L.2002, c.40 (C.52:9H-38) to the contrary, revenues derived from the corporation business tax during fiscal year 2005 shall not be credited to the "Corporation Business Tax Excess Revenue Fund" but shall be available as undesignated funds in the General Fund except as are dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.

61. Any qualifying State aid or Grants-In-Aid appropriation, or part thereof, made from the General Fund may be transferred and recorded as an appropriation from the Casino Revenue Fund, as deemed necessary by the State Treasurer, in order that the Director of the Division of Budget and Accounting may warrant the necessary payments; provided however, that the available unreserved, undesignated fund balance in the Casino Revenue Fund, as determined by the State Treasurer, is sufficient to support the expenditure.

62. Providing that the contributions made during fiscal year 2006 by the University of Medicine and Dentistry of New Jersey and its affiliates to the University of Medicine and Dentistry of New Jersey - Self Insurance Reserve Fund is equal to the amount established in a memorandum of agreement between the Department of the Treasury and the University, and if after such amount having been contributed, the receipts deposited within the University of Medicine and Dentistry of New Jersey's Self Insurance Reserve Fund are insufficient to pay claims expenditures, there is appropriated from the General Fund to the Self Insurance Reserve Fund such sums as may be necessary to pay the remaining claims, subject to the approval of the Director of the Division of Budget and Accounting.

63. In addition to any amounts hereinabove appropriated to pay debt service on bonds, notes and other obligations by the various independent authorities, payment of which is to be made by the State subject to appropriation pursuant to a contract with the State Treasurer or pursuant to a lease with a State department, there is hereby appropriated such additional sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts or leases, as applicable.

64. All proceeds derived from the sale of real property shall be deposited in the General Fund, and notwithstanding any other law to the contrary there are appropriated from the proceeds of the sale of real property such sums as may be determined by the State Treasurer to the department which formerly owned or

operated the asset for the purpose of capital improvements, purchase of equipment, or other program expenses, subject to the approval of the Director of the Division of Budget and Accounting.

65. Monies appropriated pursuant to this act to counties, municipalities or school districts as State grants or State Aid may, in addition to the uses specifically provided under this act, be used for purposes of implementing best practices adopted by the New Jersey Domestic Security Preparedness Task Force.

66. Amounts appropriated throughout the departments for Statewide Livable Communities, Social Services Emergency Grants, Statewide Local Domestic Preparedness Equipment Grant Program, and Local Library Grants may be transferred among those accounts subject to the approval of the Director of the Division of Budget and Accounting. No grant from any of these accounts shall exceed \$200,000 except in the case of grants awarded to two or more cooperating recipients, in which case the maximum grant shall not exceed \$200,000 per recipient.

67. The unexpended balances at the end of the preceding fiscal year for the Statewide Livable Communities, Social Services Emergency Grants, Statewide Local Domestic Preparedness Equipment Grant Program, Local Library Grants, Cultural Projects, and Property Tax Assistance and Community Development Grants accounts are appropriated subject to the same conditions and limitations imposed pursuant to P.L.2004, c.71, subject to the approval of the Director of the Division of Budget and Accounting, provided however, that the list of recipients of monies appropriated in this section may include a department or agency of state government or state authority, commission or institution of higher education that shall be included on the list that shall be subject to the review and approval of the Joint Budget Oversight Committee.

68. If any law requires annual State funding, and if the amount of the funding in this act is insufficient to meet the requirement, the statutory requirement shall be deemed to be suspended for this fiscal year to the extent that the funding is insufficient.

69. Such sums as may be required to initiate the implementation of information systems development or modification during the fiscal year ending June 30, 2006 to support fees, fines or other revenue enhancements, or to initiate cost savings or budget efficiencies that are to be implemented during the fiscal year ending June 30, 2007 and that are proposed in the Governor's Budget Recommendation Document for the fiscal year ending June 30, 2007, shall be transferred between appropriate accounts subject to the approval of the Director of the Division of Budget and Accounting.

70. To the extent that receipts collected pursuant to fee provisions in P.L.2004, c.89, do not total \$20,000,000, there is appropriated from the General Fund additional funds, which together with such receipts shall not exceed \$20,000,000, for costs associated with P.L.2004, c.89, of the Department of Community Affairs, the Department of Environmental Protection, the Department of Transportation, and the Office of Administrative Law, subject to the approval of the Director of the Division of Budget and Accounting.



71. Notwithstanding any other law or regulation to the contrary, there is appropriated from the State of New Jersey Cash Management Fund reserve fund such amounts as are necessary for the State Treasurer to return funds held on behalf of participating governmental units other than the State Government to those units that receive monies from appropriations made in this act. Funds attributable to participants in the reserve fund that do not receive State appropriations in the act shall continue to be held in the reserve fund.

72. There is appropriated from the General Fund to the Department of the Treasury such amount as is necessary to purchase a surety bond to cover the proportionate share of losses of the "Other-than-State" participants of the State of New Jersey Cash Management Fund in the event of certain losses which could be incurred by the fund.

73. Notwithstanding the provisions of P.L.2000, c.12, or any other law to the contrary, there is appropriated \$10,500,000 from the Tobacco Settlement Fund for transfer to the General Fund as State revenue.

74. Notwithstanding any provision of law to the contrary, no funding shall be provided by any program supported in part or in whole by State funding for erectile dysfunction medications for individuals who are registered on New Jersey's Sex Offender Registry.

75. As a condition to the appropriations made in this act, specifically with regard to the allocation of the Administrative Efficiencies listed hereinabove, except as specifically provided hereinabove, no portion of any reduction in an appropriation or any increased costs to be paid for from an appropriation, shall be allocated or assessed to the following agencies which are housed within the respective departments solely for administrative purposes: the State Agriculture Development Commission in the Department of Agriculture; the Council on Affordable Housing, Historic Trust, Government Records Council, and the State Planning Commission within the Department of Community Affairs; the Parole Board within the Department of Corrections; the Pinelands Commission, Palisades Interstate Park Commission, Mosquito Control Commission, Environmental Infrastructure Trust, and the Highlands Council within the Department of Environmental Protection; the Public Employment Relations Commission, the State Employment and Training Commission, and the State Board of Mediation within the Department of Labor and Workforce Development; the Division of State Police, the Office of Counter-Terrorism, the Juvenile Justice Commission, Election Law Enforcement Commission, the Executive Commission on Ethical Standards, the Victims of Crime Compensation Board, and the Office of Child Advocacy within the Department of Law and Public Safety; the State Commission on Investigation within the State Legislature; the Public Broadcasting Authority, Commission on Higher Education, and the Higher Education Student Assistance Authority within the Department of State; the Transportation Trust Fund Authority, the Motor Vehicle Commission, and the New Jersey Transit Corporation within the Department of Transportation; the Economic Development Authority, Board of Public Utilities, Casino Control

Commission, New Jersey Commerce, Economic Growth and Tourism Commission, Office of Administrative Law, Office of Information Technology, Ratepayer Advocate, State Library, Office of the Public Defender, Office of the Inspector General, Office of the Public Advocate, Garden State Preservation Trust, Governor's Council on Alcoholism and Drug Abuse, State Legal Services Office, Motion Picture and Television Development Commission, and the Science and Technology Commission within the Department of Treasury, or any other authority, commission or board that is statutorily allocated in but not of a department for purposes of complying with Article V, Section IV, paragraph 1 of the State Constitution and is not otherwise under the supervision or direction of that department. The departments affected shall file a plan with the Director of the Division of Budget and Accounting by August 1 identifying the specific Direct State Services appropriations that will be reduced by the allocation of the Administrative Efficiencies. Such reductions, which shall be subject to the approval of the Director of the Division of Budget Accounting, shall not interfere with the State's obligation to meet constitutional mandates, make debt service payments or make payments pursuant to contracts that were entered into prior to July 1, 2005.

76. There is appropriated \$5,000,000 from the Second Injury Fund for transfer to the General Fund as State revenue.

77. There is appropriated \$20,000,000 from the New Home Warranty Security Fund for transfer to the General Fund as State revenue.

78. The Governor shall cause a study to be undertaken, with the results to be submitted to the Legislature by January 1, 2006, on the advisability of assigning responsibility for all leasing of State property within the Department of the Treasury.

79. The Governor shall cause a study to be undertaken, with the results to be submitted to the Legislature by January 1, 2006, on the advisability of consolidating all human resources functions of departments of State government in the Department of Personnel or whether such functions assigned to the various departments.

80. The State Treasurer shall undertake a comprehensive review of State Executive Branch department travel policies, rules and regulations, and shall report his findings and recommendations to the Governor concerning implementation of a uniform travel policy designed to make the most efficient use of appropriations made herein without restricting essential travel.

81. The Governor shall cause a study to be undertaken, with the results to be submitted to the Legislature by January 1, 2006, on the advisability of consolidating all human resources functions of departments of State government in the Department of Personnel or assigning such functions to the various departments.

82. This act shall take effect immediately and be retroactive to July 1, 2005.

Approved July 2, 2005.

## CHAPTER 133

AN ACT concerning members of planning boards and zoning boards of adjustment and amending and supplementing chapter 55D of Title 40 of the Revised Statutes.

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

1. Section 4 of P.L.1975, c.291 (C.40:55D-8) is amended to read as follows:

**C.40:55D-8 Municipal fees; exemptions.**

4. a. Every municipal agency shall adopt and may amend reasonable rules and regulations, not inconsistent with this act or with any applicable ordinance, for the administration of its functions, powers and duties, and shall furnish a copy thereof to any person upon request and may charge a reasonable fee for such copy. Copies of all such rules and regulations and amendments thereto shall be maintained in the office of the administrative officer.

b. Fees to be charged (1) an applicant for review of an application for development by a municipal agency, and (2) an appellant pursuant to section 8 of this act shall be reasonable and shall be established by ordinance. In addition to covering the administrative costs associated with the implementation of P.L.1975, c.291 (C.40:55D-1 et seq.), these fees shall be used to defray the cost of tuition for those persons required to take the course in land use law and planning in the municipality as required pursuant to P.L.2005, c.133 (C.40:55D-23.3 et al.).

c. A municipality may by ordinance exempt, according to uniform standards, charitable, philanthropic, fraternal and religious nonprofit organizations holding a tax exempt status under the Federal Internal Revenue Code of 1954 (26 U.S.C. s. 501(c) or (d)) from the payment of any fee charged under this act.

d. A municipality shall exempt a board of education from the payment of any fee charged under this act.

e. A municipality may by ordinance exempt, according to uniform standards, a disabled person, or a parent or sibling of a disabled person, from the payment of any fee charged under this act in connection with any application for development which promotes accessibility to his own living unit.

For the purposes of this subsection, "disabled person" means a person who has the total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impair-

ment, including blindness, and shall include, but not be limited to, any resident of this State who is disabled pursuant to the federal Social Security Act (42 U.S.C. s.416), or the federal Railroad Retirement Act of 1974 (45 U.S.C. s.231 et seq.), or is rated as having a 60% disability or higher pursuant to any federal law administered by the United States Veterans' Act. For purposes of this paragraph "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

**C.40:55D-23.3 Preparation, offering of basic course in land use law and planning; requirement.**

2. a. The Commissioner of Community Affairs shall cause to be prepared and offered a basic course in land use law and planning within six months from the effective date of P.L.2005, c.133 (C.40:55D-23.3 et al.) for current and prospective members and alternate members of local planning boards pursuant to section 14 of P.L.1975, c.291 (C.40:55D-23) and section 13 of P.L.1979, c.216 (C.40:55D-23.1), zoning boards of adjustment pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69) and combined boards as authorized under law. The basic course to be prepared and offered pursuant to this section shall consist of no more than five hours of scheduled instruction and shall be structured so that a member may satisfy this requirement within one calendar day. The commissioner shall work in conjunction with the New Jersey Planning Officials in establishing standards for curriculum and administration of the course of study.

b. On or after the first date on which a course in land use law and planning is offered, except as otherwise provided in section 3 of P.L.2005, c.133 (C.40:55D-23.4), a person shall not be seated as a first-term member or alternate member of a local planning board pursuant to section 14 of P.L.1975, c.291 (C.40:55D-23) or section 13 of P.L.1979, c.216 (C.40:55D-23.1), a zoning board of adjustment pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69) or a combined board as authorized under law, unless the person agrees to take the basic course required to be offered under subsection a. of this section, which the person shall successfully complete within 18 months of assuming board membership in order to retain board membership.

c. Except as otherwise provided in section 3 of P.L.2005, c.133 (C.40:55D-23.4), any person who is serving as a member or alternate member of a planning board or zoning board of adjustment or combined board as authorized under law on the first date on which a course in land use law and planning is offered shall be required to complete that course within 18 months of the date upon which the course is first offered in order to retain membership on that board.

d. A hearing or proceeding held, or decision or recommendation made, by a planning board or zoning board of adjustment shall not be invalidated if a member has participated in the hearing or proceeding or in the decision making or recommendation and that member is subsequently found not to have completed the basic course in land use law and planning required pursuant to P.L.2005, c.133 (C.40:55D-23.3 et al.).

**C.40:55D-23.4 Exemptions from educational requirements.**

3. The following persons shall be exempt from the educational requirements established pursuant to section 2 of P.L.2005, c.133 (C.40:55D-23.3):

a. (1) The mayor or person designated to serve on a planning board in the absence of a mayor who serves as a Class I member pursuant to section 14 of P.L.1975, c.291 (C.40:55D-23);

(2) A member of the governing body serving as a Class III member pursuant to section 14 of P.L.1975, c.291 (C.40:55D-23);

b. Any person who is licensed as a professional planner and maintains a certificate of license issued pursuant to chapter 14A of Title 45 of the Revised Statutes which is current as of the date upon which that person would otherwise be required to demonstrate compliance with the provisions of subsection b. or c. of section 2 of P.L.2005, c.133 (C.40:55D-23.3);

c. Any person who offers proof of having completed a more extensive course in land use law and planning than that required by section 2 of P.L.2005, c.133 (C.40:55D-23.3) within 12 months of the date upon which that person would otherwise be required to demonstrate compliance with the provisions of subsection b. or c. of section 2 of P.L.2005, c.133 (C.40:55D-23.3) and which, in the determination of the commissioner, is equivalent to or more extensive than that course offered pursuant to subsection a. of section 2 of P.L.2005, c.133 (C.40:55D-23.3).

4. This act shall take effect immediately.

Approved July 7, 2005.

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CHAPTER 134

AN ACT concerning well drillers and pump installers, and amending P.L.1947, c.377.

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

1. Section 6 of P.L.1947, c.377 (C.58:4A-10) is amended to read as follows:

**C.58:4A-10 Powers, duties of board.**

6. The board shall be vested with the following powers and duties:

a. It shall be the duty of the board to recommend and consent to examination questions, review applications to ascertain the experience and qualifications of persons applying for a license, review examination results, review continuing education certification required for license renewals pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11) and recommend to the department when licenses should be issued, renewed, or denied. A board recommendation that a license be issued or denied shall be adopted at the next scheduled meeting following completion of the examination therefor. A board recommendation that a license be renewed shall be adopted at the next scheduled meeting following acceptance of continuing education certification therefor. Examinations may be oral or written, and may include observation of applicants for any license in the field, or any combination thereof, and shall cover the proper methods and regulatory procedures of well drilling and pump installation.

b. It shall, by a majority of all its members, formulate and recommend to the department rules, regulations, and standards, including construction standards for engaging in well drilling or pump installing and a continuing education program for well drillers and pump installers which shall be applicable to any person licensed under the provisions of P.L.1947, c.377 (C.58:4A-5 et seq.).

2. Section 7 of P.L.1947, c.377 (C.58:4A-11) is amended to read as follows:

**C.58:4A-11 Licenses, issuance; classifications, requirements, rules, regulations, standards; continuing education requirements.**

7. a. (1) The department shall, upon recommendation of the board and payment of the required fee, issue new licenses to persons to engage in well drilling or pump installing.

(2) The department shall require each well driller or pump installer, as a condition for license renewal pursuant to section 14 of P.L.1947, c.377 (C.58:4A-18), to complete any continuing education requirements established by rules and regulations adopted by the department pursuant to this section.

b. The department shall adopt various classifications of well driller licenses to reflect the different well drilling disciplines. Commencing July 5, 1997, the department:

(1) shall issue a new well driller license only for the classification of well driller for which an applicant qualifies, based upon passing a licensing examination for that classification;

(2) shall issue a new master well driller license only to an applicant who has passed the examination for each classification of well driller established by the department pursuant to section 1 of P.L.1947, c.377 (C.58:4A-5); and

(3) shall issue a renewal of a master well driller license, a well driller license, or a pump installer license only to an applicant who has provided evidence to the department of completion of the continuing education requirements established pursuant to subsection c. of this section.

c. The department shall establish rules, regulations and standards for continuing education of well drillers and pump installers as a condition for license renewal and shall develop and implement this continuing education program. The department may, in its discretion, waive requirements for continuing education on an individual basis for reasons of hardship, including, but not limited to, active duty in the military or reserves, illness or disability, or other good cause.

3. Section 14 of P.L.1947, c.377 (C.58:4A-18) is amended to read as follows:

**C.58:4A-18 Renewal of license.**

14. a. No license shall be renewed unless the renewal applicant submits satisfactory evidence to the board that the renewal applicant has successfully completed the continuing education requirements established by the department pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11).

b. A license once issued, unless revoked or suspended, may be renewed at any time within one year before its expiration date on application therefor and payment of the required renewal fee, and any such renewal shall become effective on and after July 1 next following the date of renewal. A license not renewed prior to its expiration date may be reinstated within six months of the expiration date by payment of the license renewal fee.

After the six-month period, renewal shall require the passing of an examination prescribed by the department pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11) for applicants for new licenses.

4. Section 15 of P.L.1947, c.377 (C.58:4A-19) is amended to read as follows:

**C.58:4A-19 Fee schedule.**

15. a. (Deleted by amendment, P.L.2005, c.134).

b. The department shall adopt, and may periodically amend, by regulation, a fee schedule setting forth reasonable fees for license applications and

examinations, and for issuance and renewal of any license in amounts adequate to cover the costs of administering all licensing and license enforcement programs, including the continuing education program established by the department pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11).

All revenues derived from this section, section 10 of P.L.1947, c.377 (C.58:4A-14), and section 15 of P.L.1995, c.312 (C.58:4A-14.1) shall be deposited in the "Environmental Services Fund" established pursuant to section 5 of P.L.1975, c.232 (C.13:1D-33), and shall be used for the administration of well programs pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.), including the continuing education program established by the department pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11).

5. This act shall take effect immediately.

Approved July 7, 2005.

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## CHAPTER 135

AN ACT concerning participation in the State Health Benefits Program by certain employers and supplementing P.L.1961, c.49 (C.52:14-17.25 et seq.).

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

**C.52:14-17.36a** Certain majority representative of State employees, participation in SHBP permitted.

1. a. Notwithstanding any provision of P.L.1961, c.49 (C.52:14-17.25 et seq.) or any other law to the contrary, an affiliate of a majority representative of State employees for collective negotiation purposes, as recognized by the Public Employment Relations Commission established pursuant to P.L.1941, c.100 (C.34:13A-1 et seq.), which affiliate represents State employees, may participate in the State Health Benefits Program pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.). All provisions of P.L.1961, c.49 (C.52:14-17.25 et seq.) shall be construed as to such participating employers and their elected officers and full-time employees, and their dependents, in the same manner as for participating local government employers, their employees and the dependents of such employees.

As used in this section, the phrase "an affiliate of a majority representative of State employees" means a local union affiliate that has some employ-



ees who are engaged in the day-to-day representation of State employees, and shall not mean a local union affiliate's parent or international union.

b. The Division of Pensions and Benefits shall certify to each such affiliate of a majority representative electing participation under the program the premium rates and periodic charges as determined for local government employees applicable to the coverage provided to the affiliate's elected officers and full-time employees and their dependents. The participating affiliate shall remit to the division the premiums and periodic charges in advance of their due dates, subject to the rules and regulations of the State Health Benefits Commission.

c. The State Health Benefits Commission shall adopt rules and regulations within 90 days of the effective date of this act, P.L.2005, c.135 (C.52:14-17.36a et seq.), to implement this section and such rules and regulations shall permit an affiliate of a majority representative electing participation under the program to begin participation on or after the 120th day following the effective date of this act.

**C.52:14-17.36b Limitation on participation of private sector employees.**

2. Notwithstanding the provisions of subsection a. of section 1 of this act, P.L.2005, c.135 (C.52:14-17.36a), the total number of private sector employees who participate under the provisions of that section shall not be permitted to exceed a de minimis percentage of the total number of employees participating in the State Health Benefits Program. For purposes of this act, any employee who is on a leave of absence from employment with the State and who is an employee of an affiliate of a majority representative of State employees for collective negotiation purposes, which affiliate represents State employees, shall not be considered a private sector employee.

**C.52:14-17.36c Determination letter confirming status of SHBP.**

3. a. On the effective date of this act, P.L.2005, c.135 (C.52:14-17.36a et seq.), the Division of Pensions and Benefits in the Department of the Treasury shall seek a determination letter from the United States Department of Labor confirming the status of the State Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as amended by this act, as a qualified and exempt governmental plan under Title I of the federal Employee Retirement Income Security Act of 1974 (ERISA).

b. In the event the division receives a determination letter from the United States Department of Labor stating that P.L.2005, c.135 (C.52:14-17.36a et seq.) changes the status of the State Health Benefits Program so that it is no longer a qualified and exempt governmental plan under Title I of the federal Employee Retirement Income Security Act of 1974, P.L.2005, c.135 (C.52:14-17.36a et seq.) shall be void and expire immediately and no employees of an affiliate of a majority representative of State employees for

collective negotiation purposes shall be permitted to enroll or continue to participate in the State Health Benefits Program.

4. This act shall take effect immediately.

Approved July 7, 2005.

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CHAPTER 136

AN ACT establishing separate presidential primary election and amending various sections of the statutory law.

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

1. R.S.19:1-1 is amended to read as follows:

**Definitions.**

19:1-1. As used in this Title:

"Election" means the procedure whereby the electors of this State or any political subdivision thereof elect persons to fill public office or pass on public questions.

"General election" means the annual election to be held on the first Tuesday after the first Monday in November.

"Primary election for the general election" means the procedure whereby the members of a political party in this State or any political subdivision thereof nominate candidates to be voted for at general elections, or elect persons to fill party offices.

"Presidential primary election" means the procedure whereby the members of a political party in this State or any political subdivision thereof elect persons to serve as delegates and alternates to national conventions.

"Municipal election" means an election to be held in and for a single municipality only, at regular intervals.

"Special election" means an election which is not provided for by law to be held at stated intervals.

"Any election" includes all primary, general, municipal, school and special elections, as defined herein.

"Municipality" includes any city, town, borough, village, or township.

"School election" means any annual or special election to be held in and for a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes.

"Public office" includes any office in the government of this State or any of its political subdivisions filled at elections by the electors of the State or political subdivision.

"Public question" includes any question, proposition or referendum required by the legislative or governing body of this State or any of its political subdivisions to be submitted by referendum procedure to the voters of the State or political subdivision for decision at elections.

"Political party" means a party which, at the election held for all of the members of the General Assembly next preceding the holding of any primary election held pursuant to this Title, polled for members of the General Assembly at least 10% of the total vote cast in this State.

"Party office" means the office of delegate or alternate to the national convention of a political party or member of the State, county or municipal committees of a political party.

"Masculine" includes the feminine, and the masculine pronoun wherever used in this Title shall be construed to include the feminine.

"Presidential year" means the year in which electors of President and Vice-President of the United States are voted for at the general election.

"Election district" means the territory within which or for which there is a polling place or room for all voters in the territory to cast their ballots at any election.

"District board" means the district board of registry and election in an election district.

"County board" means the county board of elections in a county.

"Superintendent" means the superintendent of elections in counties wherein the same shall have been appointed.

"Commissioner" means the commissioner of registration in counties.

"File" or "filed" means deposited in the regularly maintained office of the public official wherever said regularly maintained office is designated by statute, ordinance or resolution.

2. R.S.19:2-1 is amended to read as follows:

**Presidential primary for delegates, alternates, scheduling of primary elections.**

19:2-1. Presidential primary elections for delegates and alternates to national conventions of political parties shall be held in each presidential year on the last Tuesday in February.

Primary elections for the general election shall be held in each year on the Tuesday next after the first Monday in June.

All primary elections shall occur between the hours of 6:00 A.M. and 8:00 P.M., Standard Time. Primary elections for special elections shall be held not earlier than 30 nor later than 20 days prior to the special elections.

3. R.S.19:3-3 is amended to read as follows:

**Election of delegates, alternates at presidential primary election.**

19:3-3. Delegates and alternates to the national conventions of the political parties held in each presidential year shall be elected at the presidential primary election to be held on the last Tuesday in February in that year.

The members of State, county and municipal committees of the political parties shall be chosen at the primary for the general election as hereinafter provided.

4. Section 6 of P.L.1976, c. 83 (C.19:4-15) is amended to read as follows:

**C.19:4-15 Division of election district, timing.**

6. a. No county board shall make division of an election district in any year in the period commencing 75 days before the presidential primary election in each presidential year or the primary election for the general election, and the day of the general election.

b. To facilitate the use of Federal decennial census populations for apportionment and redistricting purposes and notwithstanding the provisions of this or any other law, no election districts shall, except with the prior approval of the Attorney General, be created, abolished, divided or consolidated between January 1 of any year whose last digit is 7 and December 1 of any year whose last digit is 0.

5. R.S.19:6-2 is amended to read as follows:

**Application for membership on district board; qualifications.**

19:6-2. a. The following persons may apply in writing to the county board, on a form prepared and furnished by the county board, for appointment as a member of a district board of any municipality in the county in which he or she resides: (1) a legal voter who is a member of a political party by virtue of having voted in a party primary or who has filed a party declaration form for the ensuing presidential primary or primary election for the general election with the commissioner of the county in which the voter is registered and who, for two years prior to making written application, has not espoused the cause of another political party or its candidates; (2) a legal voter who is not affiliated with a political party; (3) a United States citizen and resident of this State who is 16 or 17 years of age, attends a secondary school and has the written permission of his or her parent or guardian to serve as a member of the board if appointed; or (4) a United States citizen and resident of this State who is 16 or 17 years of age and has graduated from a secondary school or has passed a general educational development

test, GED, and has the written permission of his or her parent or guardian to serve as a member of the board if appointed.

b. The application, signed by the applicant under his or her oath, shall state: (1) the applicant's name and address; (2) the applicant's age, if the applicant is less than 18 years of age; (3) the political party to which he or she belongs or, if the applicant is not affiliated with a political party, the fact that the applicant is not so affiliated; (4) that the applicant is of good moral character and has not been convicted of any crime involving moral turpitude; and (5) that the applicant possesses the following qualifications: eyesight, with or without correction, sufficient to read nonpareil type; ability to read the English language readily; ability to add and subtract figures correctly; ability to write legibly with reasonable facility; reasonable knowledge of the duties to be performed by the applicant as an election officer under the election laws of this State; and health sufficient to discharge his or her duties as an election officer.

c. If an applicant for appointment to a district board is 16 or 17 years of age, then the applicant shall provide to the county board, along with the application provided under subsection b. of this section: (1) a written document signed by the applicant's parent or guardian giving the applicant permission to serve as a member of a district board if appointed and (2) if an election, meeting or training is scheduled to take place when school is in session, a written document from his or her school that acknowledges the applicant's application for appointment as a member of a district board and excuses the applicant from school on the dates of service if appointed, except that the requirement contained in subparagraph (2) of this subsection shall not apply to a United States citizen and resident of this State who is 16 or 17 years of age and has graduated from a secondary school or has passed a general educational development test, GED.

d. No person shall be precluded from applying to serve as a member of a district board of any municipality for failure to vote in any year such person was ineligible to vote by reason of age or residence.

e. In no case shall a person 16 or 17 years of age be permitted to serve as a member of a district board on the day of an election for more than the number of hours permitted for such a person to work pursuant to P.L.1940, c.153 (C.34:2-21.1 et seq.), as amended and supplemented.

6. R.S.19:6-3 is amended to read as follows:

**Appointment of district board members by county board, Assignment Judge of Superior Court.**

19:6-3. a. (1) The county board shall, on or before January 10 of each presidential year and on or before April 1 of every other year, appoint the members of the district boards in the manner prescribed by paragraph (2) of

this subsection. The members of any district board shall be equally apportioned between the two political parties which at the last preceding general election held for the election of all of the members of the General Assembly cast the largest and next largest number of votes respectively in this State for members of the General Assembly, except that if the county board is unable to fill all of the positions of the members of a particular district board from among qualified members of those two political parties, the county board shall appoint to any such unfilled position an otherwise qualified person who is unaffiliated with any political party, but no such appointment of an unaffiliated person shall be made prior to January 15 of each presidential year and prior to March 25 of every other year, and in no event shall more than two such unaffiliated persons serve at the same time on any district board.

(2) In making appointments of members of the several district boards of the county, the county board shall consult with the chairperson of the county committee of each of the two political parties referred to in paragraph (1) of this subsection. On or before January 1 of each presidential year and on or before March 15 of every other year, the county board shall transmit to each of those chairpersons a list of those positions on the membership of the several district boards that are subject to apportionment under that paragraph (1) to the political party of which that chairperson is a member, and to which the county board has been unable to make an appointment from among qualified members of that political party. The county board shall include with each such list a request that the chairperson to whom that list is transmitted return to the board a list of the names of candidates for those unfilled positions. On or before January 1 of each presidential year and on or before March 25 of every other year, the county board shall, on the basis of the lists so returned to it, fill as many of the remaining unfilled positions in the membership of the several district boards as possible, and shall assign or reassign appointees as necessary to ensure that the membership of each district board within the county shall include at least one member of each of the two political parties. The county board shall then appoint to any unfilled position on a district board an otherwise qualified person who is unaffiliated with any political party.

b. In case the county board shall neglect, refuse or be unable to appoint and certify the members of the district boards as herein provided, the Assignment Judge of the Superior Court shall, before January 25 of each presidential year or before April 10 of every other year, make such appointments and certifications.

7. R.S.19:6-10 is amended to read as follows:

**Meeting, organization of district board.**

19:6-10. Each district board shall, on or before the second Tuesday next preceding the presidential primary election in those years when such an election is held or the primary election for the general election in every other year, meet and organize by the election of one of its members as judge, who shall be chairman of the board, and another of its members as inspector. The judge and inspector shall not be members or voters of the same political party. In case of failure to elect a judge as herein provided, after balloting or voting three times, the senior member of the board in respect to length of continuous service as a member of such district board shall become judge, and in case of failure to elect an inspector after balloting or voting three times, the next senior member of the board in respect to length of continuous service as a member of such district board shall become inspector; provided, that both the chairman and the inspector shall not be members or voters of the same political party. The other members of the board shall be clerks of election, and shall perform all the duties required by law of the clerks of district boards.

8. R.S.19:6-18 is amended to read as follows:

**Nomination for member of county board; certification, appointment, term.**

19:6-18. During the 30-day period immediately preceding December 5 of the year preceding each presidential year and February 15 of every other year, the chairman and vice-chairlady of each county committee and the State committeeman and State committeewoman of each of such two political parties, respectively shall meet and jointly, in writing, nominate one person residing in the county of such county committee chairman, duly qualified, for member of the county board in and for such county for the succeeding year, in the case of the presidential year.

If more than two members are elected to the State committee of any party from a county, the State committeeman and State committeewoman who shall participate in the process of nomination shall be those holding full votes who received the greatest number of votes in their respective elections for members of the State committee.

If nomination be so made, the said county committee chairman shall certify the nomination so made to the State chairman and to the Governor, and the Governor shall commission such appointees, who shall be members of opposite parties, on or before January 1 of each presidential year or on or before March 1 in every other year, as the case may be. If nomination be not so made on account of a tie vote in the said meeting of the county committee chairman, county committee vice-chairlady, State committeeman and State committeewoman, in respect to such nomination, the said county committee

chairman shall certify the fact of such a tie vote to the State chairman, who shall have the deciding vote and who shall certify, in writing, to the Governor, the nomination made by his deciding vote. Appointees to county boards of election pursuant to this section shall continue in office for 2 years from either January 1 or March 1, as the case may be, next after their appointment.

The first appointment having been made pursuant to law for terms of 1 and 2 years, respectively, the members subsequently appointed each year shall fill the offices of the appointees whose terms expire in that year.

9. R.S.19:6-22 is amended to read as follows:

**Organization of county board of elections.**

19:6-22. a. (1) The county boards shall, at 10 a.m., on the second Tuesday in January of each presidential year and on that same day in March of every other year, or on such other day as they may agree on within the first 15 days in January or March, as the case may be, in each year, meet at the courthouse, or other place as provided for, in their respective counties, and, subject to the provisions of paragraph (2) of this subsection, organize by electing one of their number to be chairman and one to be secretary; but the chairman and secretary shall not be members of the same political party.

(2) In case of failure to elect a chairman after three ballots or viva voce votes, the member having the greatest seniority on the board shall be the chairman thereof, except that if the member having the greatest seniority on the board so chooses, that member shall instead be secretary of the board; in the event that that senior member so chooses to become secretary, no election shall be held to choose a secretary of the board, the board shall elect one of its members who is not of the same political party as the secretary to be the chairman of the board, and in the case of a failure again to elect a chairman after three ballots or viva voce votes, the person among those members having the greatest seniority on the board shall be the chairman thereof.

In any case of failure to elect a chairman, if two or more members of the board who are eligible to become chairman have greatest and equal seniority on the board, then the board shall, not later than the fifth day following the organization meeting, notify the Governor of an inability to fill the position of chairman either by election or on the basis of seniority, including in that notice a certification of the names of those senior members of the board. In addition, if the position of secretary has not otherwise been filled under the foregoing provisions of this paragraph, the board shall defer for the time being the election of a secretary. Not later than the fifth day following receipt of the notice, the Governor shall designate one of those senior members to be chairman of the board and certify that designation to the board.



If the position of secretary was not filled at the initial meeting of the county board to organize, then not later than the fifth day following receipt of that certification, the board shall reconvene at the call of the chairman so designated and shall elect a secretary of the board.

In case of failure to elect a secretary after three ballots or viva voce votes, the member of the board having the greatest seniority shall be secretary of the board, except that if that member has become chairman because of election to that position or because of designation as a result of the failure to elect a chairman, the member with the next greatest seniority shall be secretary. In no case, however, shall the chairman and secretary be members of the same political party.

Seniority for the purposes of this section shall be determined by the total amount of time that a person has served as a member of the board, beginning from the date that that person took the oath of office as a member.

b. The boards shall have power in their discretion to hold their meetings for any purpose, except organization, in any part of their respective counties. Meetings may be called by either the chairman or the secretary of the board, or at the request of any two members.

10. R.S.19:7-2 is amended to read as follows:

**Appointment of challengers.**

19:7-2. A candidate who has filed a petition for an office to be voted for at any primary election, and a candidate for an office whose name may appear upon the ballot to be used in any election, may also act as a challenger as herein provided and may likewise appoint 2 challengers for each district in which he is to be voted for; but only 2 challengers shall be allowed for each election district to represent all the candidates nominated in and by the same original petition. The appointment of the challengers shall be in writing under the hand of the person or persons making same and shall specify the names and residences of the challengers and the election districts for which they are severally appointed. Whenever a public question shall appear on the ballot to be voted upon by the voters of an election district and application has been made by the proponents or opponents of such public question for the appointment of challengers, the county board may in its discretion appoint 2 challengers each to represent such proponents or opponents. Such challengers shall be in addition to those provided for in section 19:7-1 of this Title.

11. R.S.19:8-2 is amended to read as follows:

**Suggested list of available places, selection.**

19:8-2. The clerk of every municipality, on or before January 10 of each presidential year and on or before April 1 of every other year, shall certify to the county board of every county wherein such municipality is located a suggested list of places in the municipality suitable for polling places. The county board shall select the polling places for the election districts in the municipalities of the county for all elections in the municipalities thereof, including all commission government elections in the county. The county boards shall not be obliged to select the polling places so suggested by the municipal clerks, but may choose others where they may deem it expedient. Preference in locations shall be given to schools and public buildings where space shall be made available by the authorities in charge, upon request, if same can be done without detrimental interruption of school or the usual public services thereof, and for which the authority in charge shall be reimbursed, by agreement, for expenses of light, janitorial and other attending services arising from such use. In no case shall the authorities in charge of a public school or other public building deny the request of the county board for the use, as a polling place, of any building they own or lease.

Where the county board shall fail to agree as to the selection of the polling place or places for any election district, within five days of an election, the county clerk shall select and designate the polling place or places in any such election district.

The county board may select a polling place other than a schoolhouse or public building outside of the district but such polling place shall not be located more than 1,000 feet distant from the boundary line of the district.

12. Section 4 of P.L.1991, c.429 (C.19:8-3.4) is amended to read as follows:

**C.19:8-3.4 Report of inaccessible polling places.**

4. No later than February 15 of each presidential year and no later than May 15th of every other year, each county board of elections shall report to the Attorney General, on the form provided by the Attorney General, a list of all polling places in the county, specifying any found inaccessible. The county board of elections shall indicate the reasons for inaccessibility, and the efforts made pursuant to this act to locate alternative polling places or to make the existing facilities accessible. Each county board of elections shall notify the Attorney General of any changes in polling place locations before the next general election, including any changes required due to the alteration of district boundaries.

13. R.S.19:8-4 is amended to read as follows:

**Certification of list of polling places.**

19:8-4. The county board before February 15 of each presidential year and May 15 of every other year shall certify a list of polling places so selected to the sheriff and to the clerk of the county and to the superintendent of elections of the county if any there be and to each municipal clerk in the county.

14. R.S.19:9-2 is amended to read as follows:

**Preparation of information and election supplies.**

19:9-2. The Director of the Division of Elections shall prepare and distribute on or before January 10 of each presidential year and on or before April 1 of every other year prior to the primary election for the general election and the general election such information as may be needed relative to election procedures for the ensuing year.

The county board of elections shall prepare and distribute on or before January 10 of each presidential year and on or before April 1 of every other year, registration and voting instructions printed in at least 14-point type for conspicuous display at each polling place at any election.

All other books, ballots, envelopes and other blank forms which the county clerk is required to furnish under any other section of this Title, stationery and supplies for the primary election for the general election, the presidential primary election for delegates and alternates to national conventions and the general election, shall be furnished, prepared and distributed by the clerks of the various counties; except that all books, blank forms, stationery and supplies, articles and equipment which may be deemed necessary to be furnished, used or issued by the county board or superintendent shall be furnished, used or issued, prepared and distributed by such county board or superintendent, as the case may be.

The county board shall furnish and deliver to the county clerk, the municipal clerks and the district boards in municipalities having more than one election district: a map or description of the district lines of their respective election districts, together with the street and house numbers where possible in such election districts and a list or map of all of the polling places within the county to assist any voter in identifying the correct location of the polling place at which the voter should vote if that voter erroneously reports to the municipal clerk or the wrong polling place.

Nothing in subtitle 2 of the Title, Municipalities and Counties (R.S.40:16-1 et seq.), shall in anywise be construed to affect, restrict, or abridge the powers conferred on the county clerks, county boards or superintendents by this Title.

15. R.S.19:12-1 is amended to read as follows:

**Certification as to creation of political party.**

19:12-1. The Attorney General shall within thirty days after the completion of the canvass by the board of State canvassers, certify to each county clerk and county board the fact that at the next preceding general election held for the election of all of the members of the General Assembly ten per centum (10%) of the total vote cast in the State for members of the General Assembly had been cast for candidates having the same designation, thereby creating, within the meaning of this Title, a political party, to be known and recognized as such under the same designation as used by the candidates for whom the required number of votes were cast.

He shall also not later than the sixtieth day preceding the presidential primary election in each presidential year in which electors of President and Vice-President of the United States are to be selected, and not later than the sixtieth day preceding the primary election for the general election in which a representative of the United States Senate, members of the House of Representatives, a Governor, or Senator, or member or members of the General Assembly for any county, or any of them, are to be elected or any public question is to be submitted to the voters of the entire State, direct and cause to be delivered to the clerk of the county and the county board wherein any such election is to be held, a notice stating that such officer or officers are to be elected and that such public question is to be submitted to the voters of the entire State at the ensuing general election.

16. R.S.19:12-3 is amended to read as follows:

**County clerk, forwarding of notice of creation of political party to municipal clerks.**

19:12-3. The clerk of each county shall immediately upon the receipt of the certificate from the Attorney General setting forth that a political party has been created, forward a certified copy of such certificate to each municipal clerk of his county.

He shall also, not later than the fiftieth day preceding the presidential primary election in each presidential year and the primary election for the general election in every other year, cause a copy of the notice received from the Attorney General of the officer or officers to be elected at the ensuing general election, certified under his hand to be true and correct, to be delivered to the clerk of each municipality in the county.

17. R.S.19:12-5 is amended to read as follows:

**Notice that officers will be chosen at general election.**

19:12-5. The clerk of every county shall, not later than the fiftieth day preceding the presidential primary election in each presidential year and the

primary election for the general election in every other year, immediately preceding the expiration of the term of office of all other officers who are voted for by the voters of the entire county or of more than one municipality within the county, direct and cause to be delivered to the clerk of each municipality and the county board in counties of the first class, a notice that such officer or officers, as the case may be, will be chosen at the ensuing general election.

18. R.S.19:12-6 is amended to read as follows:

**Statement designating public offices to be filled at election.**

19:12-6. All municipal clerks, not later than the fiftieth day preceding the presidential primary election in each presidential year and the primary election for the general election in every other year, shall make and certify under their hands and seals of office and forward to the clerk of the county in which the municipality is located a statement designating the public offices to be filled at such election, and the number of persons to be voted for each office. In counties of the first class such statement shall also be forwarded to the county board.

19. R.S.19:12-7 is amended to read as follows:

**Publication of notice of elections.**

19:12-7. a. The county board in each county shall cause to be published in a newspaper or newspapers which, singly or in combination, are of general circulation throughout the county, a notice containing the information specified in subsection b. hereof, except for such of the contents as may be omitted pursuant to subsection c. or d. hereof. Such notice shall be published once during the 30 days next preceding the day fixed for the closing of the registration books for the primary election, once during the calendar week next preceding the week in which the presidential primary election or the primary election for the general election is held, as the case may be, once during the 30 days next preceding the day fixed for the closing of the registration books for the general election, and once during the calendar week next preceding the week in which the general election is held.

b. Such notice shall set forth:

(1) For the primary election for the general election:

(a) That a primary election for making nominations for the general election and for the selection of members of the county committees of each political party will be held on the day and between the hours and at the places provided for by or pursuant to this Title.

(b) The place or places at which and hours during which a person may register, the procedure for the transfer of registration, and the date on which the books are closed for registration or transfer of registration.

(c) The several State, county, municipal and party offices or positions to be filled, or for which nominations are to be made, at such primary election.

(d) The existence of registration and voting aids, including: (i) the availability of registration and voting instructions at places of registration as provided under R.S.19:31-6; and (ii), if available, the accessibility of voter information to the deaf by means of a telecommunications device.

(e) The availability of assistance to a person unable to vote due to blindness, disability or inability to read or write.

(f) In the case of the notice published during the calendar week next preceding the week in which the primary election is held, that a voter who, prior to the election, shall have moved within the same county without (i) filing, on or before the 29th day preceding the election, a notice of change of residence with the commissioner of registration of the county or the municipal clerk of the municipality in which the voter resides on the day of the election, (ii) returning the confirmation notice sent to the voter by the commissioner of registration of the county, if such a notice has been sent to the voter, or (iii) otherwise notifying the commissioner of registration of the voter's change of address within the county shall be permitted to correct the voter's registration and to vote in the primary election by provisional ballot at the polling place of the district in which the voter resides on the day of the election. The notice shall further provide that the voter may contact the county commissioner of registration or municipal clerk to determine the proper polling place location for the voter.

(2) For the general election:

(a) That a general election will be held on the day and between the hours and at the places provided for by or pursuant to this Title.

(b) The place or places at which and hours during which a person may register, the procedure for transfer of registration, and the date on which the books are closed for registration or transfer of registration.

(c) The several State, county and municipal offices to be filled and, except as provided in R.S.19:14-33 of this Title as to publication of notice of any Statewide proposition directed by the Legislature to be submitted to the people, the State, county and municipal public questions to be voted upon at such general election.

(d) The existence of registration and voting aids, including: (i) the availability of registration and voting instructions at places of registration as provided under R.S.19:31-6; and (ii) the accessibility of voter information to the deaf by means of a telecommunications device.

(e) The availability of assistance to a person unable to vote due to blindness, disability or inability to read or write.

(f) In the case of the notice published during the calendar week next preceding the week in which the general election is held, that a voter who, prior to the election, shall have moved within the same county without (i) filing, on or before the 29th day preceding the election, a notice of change of residence with the commissioner of registration of the county or the municipal clerk of the municipality in which the voter resides on the day of the election, (ii) returning the confirmation notice sent to the voter by the commissioner of registration of the county, if such a notice has been sent to the voter, or (iii) otherwise notifying the commissioner of registration of the voter's change of address within the county shall be permitted to correct the voter's registration and to vote in the general election by provisional ballot at the polling place of the district in which the voter resides on the day of the election. The notice shall further provide that the voter may contact the county commissioner of registration or municipal clerk to determine the proper polling place location for the voter.

(3) For a school election:

(a) The day, time and place thereof,

(b) The offices, if any, to be filled at the election,

(c) The substance of any public question to be submitted to the voters thereat,

(d) That a voter who, prior to the election, shall have moved within the same county without (i) filing, on or before the 29th day preceding the election, a notice of change of residence with the commissioner of registration of the county or the municipal clerk of the municipality in which the voter resides on the day of the election, (ii) returning the confirmation notice sent to the voter by the commissioner of registration of the county, if such a notice has been sent to the voter, or (iii) otherwise notifying the commissioner of registration of the voter's change of address within the county shall be permitted to correct the voter's registration and to vote in the school election by provisional ballot at the polling place of the district in which the voter resides on the day of the election,

(e) That if the voter has any questions as to where to vote on the day of the election, the voter may contact the county commissioner of registration or municipal clerk to determine the proper polling place location for the voter; and

(f) Such other information as may be required by law.

(4) For the presidential primary election:

(a) That a primary for the selection of delegates and alternates to national conventions of political parties will be held on the day and between the hours and at the places provided for pursuant to this Title.

(b) The place or places at which and hours during which a person may register, the procedure for the transfer of registration, and the date on which the books are closed for registration or transfer of registration.

(c) The existence of registration and voting aids, including: (i) the availability of registration and voting instructions at places of registration as provided under R.S.19:31-6; and (ii), if available, the accessibility of voter information to the deaf by means of a telecommunications device.

(d) The availability of assistance to a person unable to vote due to blindness, disability or inability to read or write.

c. If such publication is made in more than one newspaper, it shall not be necessary to duplicate in the notice published in each such newspaper all the information required under this section, so long as:

(1) The municipal officers or party positions to be filled, or nominations made, or municipal public questions to be voted upon by the voters of any municipality, shall be set forth in at least one newspaper having general circulation in such municipality;

(2) All offices to be filled, or nominations made therefor, or public questions to be voted upon, by the voters of the entire State or of the entire county shall be set forth in a newspaper or newspapers which, singly or in combination, have general circulation throughout the county;

(3) Information relating to nominations and elections in each Legislative District comprised in whole or part in the county, shall be published in at least a newspaper or newspapers which singly or in combination, have general circulation in every municipality of the county which is comprised in such legislative district.

d. Such part or parts of the original notices as published which pertain to day of registration or primary election which has occurred shall be eliminated from such notice in succeeding insertions.

e. (Deleted by amendment, P.L.1999, c.232.)

f. The cost of publishing the notices required by this section shall be paid by the respective counties, unless otherwise provided for by law.

20. Section 3 of P.L.1990, c.57 (C.19:13-14.1) is amended to read as follows:

**C.19:13-14.1 Primary candidate for municipal office may not serve as other political party candidate in general election.**

3. A person whose name appears on the ballot at a primary election for the general election as a candidate for nomination by a political party for any municipal office shall not be eligible to serve as the candidate of any other political party for that office in that municipality at the general election following that primary.



21. R.S.19:13-20 is amended to read as follows:

**Vacancy procedure.**

19:13-20. In the event of a vacancy, howsoever caused, among candidates nominated at a primary election for the general election, which vacancy shall occur not later than the 51st day before the general election, or in the event of inability to select a candidate because of a tie vote at such primary, a candidate shall be selected in the following manner:

a. (1) In the case of an office to be filled by the voters of the entire State, the candidate shall be selected by the State committee of the political party wherein such vacancy has occurred.

(2) In the case of an office to be filled by the voters of a single and entire county, the candidate shall be selected by the county committee in such county of the political party wherein such vacancy has occurred.

(3) In the case of an office to be filled by the voters of a portion of the State comprising all or part of two or more counties, the candidate shall be selected by those members of the county committees of the party wherein the vacancy has occurred who represent those portions of the respective counties which are comprised in the district from which the candidate is to be elected.

(4) In the case of an office to be filled by the voters of a portion of a single county, the candidate shall be selected by those members of the county committee of the party wherein the vacancy has occurred who represent those portions of the county which are comprised in the district from which the candidate is to be elected.

At any meeting held for the selection of a candidate under this subsection, a majority of the persons eligible to vote thereat shall be required to be present for the conduct of any business, and no person shall be entitled to vote at that meeting who is appointed to the State committee or county committee after the seventh day preceding the date of the meeting.

In the case of a meeting held to select a candidate for other than a State-wide office, the chairman of the meeting shall be chosen by majority vote of the persons present and entitled to vote thereat. The chairman so chosen may propose rules to govern the determination of credentials and the procedures under which the meeting shall be conducted, and those rules shall be adopted upon a majority vote of the persons entitled to vote upon the selection. If a majority vote is not obtained for those rules, the delegates shall determine credentials and conduct the business of the meeting under such other rules as may be adopted by a majority vote. All contested votes taken at the selection meeting shall be by secret ballot.

b. (1) Whenever in accordance with subsection a. of this section members of two or more county committees are empowered to select a candidate

to fill a vacancy, it shall be the responsibility of the chairmen of said county committees, acting jointly not later in any case than the seventh day following the occurrence of the vacancy, to give notice to each of the members of their respective committees who are so empowered of the date, time and place of the meeting at which the selection will be made, that meeting to be held at least one day following the date on which the notice is given.

(2) Whenever in accordance with the provisions of subsection a. of this section members of a county committee are empowered to select a candidate to fill a vacancy, it shall be the responsibility of the chairman of such county committee, not later in any case than the seventh day following the occurrence of the vacancy, to give notice to each of the members of the committee who are so empowered of the date, time and place of the meeting at which the selection will be made, that meeting to be held at least one day following the date on which the notice is given.

(3) A county committee chairman or chairmen who call a meeting pursuant to paragraph (1) or (2) of this subsection shall not be entitled to vote upon the selection of a candidate at such meeting unless he or they are so entitled pursuant to subsection a.

(4) Whenever in accordance with the provisions of subsection a. of this section the State committee of a political party is empowered to select a candidate to fill a vacancy, it shall be the responsibility of the chairman of that State committee to give notice to each of the members of the committee of the date, time and place of the meeting at which the selection will be made, that meeting to be held at least one day following the date on which the notice is given.

c. Whenever a selection is to be made pursuant to this section to fill a vacancy resulting from inability to select a candidate because of a tie vote at a primary election for the general election, the selection shall be made from among those who have thus received the same number of votes at the primary.

d. A selection made pursuant to this section shall be made not later than the 48th day preceding the date of the general election, and a statement of such selection shall be filed with the Attorney General or the appropriate county clerk, as the case may be, not later than that day, and in the following manner:

(1) A selection made by a State committee of a political party shall be certified to the Attorney General by the State chairman of the political party.

(2) A selection made by a county committee of a political party, or a portion of the members thereof, shall be certified to the county clerk of the county by the county chairman of such political party; except that when such selection is of a candidate for the Senate or General Assembly or the United States House of Representatives the county chairman shall certify the selec-

tion to the State chairman of such political party, who shall certify the same to the Attorney General.

(3) A selection made by members of two or more county committees of a political party acting jointly shall be certified by the chairmen of said committees, acting jointly, to the State chairman of such political party, who shall certify the same to the Attorney General.

e. A statement filed pursuant to subsection d. of this section shall state the residence and post office address of the person so selected, and shall certify that the person so selected is qualified under the laws of this State to be a candidate for such office, and is a member of the political party filling the vacancy. Accompanying the statement the person endorsed therein shall file a certificate stating that he is qualified under the laws of this State to be a candidate for the office mentioned in the statement, that he consents to stand as a candidate at the ensuing general election and that he is a member of the political party named in said statement, and further that he is not a member of, or identified with, any other political party or any political organization espousing the cause of candidates of any other political party, to which shall be annexed the oath of allegiance prescribed in R.S.41:1-1 duly taken and subscribed by him before an officer authorized to take oaths in this State. The person so selected shall be the candidate of the party for such office at the ensuing general election. Each candidate for the office of Governor or the office of member of the Senate or General Assembly filing a certification shall annex thereto a statement signed by the candidate that he or she:

(1) has not been convicted of any offense graded by Title 2C of the New Jersey Statutes as a crime of the first, second, third or fourth degree, or any offense in any other jurisdiction which, if committed in this State, would constitute such a crime; or

(2) has been so convicted, in which case, the candidate shall disclose on the statement the crime for which convicted, the date and place of the conviction and the penalties imposed for the conviction. Such a candidate may, as an alternative, submit with the statement a copy of an official document that provides such information. If the candidate has been convicted of more than one criminal offense, such information about each conviction shall be provided. Records expunged pursuant to chapter 52 of Title 2C of the New Jersey Statutes shall not be subject to disclosure.

22. R.S.19:14-6 is amended to read as follows:

**Column designations; accompanying instructions.**

19:14-6. In each column, immediately below the six-point rule, shall be printed the proper word or words to designate the column, to be known as the "column designation."

In the columns at the extreme left shall be printed the name of each of the political parties which made nominations at the next preceding presidential primary election, during the same year such an election is held, and the next preceding primary election for the general election every year, directly under which shall appear the words "to vote for any candidate whose name appears in the column below, mark a cross x, plus + or check ✓ in the square at the left of the name of such candidate. Do not vote for more candidates than are to be elected to any office." Such columns shall be three inches in width.

The column next to the right of such columns shall be designated "personal choice," under which shall appear the words "in the blank column below, under the proper title of office, the voter may write or paste the name of any person for whom he desires to vote, whose name is not printed on this ballot, and shall mark a cross x, plus + or check ✓ in the square at the left of such name. Do not vote for more candidates than are to be elected to any office." There shall also be the same instructions regarding electors of president and vice-president which now appear at the head of all other columns. This column shall be four inches in width.

The remaining column or columns, as the case may be, shall each be designated "Nomination by Petition," under which shall be printed the words "to vote for any candidate whose name appears in the column below mark a cross x, plus + or check ✓ in the square at the left of the name of such candidate. Do not vote for more candidates than are to be elected to any office." These columns shall be four inches in width.

Below the column designations and accompanying instructions and not more than one and one-half inches below the six-point diagram rule and parallel thereto, shall be printed a six-point diagram rule extending across the entire ballot from one four point rule to the other.

23. R.S.19:14-8 is amended to read as follows:

**Arrangement of ballots.**

19:14-8. In the columns of each of the political parties which made nominations at the next preceding primary election to the general election and in the personal choice column, within the space between the two-point hair line rules, there shall be printed the title of each office to be filled at such election, except as hereinafter provided.

Such titles of office shall be arranged in the following order: member of the United States Senate; Governor; member of the House of Representatives; member of the State Senate; members of the General Assembly; county executive, in counties that have adopted the county executive plan of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.);

sheriff; county clerk; surrogate; register of deeds and mortgages; county supervisor; members of the board of chosen freeholders; coroners; mayor and members of municipal governing bodies, and any other titles of office. Above each of such titles of office, except the one at the top, shall be printed a two-point diagram rule in place of the two-point hair line rule. Below the titles of such offices shall be printed the names of the candidates for the offices.

In the columns of each of the political parties which made nominations at the next preceding presidential primary election and in the personal choice column, within the space between the two-point hair line rules, there shall be printed the title of office for electors of President and Vice President of the United States.

The arrangement of the names of candidates for any office for which more than one are to be elected shall be determined in the manner hereinafter provided, as in the case of candidates nominated by petition.

When no nomination for an office has been made the words "No Nomination Made" in type large enough to fill the entire space or spaces below the title of office shall be printed upon the ballot.

Immediately to the left of the name of each candidate, at the extreme left of each column, including the personal choice column, shall be printed a square, one-quarter of an inch in size, formed by two-point diagram rules. In the personal choice column no names of candidates shall be printed.

To the right of the title of each office in the party columns and the personal choice column shall be printed the words "Vote for," inserting in words the number of persons to be elected to such office.

24. R.S.19:14-12 is amended to read as follows:

**Procedure for determining position on ballot.**

19:14-12. The county clerk shall draw lots in his county to determine which columns the political parties which made nominations at the next preceding presidential primary election in each presidential year and at the primary election for the general election every year, shall occupy on the ballot in the county. The name of the party first drawn shall occupy the first column at the left of the ballot, and the name of the party next drawn shall occupy the second column, and so forth.

The position which the names of candidates, and bracketed groups of names of candidates nominated by petitions for all offices, shall have upon the general election ballot, shall be determined by the county clerks in their respective counties.

The manner of drawing the lots shall be as follows: paper slips with the names of each political party written thereon, shall be placed in capsules of

the same size, shape, color and substance and then placed in a covered box with an aperture in the top large enough to admit a man's hand and to allow the capsules to be drawn therefrom. The box shall be well shaken and turned over to thoroughly intermingle the capsules. The county clerk or his deputy shall at his office, draw from the box each capsule separately without knowledge on his part as to which capsule he is drawing.

The person making the drawing shall open the capsule and shall make public announcement at the drawing of each name, the order in which name is drawn and the office for which the drawing is made.

Where there is but one person to be elected to an office, the names of the several candidates who have filed petitions for such office shall be written upon paper slips and placed in separate capsules of the same size, shape, color and substance. The capsules shall be placed in a covered box with an aperture in the top large enough to admit a man's hand and to allow the capsules to be drawn therefrom. The box shall be turned and shaken thoroughly to mix the capsules and the capsules shall be withdrawn one at a time.

When there is more than one person to be elected to an office where petitions have designated that certain candidates shall be bracketed, the position of such bracketed names on the ballot (each bracketed group to be treated as a single name), together with individuals who have filed petitions for such office, shall be determined as above described.

Any legal voter of the county or municipality, as the case may be, shall have the privilege of witnessing the drawing.

The name or names of the candidate or bracketed group of candidates first drawn from the box shall be printed directly below the proper title of the office for which they were nominated, and the name or names of the candidate or bracketed group of candidates next drawn shall be printed next in order, and so on, until the last name or bracketed group of names shall be drawn from the box.

The arrangement of names of any bracketed group of candidates for any office for which more than one are to be elected shall be printed in the same order on the ballot as they were arranged on the petition of nomination.

The drawing for the positions which the names of candidates and bracketed groups of names of candidates, nominated by petition for office, and for the columns which the political parties which made nominations at the next preceding presidential primary election and the preceding primary election for the general election shall occupy upon the general election ballot, shall be held at 3 o'clock in the afternoon of the eighty-fifth day prior to the day of the general election.

25. R.S.19:23-1 is amended to read as follows:

**Notice, State committee to county committee; county committee to municipal clerks.**

19:23-1. The chairman of the State committee of a political party shall, on or before March 1 in the year when a Governor is to be elected, notify in writing the chairman of each county committee of such party of the number of male or female members or members with less than one full vote to be elected from the county at the ensuing primary election for the general election, and each such chairman shall, on or before April 1 of such year, send a copy of such notice to the county clerk.

The chairman of each county committee shall also, on or before January 10 of each presidential year and on or before April 1 of every other year, file with the clerks of the several municipalities the number of committeemen to be elected at the ensuing primary for the general election to the county committee.

26. R.S.19:23-24 is amended to read as follows:

**Primary election ballots; position.**

19:23-24. The position which the candidates and bracketed groups of names of candidates for the primary for the general election shall have upon the ballots used for the primary election for the general election, in the case of candidates for nomination for members of the United States Senate, Governor, members of the House of Representatives, members of the State Senate, members of the General Assembly, candidates for party positions, and county offices or party positions which are to be voted for by the voters of the entire county or a portion thereof greater than a single municipality, including a congressional district which is wholly within a single municipality, shall be determined by the county clerks in their respective counties; and, excepting in counties where R.S.19:49-2 applies, the position on the ballot used for the primary election for the general election in the case of candidates for nomination for office or party position wherein the candidates for office or party position to be filled are to be voted for by the voters of a municipality only, or a subdivision thereof (excepting in the case of members of the House of Representatives) shall be determined by the municipal clerk in such municipalities, in the following manner: The county clerk, or his deputy, or the municipal clerk or his deputy, as the case may be, shall at his office on the 47th day prior to the primary election for the general election at three o'clock in the afternoon draw from the box, as hereinafter described, each card separately without knowledge on his part as to which card he is drawing. Any legal voter of the county or municipality, as the case may be, shall have the privilege of witnessing such drawing. The person making the drawing shall make public announcement at the drawing of each name, the order in which same is drawn, and the office for which the drawing is made.

When there is to be but one person nominated for the office, the names of the several candidates who have filed petitions for such office shall be written upon cards (one name on a card) of the same size, substance and thickness. The cards shall be deposited in a box with an aperture in the cover of sufficient size to admit a man's hand. The box shall be well shaken and turned over to thoroughly mix the cards, and the cards shall then be withdrawn one at a time. The first name drawn shall have first place, the second name drawn, second place, and so on; the order of the withdrawal of the cards from the box determining the order of arrangement in which the names shall appear upon the primary election ballot. Where there is more than one person to be nominated to an office where petitions have designated that certain candidates shall be bracketed, the position of such bracketed names on the ballot (each bracket to be treated as a single name), together with individuals who have filed petitions for nomination for such office, shall be determined as above described. Where there is more than one person to be nominated for an office and there are more candidates who have filed petitions than there are persons to be nominated, the order of the printing of such names upon the primary election ballots shall be determined as above described.

The county clerk in certifying to the municipal clerk the offices to be filled and the names of candidates to be printed upon the ballots used for the primary election for the general election, shall certify them in the order as drawn in accordance with the above described procedure, and the municipal clerk shall print the names upon the ballots as so certified and in addition shall print the names of such candidates as have filed petitions with him in the order as determined as a result of the drawing as above described. Candidates for the office of the county executive in counties that have adopted the county executive plan of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), shall precede the candidates for other county offices for which there are candidates on the ballot used for the primary election for the general election.

27. R.S.19:23-40 is amended to read as follows:

**Primary elections, dates; time.**

19:23-40. The presidential primary election shall be held for all political parties in each presidential year on the last Tuesday in February.

The primary election for the general election shall be held for all political parties upon the Tuesday next after the first Monday in June.

All primary elections shall occur between the hours of 6:00 A.M. and 8:00 P.M., Standard Time and shall be held for all political parties in the same places as hereinbefore provided for the ensuing general election.



28. R.S.19:23-42 is amended to read as follows:

**Method of conducting primary elections.**

19:23-42. The presidential primary election and the primary for the general election shall be conducted by the district boards substantially in the same manner as the general election, except as herein otherwise provided.

Each district board may allow one member thereof at a time to be absent from the polling place or room for a period not exceeding one hour between the hours of one o'clock and five o'clock in the afternoon or for such shorter time as it shall see fit; but at no time from the opening of the polls to the completion of the canvass shall there be less than a majority of the board present in the polling room or place.

29. R.S.19:23-45 is amended to read as follows:

**Requirements for voting in primary elections.**

19:23-45. No voter shall be allowed to vote at any primary election unless his name appears in the signature copy register.

A voter who votes in a primary election of a political party or who signs and files with the municipal clerk or the county commissioner of registration a declaration that he desires to vote in any primary election of a political party shall be deemed to be a member of that party until he signs and files a declaration that he desires to vote in a primary election of another political party at which time he shall be deemed to be a member of such other political party. The Attorney General shall cause to be prepared political party affiliation declaration forms and shall provide such forms to the commissioners of registration of the several counties and to the clerks of the municipalities within such counties.

No voter, except a newly registered voter at the first primary at which he is eligible to vote, or a voter who has not previously voted in a primary election, may vote in a primary election of a political party unless he was deemed to be a member of that party on the fiftieth day next preceding such primary election.

A member of the county committee of a political party and a public official or public employee holding any office or public employment to which he has been elected or appointed as a member of a political party shall be deemed a member of such political party.

Any person voting in the primary ballot box of any political party in any primary election in contravention of the election law shall be guilty of a misdemeanor, and any person who aids or assists any such person in such violation by means of public proclamation or order, or by means of any public or private direction or suggestions, or by means of any help or assistance or cooperation, shall likewise be guilty of a misdemeanor.

30. Section 2 of P.L.1976, c.16 (C.19:23-45.1) is amended to read as follows:

**C.19:23-45.1 Notice of requirements for voting in primary elections, publication.**

2. a. The county commissioner of registration in each of the several counties, shall cause a notice to be published in each municipality of their respective counties in a newspaper or newspapers circulating therein. The notice to be so published shall be published once during each of the 2 calendar weeks next preceding the week in which the fiftieth day next preceding any primary election of a political party occurs.

b. The notice required to be published by the preceding paragraph shall inform the reader thereof that no voter, except a newly registered voter at the first primary at which he is eligible to vote, or a voter who has not previously voted in a primary election may vote in a primary election of a political party unless he was deemed to be a member of that party on the fiftieth day next preceding such primary election. It shall further inform the reader thereof that a voter who votes in any primary election of a political party or who signs and files with the municipal clerk or the county commissioner of registration a declaration that he desires to vote in a primary election of a political party shall be deemed to be a member of that party until he signs and files a declaration that he desires to vote in a primary election of another political party at which time he shall be deemed to be a member of such other political party. The notice shall also state the time and location where a person may obtain political party affiliation declaration forms.

31. R.S.19:23-46 is amended to read as follows:

**Determination of right to vote.**

19:23-46. Each voter offering to vote shall announce his name and the party primary in which he wishes to vote. The district board shall thereupon ascertain by reference to the signature copy register or the primary election registry book required for either the presidential primary or the primary election for the general election by this title, as the case may be, and, in municipalities not having permanent registration, if necessary by reference to the primary party poll books of the preceding presidential primary election or primary election for the general election, that such voter is registered as required by this title and also that he is not ineligible or otherwise disqualified by the provisions of section 19:23-45 of this title; in which event he shall be allowed to vote.

32. R.S.19:23-49 is amended to read as follows:

**Counting of votes.**

19:23-49. At the close of a presidential primary election and a primary election for the general election each district board shall immediately proceed to count the votes cast at the election and ascertain the results thereof for the candidates of each political party holding such elections, proceeding in the manner indicated by the statement hereinafter provided for, and as nearly as may be in the manner herein required for the counting by the district board of votes cast at the general election.

33. R.S.19:23-58 is amended to read as follows:

**Provisions of title applicable.**

19:23-58. Any provisions of this title which pertain particularly to any election or to the general election shall apply to the presidential primary election or the primary election for the general election, as the case may be, insofar as they are not inconsistent with the special provisions of this title pertaining to the presidential primary election or the primary election for the general election.

34. R.S.19:24-1 is amended to read as follows:

**Notification relative to number of delegates, alternates to be elected.**

19:24-1. In every year in which presidential primary elections are to be held as herein provided for the election of delegates and alternates to the national conventions of political parties, including any national mid-term convention or conference of a political party, the chairman of the State committee of each political party shall notify the Attorney General, on or before January 1 of that year, of the number of delegates-at-large and the number of alternates-at-large to be elected to the next national convention of such party by the voters of the party throughout the State, and also of the number of delegates and alternates to be chosen to such convention in the respective congressional districts or other territorial subdivisions of the State as mentioned in such notification.

If the State chairmen, or either of them, shall fail to file notice, the Attorney General shall ascertain such facts from the call for its national convention issued by the National or State committee.

35. R.S.19:24-2 is amended to read as follows:

**Certification as to number of delegates, alternates to be elected.**

19:24-2. The Attorney General shall, on or before January 1 of that year, certify to the county clerk and county board of each county the number of delegates and alternates-at-large to be chosen by each such party and the

number of delegates and alternates to be chosen in each congressional district or other territorial subdivision of the State, composed in whole or in part of the county of such county clerk.

Any provisions of this Title which pertain particularly to any election or to the general election or to the primary election for the general election shall apply to the presidential primary election for delegates and alternates to national conventions insofar as they are not inconsistent with the special provisions of this Title pertaining to the presidential primary election for delegates and alternates to national conventions.

Notwithstanding any provision of this Title, national and State party rules shall govern the selection of delegates and alternates to national party conventions, provided the State chairman of the political party notifies the Attorney General prior to January 1 of the year in which delegates and alternates are elected of the applicable party rules governing the delegate selection process. The Attorney General shall notify the county clerks prior to January 10 of the year in which delegates and alternates are elected of the applicable party rules, if any, which apply to matters within their jurisdiction. Pursuant to this section, the Attorney General shall issue to the county clerks uniform regulations governing the delegate selection process.

36. R.S.19:24-4 is amended to read as follows:

**National convention delegates.**

19:24-4. Not less than 100 members of each such political party may file with the Attorney General at least 57 days prior to the presidential primary election in any year of a national convention a petition requesting that the name of a person therein indorsed shall be printed on the presidential primary ticket of such political party as candidate for the position of delegate-at-large or alternate-at-large, to be chosen by the party voters throughout the State to the national convention of that party, or as a delegate or alternate to be chosen to that convention by the voters of any congressional district.

The signers to the petition for any delegate-at-large or alternate-at-large shall be legal voters resident in the State; and the signers for any delegate or alternate from any Congressional district shall be voters of such district.

The Attorney General shall not later than the 48th day preceding the presidential primary election certify to each county clerk and county board such nominations for delegates and alternates-at-large and the nominations for delegate or alternate for any Congressional district.

37. Section 1 of P.L.1952, c.2 (C.19:25-3) is amended to read as follows:

**C.19:25-3 Presidential candidates.**

1. Not less than one thousand voters of any political party may file a petition with the Attorney General on or before the 57th day before a presidential primary election, requesting that the name of the person indorsed therein as a candidate of such party for the office of President of the United States shall be printed upon the official presidential primary ballot of that party for the then ensuing election for delegates and alternates to the national convention of such party.

The petition shall be prepared and filed in the form and manner herein required for the indorsement of candidates to be voted for at the primary election for the general election, except that the candidate shall not be permitted to have a designation or slogan following his name, and that it shall not be necessary to have the consent of such candidate for President indorsed on the petition.

38. Section 2 of P.L.1952, c.2 (C.19:25-4) is amended to read as follows:

**C.19:25-4 Certification of names indorsed.**

2. The Attorney General shall certify the names so indorsed to the county clerk of each county not later than the 48th day before such presidential primary election, but if any person so indorsed shall on or before such date decline in writing, filed in the office of the Attorney General, to have his name printed upon the presidential primary election ballot as a candidate for President, the Attorney General shall not so certify such name.

39. R.S.19:26-1 is amended to read as follows:

**Return of election documents, equipment.**

19:26-1. At the close of all primary elections held according to the provisions of this title, and after counting the ballots cast at such primary and making the statements thereof as herein provided, each district board shall place all ballots voted at the election and all spoiled and unused ballots inside the ballot boxes used at such election, and after locking and sealing the same, shall forthwith deliver the ballot boxes to the municipal clerk and the keys thereof to the county clerk. The signature copy register binders and the current primary party poll books used at any primary election shall be returned by the district boards to the commissioner, not later than noon of the day following the preceding primary election.

The commissioner shall return the primary party poll books used at any primary election to the municipal clerks not later than one month preceding the next primary election.

The county clerks, in counties other than counties of the first class, shall, during the ten days next preceding the third registry day deliver, at their offices or in any other way they may see fit, the register of voters to the respective district boards.

The county clerks in counties of the first class shall deliver the register of voters to the municipal clerks, who shall deliver such register to the district boards at the same time and with the official general election sample ballots.

40. R.S.19:27-11 is amended to read as follows:

**Filling vacancies in county, municipal offices.**

19:27-11. In the event of any vacancy in any county or municipal office, except for the office of a member of the board of chosen freeholders, which vacancy shall occur after the 11th day preceding the last day for filing petitions for nominations for the primary election for the general election and on or before the 51st day preceding the general election, each political party may select a candidate for the office in question in the manner prescribed in R.S.19:13-20 for selecting candidates to fill vacancies among candidates nominated at primary elections to the general elections. A statement of such selection shall be filed with the county clerk not later than the close of business of the 48th day preceding the date of the general election.

Besides the selection of candidates by each political party as before provided, candidates may also be nominated by petition in a similar manner as herein provided for direct nomination by petition for the general election but the petition shall be filed with the county clerk at least 48 days prior to such general election.

When the vacancy occurs in a county office the county clerk shall forthwith give notice thereof to the chairman of the county committee of each political party and in counties of the first class to the county board, and in case the vacancy occurs in a municipal office the municipal clerk shall forthwith give notice thereof to the county clerk, the chairman of the county committee of each political party and in counties of the first class the county board.

The county clerk shall print on the ballots for the territory affected, in the personal choice column, the title of office and leave a proper space under such title of office; and print the title of office and the names of such persons as have been duly nominated, in their proper columns.

41. Section 7 of P.L.1988, c.126 (C.19:27-11.1) is amended to read as follows:

**C.19:27-11.1 Filling of vacancies in Legislature.**

7. When any vacancy happens in the Legislature otherwise than by expiration of term, it shall be filled by election for the unexpired term only at the next general election occurring not less than 51 days after the occurrence of the vacancy, except that no such vacancy shall be filled at the general election which immediately precedes the expiration of the term in which the vacancy occurs. In the event a vacancy eligible to be filled by election hereunder occurs on or before the sixth day preceding the last day for filing petitions for nomination for the primary election, such petitions may be prepared and filed for nomination in that primary election in the manner provided by article 3 of chapter 23 of this Title. In the event the vacancy occurs after that sixth day preceding the last day for filing petitions for nomination for the primary election for the general election, a political party may select a candidate for the office in question in the manner prescribed in subsections a. and b. of R.S.19:13-20 for selecting candidates to fill vacancies among candidates nominated at primary elections for the general elections. A statement of such selection under R.S.19:13-20 shall be filed with the Attorney General not later than the 48th day preceding the date of the general election.

Besides the selection of candidates by each political party, candidates may also be nominated by petition in a manner similar to direct nomination by petition for the general election; but if the candidate of any party to fill the vacancy will be chosen at a primary election, such petition shall be filed with the Attorney General at least 55 days prior to the primary election; and if no candidate of any party will be chosen at a primary election, such petition shall be filed with the Attorney General not later than 12 o'clock noon of the day on which the first selection meeting by any party is held under this section to select a nominee to fill the vacancy.

When the vacancy occurs in the Senate or General Assembly, the county clerk of each county which is comprised in whole or part in the Senate or General Assembly district shall forthwith give notice thereof to the chairman of the county committee of each political party and in counties of the first class to the county board.

The county clerk shall print on the ballots for the territory affected, in the personal choice column, the title of office and leave a proper space under such title of office; and print the title of office and the names of such persons as have been duly nominated, in their proper columns.

42. R.S.19:29-3 is amended to read as follows:

**Filing of certain petitions.**

19:29-3. The petition contesting any nomination to public office, election to party office or position, election as a delegate or alternate in a presidential primary or the proposal of any proposition shall be filed not later than 10 days after the primary election.

The petition contesting any election to public office or approval or disapproval of any proposition shall be filed not later than 30 days after such election, unless the ground of action is discovered from the statements, deposit slips or vouchers filed under this Title, subsequent to such primary or other election, in which event such petition may be filed 10 or 30 days respectively after such statements, deposit slips or vouchers are filed.

Any petition of contest may be filed within 10 days after the result of any recount has been determined or announced.

43. R.S.19:31-16 is amended to read as follows:

**Data on eligible voters' deaths filed by health officer.**

19:31-16. a. The health officer or other officer in charge of records of death in each municipality shall file with the commissioner of registration for the county in which the municipality is located once each month, during the first five days thereof, the age, date of death, and the names and addresses of all persons 18 years of age or older who have died within such municipality during the previous month. Within 30 days after the receipt of such list the commissioner shall make and complete such investigation as is necessary to establish to his satisfaction that such deceased person is registered as a voter in the county. If such fact is so established, the commissioner shall cause the registration and record of voting forms of the deceased registrant to be transferred to the death file as soon as possible. If the deceased person was not so registered in the county, but the person maintained a residence in another county of this State, the officer in charge of records of death in the municipality in which the decedent died shall forward a copy of the notice of death to the officer in charge of records of death in the municipality in which the decedent resided. That officer having received the notice shall notify the commissioner of the county in which that municipality is located of the death of the person. Any commissioner who receives such notification shall undertake the procedures prescribed herein with respect to the registration in that county of the decedent.

b. The State registrar of vital statistics shall file with the commissioner of registration of each county no later than January 15 of each presidential year and no later than May 1 of every other year an alphabetized list of the name, address, and date of birth, if available, of each resident of the county 18 years of age or older who died during the previous year. Within 30 days



after the receipt of the list the commissioner shall undertake and complete such investigation as is necessary to establish that each person on the list is not registered as a voter in the county. The commissioner shall cause the registration and record of voting forms of any deceased registrant found on the list to be transferred to the death file as soon as possible.

44. R.S.19:31-20 is amended to read as follows:

**Delivery of signature copy registers.**

19:31-20. On or before the second Monday preceding the presidential primary election, the primary election for the general election and the general election, respectively, the commissioner in counties not having a superintendent of elections, shall deliver to the municipal clerk in each municipality the signature copy registers for each election district in such municipality and shall take a receipt for same. The municipal clerk shall thereupon deliver at his office, or in any other way he sees fit, such registers to a member or members of the proper district boards at the same time and together with the primary sample ballots or the general election sample ballots, as the case may be. The registers shall be used by the district boards on election days and for the purpose of mailing the sample ballots. The commissioner in counties having a superintendent of elections shall deliver such registers at his office, or in any other way he may see fit, to the various district boards, taking a receipt for same.

Before delivering the registers the commissioner shall cause to be printed upon a separate sheet or sheets of paper, to be inserted inside of the front cover of such registers in conspicuous type, such instructions to election officers regarding the use and disposition of the binders and forms as he deems necessary.

45. R.S.19:31-21 is amended to read as follows:

**Use of signature copy registers on election day.**

19:31-21. A person whose name appears in the signature copy register and who upon applying for a ballot or voting authority shall have given the information and signed the signature comparison record as provided in this Title and whose signature in the signature comparison record shall have been compared by a member of the district board and in the presence and view of the challengers with the signature of the applicant as recorded in the register shall be eligible to receive a ballot or voting authority unless it be shown to the satisfaction of a majority of the members of the district board that he is not entitled to vote in the district or has otherwise become disqualified.

No person shall be required to sign the signature comparison record as a means of identification if he shall have been unable to write his name when he registered, or if, having been able to write his name when registered, he subsequently shall have lost his sight or lost the hand with which he was accustomed to write or shall by reason of disease or accident be unable to write his name when he applies to vote, but each such person shall establish his identity in the manner provided in this Title.

In addition to signing the signature comparison record and after the comparison of the signature with the signature in the register, a person offering to vote at the presidential primary election or the primary election for the general election, as the case may be, shall announce his name and the party primary in which he wishes to vote.

After a person has voted the member of the district board having charge of the signature copy registers shall place the number of the person's ballot in the proper column on the record of voting form of such person, which number shall constitute a record that the person has voted. In the case of the presidential primary election or the primary election for the general election such member of the district board shall also place in the proper column on the record of voting form the first three letters of the name of the political party whose primary ballot such person has voted.

In the event that the duplicate permanent registration form of any person cannot be found in the signature copy register at the time he applies for a ballot or voting authority, a member of the district board shall promptly ascertain from the commissioner or a duly authorized clerk if such person is permanently registered. Upon information that such is the fact, such member of the district board shall require the person applying for a ballot or voting authority to obtain an order from the commissioner authorizing him to receive a ballot or voting authority. The commissioner shall specially authorize and deputize clerks to issue such orders in municipalities within his county. The commissioner or his clerk shall require the voter to sign his name upon such order for the purpose of signature comparison. The district board shall require the voter to again sign his name on said order, in the presence of the board, and if the signatures compare, to permit him to vote. At primary elections the commissioner or his duly authorized clerk shall endorse on the order the political party whose ballot such person voted at the last preceding primary election. The order shall be returned to the commissioner at the same time and along with the signature copy registers.

46. R.S.19:31-22 is amended to read as follows:

**Return of signature copy registers, inspection by commissioner.**

19:31-22. Not later than noon of the day following the canvass of the votes cast at the presidential primary election, the primary election for the

general election or the general election, the signature copy registers shall be returned by each district board to the commissioner at his office or in any other way as the commissioner may see fit.

Upon receipt of the registers the commissioner shall inspect them and verify from the party primary poll books and the general election poll books, as the case may be, that the entries required to be made on the record of voting forms in such registers by the district boards have been made. If the commissioner shall ascertain that such entries have not been made or have been improperly made, he shall cause such entries and corrections to be made forthwith and also notify the county board of such failure of duty and the members of such district board who have so failed in their duty and shall be ineligible for appointment as members of any district board thereafter.

47. Section 9 of P.L.1991, c.249 (C.19:32-4.1) is amended to read as follows:

**C.19:32-4.1 Complaint forms provided to voters at elections.**

9. On the day of every municipal, primary, presidential primary, general, special or annual school election the superintendent of elections in counties having a superintendent of elections or the county board of elections in all other counties shall provide to each polling place in the county sufficient numbers of a form on which voters or persons attempting to vote may register any complaint regarding the conduct of the election at the polling place where they voted or attempted to vote. In counties in which the primary language of 10% or more of the registered voters is Spanish, the form for the complaint shall appear in both English and Spanish. The form shall protect the anonymity of the complainant, if that person so wishes, and shall be accompanied by an envelope with the proper postage and the name and address of the superintendent of elections of the county or the chairman of the county board of elections, as the case may be. A complaint may be used by the superintendent of elections or any other municipal or State investigatory agency to conduct an investigation into possible violation of the State election law. Copies of the form containing the complaint shall be available from the superintendent of elections or the county board of elections, as the case may be. The original form of the complaint, or a copy, shall be kept on file with the superintendent of elections or the county board of elections, as the case may be, for two years after the election for which it was filed.

48. R.S.19:45-6 is amended to read as follows:

**Members of district boards; compensation.**

19:45-6. The compensation of each member of the district boards for all services performed by them under the provisions of this Title shall be as follows:

In all counties, for all services rendered including the counting of the votes, and in counties wherein voting machines are used, the tabulation of the votes registered on the voting machines, and the delivery of the returns, registry binders, ballot boxes and keys for the voting machines to the proper election officials, \$200 each time any primary election, the general election or any special election is held under this Title; provided, however, that:

a. (1) The member of the board charged with the duty of obtaining and signing for the signature copy registers shall receive an additional \$12.50 per election, such remuneration being limited to only one board member per election, or \$6.25 to each of two board members if they share such responsibility for the signature copy registers, and (2) the member of the board charged with the duty of returning the signature copy registers shall receive an additional \$12.50 per election, such remuneration being limited to only one board member per election, or \$6.25 to each of two board members if they share such responsibility for the signature copy registers;

b. In the case of any member of the board who is required under R.S.19:50-1 to attend in a given year a training program for district board members, but who fails to attend such a training program in that year, that compensation shall be \$50.00 for each of those elections;

c. In counties wherein voting machines are used no compensation shall be paid for any services rendered at any special election held at the same time as any primary or general election. Such compensation shall be in lieu of all other fees and payments; and

d. Compensation for district board members serving at a school election shall be paid by the board of education of the school district conducting the election at an hourly rate of \$5.77, except that the board of education may compensate such district board members at a pro-rated hourly rate consistent with the daily rate up to a maximum of \$14.29. The provisions of subsections a., b., and c. of this section shall also apply to district board members serving at a school election, except that in the case of subsection b., the compensation shall be at an hourly rate of \$3.85.

Compensation due each member shall be paid within 30 days but not within 20 days after each election; provided, however, that no compensation shall be paid to any member of any such district board who may have been removed from office or application for the removal of whom is pending under the provisions of R.S.19:6-4.

49. Section 1 of P.L.1944, c.213 (C.19:52-2.1) is amended to read as follows:

**C.19:52-2.1 Voting authorities; use, stringing.**

1. In all counties wherein voting machines are used the county board of elections shall furnish for use in each election district at any election, a sufficient number of voting authorities in substantially the following form:

City of	City of
Ward	Ward
District	District
Election Held	Election Held
..... day of..... 20...	..... day of..... 20....
Voting Authority	Voting Authority
No. ....	No.....
..... Signature of Voter.	This certificate must be handed to the election officer in charge of the voting machines in order to vote.  County Board of Elections Clerk.

The voting authorities shall be numbered consecutively, be bound together in pads and shall be printed in two parts and perforated so that one part may be given to the voter who shall return the same to the district election officials in charge of the operation of the voting machine in order that such official shall be able to place the same in consecutive order on a string or wire. The other part of the voting authority shall be signed by the voter in his own handwriting before he be permitted to vote and shall remain bound in the pad. All pads containing the portions of the voting authorities on which the names of the persons who have voted have been signed, together with that portion of the voting authority which has been placed on a wire or string shall be returned to the commissioner of registration of the county, who shall keep them for a period of at least six months.

At any presidential primary election or primary election for the general election, each voting authority shall be marked to indicate the party primary in which the voter signing the same voted and the used voting authorities shall be strung in such a manner so that those used in one party primary shall remain separate from those used in the other party primary.

50. Section 7 of P.L.1999, c.232 (C.19:53C-1) is amended to read as follows:

**C.19:53C-1 Preparation of provisional ballots; written notices.**

7. a. (1) The county clerk or the municipal clerk, in the case of a municipal election, shall arrange for the preparation of a provisional ballot packet for each election district. It shall include the appropriate number of provisional ballots, the appropriate number of envelopes with an affirmation statement, the appropriate number of written notices to be distributed to voters who vote by provisional ballot and one provisional ballot inventory form affixed to the provisional ballot bag. The clerk shall arrange for the preparation of and placement in each provisional ballot bag of a provisional ballot packet and an envelope containing a numbered seal. The envelope shall contain, on its face, the instructions for the use of the seal, the number and the election district location of the provisional ballot bag, and the identification numbers of the seal placed in the envelope. Each provisional ballot bag shall be sealed with a numbered security seal before being forwarded to the appropriate election district.

(2) Each provisional ballot bag and the inventory of the contents of each such bag shall be delivered to the designated polling place no later than the opening of the polls on the day of an election.

b. The county clerk or the municipal clerk, in the case of a municipal election, shall arrange for the preparation of the envelope, affirmation statement, and written notice that is to accompany each provisional ballot. The envelope shall be of sufficient size to accommodate the provisional ballot, and the affirmation statement shall be affixed thereto in a manner that enables it to be detached once completed and verified by the county commissioner of registration. The statement shall require the voter to provide the voter's name, and to indicate whether the voter is registered to vote in a county but has moved within that county since registering to vote; or is registered to vote in the election district in which that polling place is located but the voter's registration information is missing or otherwise deficient. The statement shall further require the voter to provide the voter's most recent prior voter registration address and address on the day of the election and date of birth. The statement shall include the statement: " I swear or affirm, that the foregoing statements made by me are true and correct and that I understand that any fraudulent voting may subject me to a fine of up to \$1,000, imprisonment up to five years or both, pursuant to R.S.19:34-11." It shall be followed immediately by spaces for the voter's signature and printed name, and in the case of a name change, the voter's printed old and new name and a signature for each name, the date the statement was completed, political party affiliation, if used in a primary election, and the name of the person providing assistance to the voter, if applicable. Each statement shall also note the number of the election district, or ward, and name of the municipality at which the statement will be used.

The written notice shall contain information to be distributed to each voter who votes by provisional ballot. The notice shall state that, if the voter is a mail-in registrant voting for the first time in his or her current county of residence following registration and was given a provisional ballot because he or she did not provide required personal identification information, the voter shall be given until the close of business on the second day after the election to provide identification to the applicable county commissioner of registration, and the notice shall contain a telephone number at which the commissioner may be contacted. The notice shall further state that failure to provide the required personal identification information within that time period shall result in the rejection of the ballot. The notice shall state that pursuant to section 4 of P.L.2004, c.88 (C.19:61-4), any individual who casts a provisional ballot will be able to ascertain under a system established by the State whether the ballot was accepted for counting, and if the vote was not counted, the reason for the rejection of the ballot. The notice shall include instructions on how to access such information.

c. For the primary for the general election, the provisional ballots shall be printed in ink on paper of a color that matches the color of the voting authority, which shall indicate the party primary of the voter. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in P.L.1999, c.232 (C.19:53C-1 et seq.). Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the primary election.

The clerk of the county or municipality shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots for each political party, a corresponding number of envelopes with affirmation statements, and a corresponding number of written notices. Additional provisional ballots, envelopes, and notices shall be available for delivery to that election district on the day of the election, if necessary.

d. For the general election the provisional ballots shall be printed in ink. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in this act. Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the general election.

The clerk of the county or municipality shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots, a corresponding number of envelopes with affirmation statements, and a corresponding number of written notices. Additional provisional ballots, envelopes, and notices shall be available for delivery to that election district on the day of the election, if necessary.

e. For a school election the provisional ballots shall be printed in ink. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in this act. Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the school election.

The clerk of the county shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots, a corresponding number of envelopes with affirmation statements, and a corresponding number of written notices. Additional provisional ballots, envelopes, and notices shall be available for delivery to that election district on the day of the election, if necessary.

f. Following the effective date of P.L.2004, c.88 (C.19:61-1 et al.), a provisional ballot that requires the voter to punch out a hole in the ballot as a means of recording the voter's vote shall not be used in any election in this State.

g. For the presidential primary election, the provisional ballots shall be printed in ink on paper of a color that matches the color of the voting authority, which shall indicate the party of the voter. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in P.L.1999, c.232 (C.19:53C-1 et al.). Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the primary election for the general election.

The clerk of the county or municipality shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots for each political party and a corresponding number of envelopes with affirmation statements. Additional provisional ballots and envelopes shall be available for delivery to that election district on the day of the election, if necessary.



51. Section 2 of P.L.1953, c.211 (C.19:57-2) is amended to read as follows:

**C.19:57-2 Definitions.**

2. Whenever used in this act, the following terms shall, unless the context indicates otherwise, be construed to have the following meanings:

"Absentee ballot" means any military service ballot or civilian absentee ballot as herein defined.

"Absentee voter" means any person qualified to vote a military service ballot or a civilian absentee ballot under the provisions of this act.

"Armed Forces of the United States" means any branch or department of the United States Army, Navy, Air Force, Coast Guard or Marine Corps.

"Civilian absentee ballot" means a ballot for use by a civilian absentee voter as prescribed by this act.

"Civilian absentee voter" means any qualified and registered voter of the State who expects to be absent from the State on the day of any election and any qualified and registered voter who will be within the State on the day of any election but because of illness or physical disability, including blindness or pregnancy, or because of the observance of a religious holiday pursuant to the tenets of his religion, or because of resident attendance at a school, college or university, or because of the nature and hours of his employment, will be unable to cast his ballot at the polling place in his election district on the day of the election.

"Election," "general election," "primary election for the general election," "presidential primary election," "municipal election," "school election," and "special election" shall mean, respectively, such elections as defined in the Title to which this is a supplement (R.S.19:1-1 et seq.).

"Family member" means an adult who is a spouse, parent, child, grandparent, grandchild or sibling of a voter, whether by adoption or natural relationship. It shall also include any adult occupant regularly living with a voter in any residential building or part of a building intended for the use of no more than one family.

"Incapacitated absentee voter" means a voter who, due to incapacity, is unable to complete his ballot.

"Military service" means active service by any person, as a member of any branch or department of the United States Army, Navy, Air Force, Coast Guard or Marine Corps, or as a member of the maritime or merchant marine service, or as a reservist absent from his place of residence and undergoing training under Army, Navy, Air Force, Coast Guard or Marine Corps direction, at a place other than that of such person's residence.

"Military service voter" means a qualified elector under the Constitution and the laws of this State who comes within one of the following categories:

- (a) Persons in the military service and their spouses and dependents.
- (b) Patients in a veterans' hospital located in any place other than the place of their residences who have been in the military service in any war in which the United States has been engaged and have been discharged or released from such service.
- (c) Civilians attached to or serving with the Armed Forces of the United States without this State and their spouses and dependents when residing with or accompanying them.

"Military service ballot" means a ballot for use by a military service voter as prescribed by this act.

"Member of the maritime or merchant marine service" means any person employed as an officer or crew member of a vessel documented under the laws of the United States, or a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States or enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service as an officer or crew member of any such vessel or any such person as otherwise defined in section 107 of Pub.L.99-410, the "Uniformed and Overseas Citizens Absentee Voting Act," (42 U.S.C. s 1973ff-6).

52. Section 7 of P.L.1953, c.211 (C.19:57-7) is amended to read as follows:

**C.19:57-7 Absentee ballots; information and notices.**

7. a. The Attorney General, through the Division of Elections in the Department of Law and Public Safety shall be responsible for providing all information regarding military service ballots, as defined in section 2 of P.L.1953, c.211 (C.19:57-2), and overseas federal election voter ballots, as provided for in P.L.1976, c.23 (C.19:59-1 et seq.). The division shall also make available valid military service voter registration applications, military service ballot applications and overseas federal election voter registration and ballot applications to any military service or overseas federal election voter who wishes to register to vote or to vote in any jurisdiction in this State. The division shall publish or cause to be published the following notice in substantially the following form:

**NOTICE TO MILITARY SERVICE VOTERS AND  
TO THEIR RELATIVES AND FRIENDS**

If you are in the military service, or the spouse or dependent of a person in military service or are a patient in a veterans' hospital or a civilian attached to or serving with the Armed Forces of the United States without the State of New Jersey, or the spouse or dependent of and accompanying or residing

with a civilian attached to or serving with the Armed Forces of the United States, and desire to vote, or if you are a relative or friend of any such person who, you believe, will desire to vote in the ..... (school, municipal, primary, presidential primary, general or other) election to be held on ..... (date of election) kindly write to the undersigned at once making application for a military service ballot to be voted in said election to be forwarded to you, stating your name, age, serial number if you are in military service, home address and the address at which you are stationed or can be found, or if you desire the military service ballot for a relative or friend then make application under oath for a military service ballot to be forwarded to him, stating in your application that he is over the age of 18 years and stating his name, serial number if he is in military service, home address and the address at which he is stationed or can be found.

Military service voters may also apply for a military service ballot by sending a federal postcard application form to the undersigned.

On the application for a military service ballot, military service voters may request that a military service ballot be sent for all subsequent elections through and including the next two regularly scheduled general elections for federal office which take place after the request is made.

(NOTE: MILITARY SERVICE VOTER CLAIMING MILITARY STATION AS HOME ADDRESS FOR VOTING PURPOSES MAY NOT USE MILITARY ABSENTEE BALLOT UNLESS REGISTERED TO VOTE IN THE MUNICIPALITY WHERE SUCH STATION IS LOCATED.)

Forms of application other than federal postcard application forms can be obtained from the undersigned. Dated .....

.....  
(signature and title of Director of Division of Elections)

.....  
(address of Division of Elections)

b. The county clerk of the county, in the case of any Statewide election, countywide election, or school election in a regional or other school district comprising more than one municipality; the clerk of the municipality, in the case of any municipal election or school election in a school district comprising a single municipality; and the commissioners or other governing or administrative body of the district, in the case of any election to be held in any fire district, road district, sewerage district, street lighting district, water supply district or other special district, other than a municipality, created for specified public purposes within one or more municipalities, shall publish

or cause to be published the following notice in substantially the following form:

NOTICE TO PERSONS DESIRING CIVILIAN ABSENTEE BALLOTS

If you are a qualified and registered voter of the State who expects to be absent outside the State on.....(date of election) or a qualified and registered voter who will be within the State on..... (date of election) but because of permanent and total disability, or because of illness or temporary physical disability, or because of the observance of a religious holiday pursuant to the tenets of your religion, or because of resident attendance at a school, college, or university, or because of the nature and hours of employment, will be unable to cast your ballot at the polling place in your district on said date, and you desire to vote in the..... (school, municipal, primary, presidential primary, general, or other) election to be held on..... (date of election) kindly complete the application form below and send to the undersigned, or write or apply in person to the undersigned at once requesting that a civilian absentee ballot be forwarded to you. Such request must state your home address, and the address to which said ballot should be sent, and must be signed with your signature, and state the reason why you will not be able to vote at your usual polling place. No civilian absentee ballot will be furnished or forwarded to any applicant unless request therefor is received not less than seven days prior to the election, and contains the foregoing information.

Voters who are permanently and totally disabled shall, after their initial request and without further action on their part, be forwarded an absentee ballot application by the county clerk for all future elections in which they are eligible to vote. Permanently and totally disabled voters also have the option of indicating on their absentee ballot applications that they would prefer to receive absentee ballots for each election that takes place during the remainder of this calendar year. Permanently and totally disabled voters who exercise this option will be furnished with absentee ballots for each election that takes place during the remainder of this calendar year, without further action on their part. Application forms may be obtained by applying to the undersigned either in writing or by telephone, or the application form provided below may be completed and forwarded to the undersigned. Dated.....

.....  
(signature and title of county clerk)

.....  
(address of county clerk)

.....  
 (Telephone No. of county clerk)

APPLICATION FORM FOR CIVILIAN ABSENTEE BALLOT

(Form to be prepared by the Attorney General pursuant to section 17 of P.L.1977, c.47 (C.19:57-4.1)).

c. The absentee ballot materials shall contain a notice that any person voting by absentee ballot who registers by mail after January 1, 2003, who did not provide personal identification information when registering and is voting for the first time in his or her current county of residence following registration shall include the required identification information with the absentee ballot, and that failure to include such information shall result in the rejection of the ballot.

d. Such notices as described in subsections a. and b. of this section shall be separately published prior to the 50th day immediately preceding the holding of any election.

Notices relating to any Statewide or countywide election shall be published in at least two newspapers published in the county. All officials charged with the duty of publishing such notices shall publish the same in at least one newspaper published in each municipality or district in which the election is to be held or if no newspaper be published in said municipality or district, then in a newspaper published in the county and circulating in such municipality, municipalities or district. All such notices shall be display advertisements.

53. Section 8 of P.L.1953, c.211 (C.19:57-8) is amended to read as follows:

**C.19:57-8 County clerk to have ballots printed.**

8. Each county clerk shall cause to be printed sufficient military service ballots and civilian absentee ballots for each presidential primary election, primary election for the general election, and for the general election, and there shall be furnished to the said county clerk of the county, as expeditiously as possible before the day fixed for holding any other election within the county, by the officer whose duty it shall be to provide the official ballots for such election, sufficient military service ballots and civilian absentee ballots. Along with all such ballots for all elections there shall also be furnished by such county clerk or other official, inner and outer envelopes and printed directions for the preparation and transmitting of such ballots, for use in such election within the county and all expenses of mailing such ballots shall be paid in the same manner as other expenses of said election are paid.

The absentee ballots shall be printed on paper different in color from that used for any primary or general election ballot, but in all other respects, shall be as nearly as possible facsimiles of the election ballot to be voted at such election, as prescribed by the county clerk and in conformity with the provisions of this act.

54. Section 15 of P.L.1953, c.211 (C.19:57-15) is amended to read as follows:

**C.19:57-15 Form of absentee ballots; primary elections.**

15. Each absentee ballot to be used at any presidential primary election or primary election for the general election, as the case may be, to be held while this act is in effect shall, except as otherwise provided, conform to the ballot to be used at said election in the absentee voter's election district and to the form herein prescribed for absentee ballots to be used in such general elections except that it shall be so prepared that the absentee voter may indicate thereon his choice of the candidates of one political party for each of the officers to be voted upon at said election by the voters of said election district and shall be separated into party ballots, which shall all be printed upon one sheet where the voting system so allows.

Each such absentee ballot shall be plainly marked to indicate that but one party ballot is to be voted by each absentee voter and that the party ballot voted by him must conform to the name of the political party indicated by the county clerk as hereinafter provided.

If the county clerk has ascertained through investigating an absentee voter's registration record that, under the laws of this State, such voter is qualified to vote only in a certain party primary, he shall so indicate upon the primary ballot the primary party in which such voter is entitled to vote.

In the case where the county clerk has ascertained through investigating the absentee voter's registration record that such applicant is requesting a ballot to vote in the first primary for which he is eligible after registration, the county clerk shall indicate upon the primary ballot that the voter can vote in any one of the party primaries.

55. Section 19 of P.L.1953, c.211 (C.19:57-19) is amended to read as follows:

**C.19:57-19 Primary election absentee ballots.**

19. Upon the margin of the flap on the inner envelope forwarded with any military absentee ballot intended to be voted in any presidential primary election or any primary election for the general election, as the case may be, there shall be printed a certificate in the following form:

CERTIFICATE OF MILITARY ABSENTEE VOTER

I, ..... , whose home address is.....  
(PRINT you name clearly) (street address  
..... , DO HEREBY CERTIFY, subject to  
or R.D. number) (municipality)  
the penalties for fraudulent voting, that I marked this ballot for the primary  
election of the (name of party) political party.

I am voting this ballot pursuant to application previously filed. I  
MARKED AND SEALED THIS BALLOT AND CERTIFICATE IN  
SECRET. However, a family member may assist you in doing so. If you  
are an incapacitated absentee voter, a person other than a family member  
may also assist you in doing so.

.....  
(SIGNATURE of voter)

Any person providing assistance shall complete the following:

I do hereby certify that I am the person who provided assistance to this  
voter and declare that I will maintain the secrecy of this ballot.

.....  
(SIGNATURE of person providing assistance)

.....  
(PRINTED name of person providing assistance)

.....  
.....  
(address of person providing assistance)

Upon the margin of the flap on the inner envelope forwarded with any  
civilian absentee ballot intended to be voted in any presidential primary  
election or primary election for the general election, as the case may be, there  
shall be printed a certificate in the following form:

CERTIFICATE OF CIVILIAN ABSENTEE VOTER

I, ..... , whose home address is.....  
(PRINT you name clearly) (street address  
..... , DO HEREBY CERTIFY, subject to  
or R.D. number) (municipality)

the penalties for fraudulent voting, that I marked this ballot for the primary election of the (name of party) political party.

I am the person who applied for the enclosed ballot. I MARKED AND SEALED THIS BALLOT AND CERTIFICATE IN SECRET. However, a family member may assist you in doing so. If you are an incapacitated absentee voter, a person other than a family member may also assist you in doing so.

.....  
(SIGNATURE of voter)

Any person providing assistance shall complete the following:  
I do hereby certify that I am the person who provided assistance to this voter and declare that I will maintain the secrecy of this ballot.

.....  
(SIGNATURE of person providing assistance)

.....  
(PRINTED name of person providing assistance)

.....  
.....  
(address of person providing assistance)

56. Section 23 of P.L.1953, c.211 (C.19:57-23) is amended to read as follows:

**C.19:57-23 Marking and handling of absentee ballots by voters; return by mail or personal delivery; record.**

23. Any absentee voter shall be entitled to mark any absentee ballot, so forwarded to him, for voting at any election by indicating his choice of candidates for the offices named, and as to public questions, if any, stated thereon, in accordance with the election laws of this State, except that in such ballots to be voted in any presidential primary election or primary election for the general election, as the case may be, his choice shall be limited to the candidates of his political party or to any person or persons whose names are written thereon by him. When so marked, such ballot shall be placed in said inner envelope, which shall then be sealed, and the voter shall then fill in the form of certificate attached to said inner envelope, at the end of which he shall sign and print his name in his own handwriting. The



inner envelope with the certificate shall then be placed in said outer envelope, which shall then be sealed.

No absentee voter shall permit any person in any way, except as provided hereafter, to unseal, mark or inspect his ballot, interfere with the secrecy of his absentee ballot vote, complete or sign the certificate, or seal the inner or outer envelope, nor shall any person do so.

An absentee voter shall be entitled to assistance from a family member in performing any of the actions above. An incapacitated absentee voter shall also be entitled to assistance from a person other than a family member in performing any of such actions. The family member or other person providing such assistance shall certify that he did assist the voter and will maintain the secrecy of the vote by both printing and signing his name in the space provided on the certificate. In no event may a candidate for election provide such assistance, nor may any person, at the time of providing such assistance, campaign or electioneer on behalf of any candidate.

Said sealed outer envelope with the inner envelope and the ballot enclosed therein shall then either be mailed with sufficient postage to the county board of elections to which it is addressed or delivered personally by the voter or a bearer designated by him to such board or its designee. Such ballot must be received by such board or its designee before the time designated by R.S.19:15-2 or R.S.19:23-40 for the closing of the polls, as may be appropriate on the day of an election.

At the time any person delivers a ballot to the county board, he shall sign a record which the county shall maintain of all absentee ballots personally delivered to it.

57. Section 24 of P.L.1953, c.211 (C.19:57-24) is amended to read as follows:

**C.19:57-24 Duties of county board of elections after receiving absentee and military service ballots.**

24. The county board of elections shall, promptly after receiving each civilian absentee ballot, remove the inner envelope, containing the ballot, from the outer envelope and shall compare the signature and the information contained on the flap of the inner envelope with the signature and information contained in the respective requests for civilian absentee ballots. In addition, as to civilian absentee ballots issued less than 7 days prior to an election, the county board of elections shall also check to establish that the absentee voter did not vote in person. The county board shall reject any such ballot unless the board is satisfied as a result of such comparison or by reference to the permanent registration books that the voter is legally entitled to vote and that the ballot conforms with the requirements of this act.

The county board of elections shall, promptly after receiving each military service ballot, remove the inner envelope, containing the ballot, from the outer envelope and ascertain through the commissioner of registration whether or not the name of the person, whose name appears following the certificate on the flap of said inner envelope, has been certified by the county clerk to the commissioner of registration of the county as a person to whom a military service ballot, to be voted at the election at which it is intended to be voted, has been forwarded pursuant to this act.

The county board shall investigate the qualifications of a military service voter under this act by comparison of the contents of said certificate with the information appearing upon the application for said military service ballot, including the signatures thereon when the military service voter's signature appears upon said application, and by comparison with the military records of the State when deemed desirable.

In the case of a military service or civilian absentee ballot to be voted at a presidential primary election or a primary election for the general election, whether or not the military service or civilian absentee voter has indicated in said certificate his intention to vote it in a primary election of any political party in which he is not entitled to vote in according to the registration records of the county, and if it shall appear from said record that he is not entitled to vote said ballot in any primary election of the political party which has been so indicated, such ballots shall be rejected.

Any absentee ballot which is received by a county board of elections shall be rejected if both the inner and outer envelopes are unsealed or if either envelope has a seal that has been tampered with.

Disputes as to the qualifications of military service or civilian absentee voters to vote or as to whether or not or how any such military or civilian absentee ballot shall be counted in such election shall be referred to the Superior Court for determination.

After such investigation the county board of elections shall detach or separate the certificate from the inner envelope containing the military service or civilian absentee ballot, unless it has been rejected by it or by the Superior Court, marking the envelope so as to identify the election district in which the ballot contained therein is to be voted as indicated by the absentee voter's home address appearing on the certificate attached to or accompanying said inner envelope and, in the case of ballots to be voted at a primary election for a general election, so as to identify the political party in the primary election of which it is to be voted.

58. Section 31 of P.L.1953, c.211 (C.19:57-31) is amended to read as follows:

**C.19:57-31 Canvass of absentee ballots.**

31. On the day of each election each county board of elections shall open in the presence of the commissioner of registration or his assistant or assistants the inner envelopes in which the absentee ballots, returned to it, to be voted in such election, are contained, except those containing the ballots which the board or the Superior Court has rejected, and shall remove from said inner envelopes the absentee ballots and shall then proceed to count and canvass the votes cast on such absentee ballots, but no absentee ballot shall be counted in any presidential primary election or primary election for the general election if the ballot of the political party marked for voting thereon differs from the designation of the political party in the primary election of which such ballot is intended to be voted as marked on said envelope by the county board of elections. Immediately after the canvass is completed, the respective county boards of election shall certify the result of such canvass to the county clerk or the municipal or district clerk or other appropriate officer as the case may be showing the result of the canvass by municipality and ward, and the votes so counted and canvassed shall be counted in determining the result of said election.

The county board of elections shall, immediately after the canvass is completed for any primary election, certify the results of the votes cast for members of the county committees to the respective municipal clerks, which votes shall be counted in determining the result of said election.

59. Section 32 of P.L.1953, c.211 (C.19:57-32) is amended to read as follows:

**C.19:57-32 Marking of duplicate voting records.**

32. As soon as practicable after such election, the commissioner of registration shall cause to be marked all duplicate voting records which have not been marked with a red "A" or "M" in accordance with this act, to show that an absentee ballot was delivered or forwarded to the respective registered voters. For each civilian absentee ballot, and for each military absentee ballot cast by a military service voter who is required under section 3 of this act to be registered in the municipality where he intends to cast such absentee ballot, that has been voted, received and counted, the commissioner of registration shall also, by reference to the certificates removed from the inner envelopes of such ballots, cause to be written or stamped the word "Voted" in the space provided in the duplicate voting record for recording the ballot number of the voter's ballot in such election, and in the case of a presidential primary election or the primary election for the general election he shall also cause to be written or stamped in the proper space of the record of voting form the first three letters of the name of the political party primary in which

such ballot was voted. The record of voting forms in the original permanent registration binders shall be conformed to the foregoing entries in the duplicate forms.

60. Section 2 of P.L.1995, c.278 (C.19:60-2) is amended to read as follows:

**C.19:60-2 Special elections; days, certain; notice.**

2. a. The board of education of a type II district may call a special election of the legal voters of the district on only the fourth Tuesday in January, the second Tuesday in March other than in year when a presidential primary election occurs, in which case no such election on that date may be called, the last Tuesday in September, or the second Tuesday in December when in its judgment the interests of the schools require such an election. The board of education shall give the municipal clerk or clerks, as the case may be, and the county board of elections no less than 60 days' notice, in writing, of its intention to hold a special election.

b. No business shall be transacted at any special election except such as shall have been set forth in the notices by which the election was called.

61. Section 2 of P.L.1990, c.33 (C.40:20-35.11a) is amended to read as follows:

**C.40:20-35.11a Vacancy on board of chosen freeholders eligible to be filled by election; exceptions.**

2. a. When any vacancy occurs on the board of chosen freeholders otherwise than by expiration of term, it shall be filled by election for the unexpired term only at the next general election occurring not less than 60 days after the occurrence of the vacancy, except that no such vacancy shall be filled at the general election which immediately precedes the expiration of the term in which the vacancy occurs. In the event a vacancy eligible to be filled by election hereunder occurs on or before the sixth day preceding the last day for filing petitions for nomination for the primary election for the general election, such petitions may be prepared and filed for nomination in that primary election in the manner provided by article 3 of chapter 23 of Title 19 of the Revised Statutes. In the event the vacancy occurs after that sixth day preceding the last day for filing petitions for nomination for the primary election for the general election, or if the vacancy occurs on or before the sixth day preceding the last day for filing petitions for nomination for the primary election for the general election but no such petition has been filed with respect to a given political party, each political party, or that party respectively, may select a candidate for the office in question in the manner prescribed in subsections a. and b. of R.S.19:13-20 for selecting candidates

to fill vacancies among candidates nominated at primary elections. A statement of such selection under R.S. 19:13-20 shall be filed with the county clerk not later than the 48th day preceding the date of the general election.

Besides the selection of candidates by each political party, candidates may also be nominated by petition in a manner similar to direct nomination by petition for the general election; but if the candidate of any party to fill the vacancy will be chosen at a primary election for the general election, such petition shall be filed with the county clerk at least 55 days prior to the primary election; and if no candidate of any party will be chosen at a primary election for the general election, such petition shall be filed with the county clerk not later than 12 o'clock noon of the day on which the first selection meeting by any party is held under this section to select a nominee to fill the vacancy.

The county clerk shall print on the ballots for the territory affected, in the personal choice column, the title of office and leave a proper space under such title of office; and print the title of office and the names of such persons as have been duly nominated, in their proper columns.

b. Notwithstanding subsection a. of this section, if at any time after an election for a member of the board of chosen freeholders and before the time fixed for the commencement of the term of the office, the person elected to that office dies or otherwise becomes unable to assume office, the county committee of the political party of which the person elected was the nominee shall appoint another person to fill the position until the next general election. If the person elected was not the nominee of a political party, on or within 30 days after the time fixed for the commencement of the term of office, the governing body shall appoint a successor to fill the office until the next general election without regard to party.

62. Section 6 of P.L. 1990, c. 33 (C.40:41A-145.2) is amended to read as follows:

**C.40:41A-145.2 Interim successor selected by appropriate political party.**

6. In the case of a vacancy occurring with respect to a member of the board of chosen freeholders who was elected as the candidate of a political party which at the last preceding general election held received the largest number of votes or the next largest number of votes in the county for members of the board of chosen freeholders, for the interim period pending the election and qualification of a permanent successor to fill the vacancy, or for the interim period constituting the remainder of the term in the case of a vacancy occurring which cannot be filled pursuant to section 5 of this act at a general election, the vacancy shall be filled within 35 days by a member of the political party of which the person who vacated the office was the

candidate at the time of his election thereto. The interim successor shall be selected by the appropriate political party's county committee in the same manner prescribed in subsections a. and b. of R.S.19:13-20 for selecting candidates to fill vacancies among candidates nominated at primary elections for the general elections, and a statement of the selection of that successor shall be certified to and filed with the county clerk in the same manner prescribed by subsection d. of that section for certifying statements concerning the selection of such candidates.

63. Section 8 of P.L.1981, c.496 (C.40:44-16) is amended to read as follows:

**C.40:44-16 Publication of notice of ward boundaries.**

8. Within 2 weeks immediately following the filing of the certified report by the ward commissioners, the municipal clerk shall cause to be published at least once in at least one newspaper generally circulating in the municipality a notice of the ward boundaries as fixed and determined in the report.

Upon completion of the publication, the former wards, if any, shall be superseded, and thereafter all officers elected or appointed in the municipality for or representing the wards thereof shall be elected from, or appointed for, the wards fixed and determined by the ward commissioners; except that, in municipalities wherein municipal officers are elected at the general election held on the first Tuesday after the first Monday in November, if the publication shall be completed in a year in which municipal officers are elected during the period between the date 165 days before the primary election for the general election and the date of the general election, the wards so fixed and determined shall take effect on the day following the holding of that general election; and, in municipalities wherein municipal officers are elected at a regular municipal election held on the second Tuesday in May, if the publication shall be completed in a year in which municipal officers are elected during the period between the date 75 days before the regular municipal election and the date of the election, the wards so fixed and determined shall take effect on the day following the holding of that regular municipal election.

64. Section 1-25 of P.L.1950, c.210 (C.40:69A-25) is amended to read as follows:

**C.40:69A-25 Reversion to prior law.**

1-25. Any municipality may, subject to the provisions of section 1-23 of this act, abandon its optional plan and revert to the form of government

under which it was governed immediately prior thereto, upon the filing of a petition and referendum as follows:

(a) Upon petition of the registered voters of the municipality signed by the same number thereof as required in section 1-19, for an election to submit the question of abandonment and reversion as herein provided, the municipal clerk shall provide for submission of the question in like manner as provided in section 1-20.

(b) The form of the question shall be as follows:

shall.....(Name of municipality)..... abandon its present form of government and revert to its prior form of government, known as ..... (Popular Name of Plan)..... as provided by .....(Statutory Reference of Prior Plan).....

(c) If a majority of those voting on the question vote in the affirmative the municipality shall revert to its prior form of government as of 12 m. of the fifty-ninth day following the election of officers under the form of government to which the municipality will revert. The first officers under such form of government shall be elected at the next regular municipal or general election, as appropriate to the form of government to which the municipality will revert, occurring not less than 60 days following the referendum. It shall be the duty of the municipal clerk to perform all the duties respecting such election as would be required of a municipal clerk for elections under the form of government to which the municipality will revert. Whenever a municipality has reverted to any form of government other than the commission form of government law (R.S.40:79-1 et seq.), or the municipal manager form of government (R.S.40:70-1 et seq.), at a later date than the one fixed for the filing of nominating petitions at the primary election for the general election, the candidates to be first elected shall be nominated by direct petition in the manner provided by law for nomination, by direct petition for a general election.

Any law to the contrary notwithstanding, persons holding office at the time of a referendum approving reversion shall continue to hold office until the municipality reverts to the previous form of government. Vacancies existing at the holding of the referendum or which occur between the holding of the referendum and the reversion of the municipality to its previous form of government, shall be filled by appointment pursuant to procedures for the filing of vacancies appropriate to the "Optional Municipal Charter Law."

If a majority of those voting on the question vote in the negative, the question of abandonment and reversion shall not again be submitted for five years.

(d) The reversion to a prior form of government shall take effect as provided in sections 17-57 through 17-59 of this act for transition to an optional plan hereunder.

(e) No petition shall be filed nor referendum held pursuant to this section which would provide for the reversion of a municipality to a form of government which it is not currently authorized to adopt by law.

65. Section 17-56 of P.L.1950, c.210 (C.40:69A-205) is amended to read as follows:

**C.40:69A-205 Adoption of schedule of installation of optional plan.**

17-56. The schedule of installation of an optional plan adopted pursuant to this act shall, as provided herein, take the following course:

(a) An election to submit the question of adoption of an optional plan may be held at any time in accordance with the provisions of article 1 of this act;

(b) In the event of a favorable vote of the voters at the above election, the first election of officers under the adopted plan shall take place on (1) the second Tuesday in May occurring not less than 75 days next following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of regular municipal elections at which all members of the council are to be elected at large; (2) the second Tuesday in May occurring not less than 120 days following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of regular municipal elections and for the division of the municipality into wards; (3) at the next general election occurring not less than 75 days next following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of general elections at which all members of the council are to be elected at large; or (4) at the next general election occurring not less than 120 days next following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of general elections and for the division of the municipality into wards.

Whenever a municipality has adopted a charter referred to in subsection (3) above, within 10 days, or subsection (4) within 40 days, prior to the last day fixed for the filing of nominating petitions for the primary election for the general election, the candidates to be first elected shall be nominated in the manner provided by chapter 27 of Title 19 of the Revised Statutes with respect to the filling of certain vacancies in nominations for county or municipal offices to be filled at the general election.

(c) An optional plan shall take effect, in accordance with the further provisions of this article at (1) 12 o'clock noon on July 1 next following the first election of officers in municipalities adopting a charter providing for the



holding of regular municipal elections, or (2) 12 o'clock noon on January 1 next following the first election of officers in municipalities adopting a charter providing for the holding of general elections.

66. R.S.40:85-11 is amended to read as follows:

**Nomination, election of officers for new government.**

40:85-11. At the primary election for the general election held in such municipality after the general election at which such question shall be adopted, the electors of such municipality shall nominate officials for the new form of government to take effect in the following January, and at the general election one year after the general election at which such question shall have been adopted, the electors of such municipality shall elect the officials under the form of government which shall take effect the following January.

67. This act shall take effect on the January 1 next following enactment.

Approved July 7, 2005.

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CHAPTER 137

AN ACT requiring that all voting machines produce a voter-verified paper record, amending R.S.19:48-1 and P.L.1973, c.82, and supplementing Title 19 of the Revised Statutes.

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

1. R.S.19:48-1 is amended to read as follows:

**Voting machines, requirements.**

19:48-1. Any thoroughly tested and reliable voting machines may be adopted, rented, purchased or used, which shall be so constructed as to fulfill the following requirements:

- (a) It shall secure to the voter secrecy in the act of voting;
- (b) It shall provide facilities for such number of office columns, not less than 40 and not exceeding 60, as the purchasing authorities may specify and of as many political parties or organizations, not exceeding nine, as may make nominations, and for or against as many questions, not exceeding 30, as submitted;

(c) It shall, except at primary elections, permit the voter to vote for all the candidates of one party or in part for the candidates of one party or one or more parties;

(d) It shall permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for, but no more;

(e) It shall prevent the voter from voting for the same person more than once for the same office;

(f) It shall permit the voter to vote for or against any question he may have the right to vote on, but no other;

(g) It shall for use in primary elections be so equipped that the election officials can stop a voter from voting for all candidates except those of the voter's party;

(h) It shall correctly register or record and accurately count all votes cast for any and all persons, and for or against any and all questions;

(i) It shall be provided with a "protective counter" or "protective device" whereby any operation of the machine before or after the election will be detected;

(j) It shall be so equipped with such protective devices as shall prevent the operation of the machine after the polls are closed;

(k) It shall be provided with a counter which shall show at all times during an election how many persons have voted;

(l) It shall be provided with a model, illustrating the manner of voting on the machine, suitable for the instruction of voters;

(m) It must permit a voter to vote for any person for any office, except delegates and alternates to national party conventions, whether or not nominated as a candidate by any party or organization by providing an opportunity to indicate such names or name;

(n) It shall be equipped with a permanently affixed box or container of sufficient strength, size and security to hold all emergency ballots and pre-punched single-hole envelopes and with a clipboard and a table-top privacy screen;

(o) It shall not use mechanical lever machines or punch cards to record votes.

All voting machines used in any election shall be provided with a screen, hood or curtain, which shall be so made and adjusted as to conceal the voter and his action while voting.

It shall also be provided with one device for each party for voting for all the presidential electors of that party by one operation, and a ballot therefor containing only the words "presidential electors for," preceded by the name of that party and followed by the names of the candidates thereof for the offices of President and Vice-President and a registering device therefor

which shall register the vote cast for such electors when thus voted collectively.

By January 1, 2008, each voting machine shall produce an individual permanent paper record for each vote cast, which shall be made available for inspection and verification by the voter at the time the vote is cast, and preserved for later use in any manual audit. In the event of a recount of the results of an election, the voter-verified paper record shall be the official tally in that election. A waiver of the provisions of this paragraph shall be granted by the Attorney General if the technology to produce a permanent voter-verified paper record for each vote cast is not commercially available.

2. Section 3 of P.L.1973, c.82 (C.19:53A-3) is amended to read as follows:

**C.19:53A-3 Requirements of electronic voting systems.**

3. Every electronic voting system, consisting of a voting device in combination with automatic tabulating equipment, acquired or used in accordance with this act, shall:

a. Provide for voting in secrecy, except in the case of voters who have received assistance as provided by law;

b. Permit each voter to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote; to vote for or against any question upon which he is entitled to vote; and the automatic tabulating equipment shall reject choices recorded on his ballot if the number of choices exceeds the number which he is entitled to vote for the office or on the measure;

c. Permit each voter, at presidential elections, by one mark to vote for the candidates of that party for president, vice president, and their presidential electors;

d. Permit each voter, at other than primary elections, to vote for the nominees of one or more parties and for independent candidates; and personal choice or write-in candidates;

e. Permit each voter in primary elections to vote for candidates in the party primary in which he is qualified to vote, and the automatic tabulating equipment shall reject any votes cast for candidates of another party;

f. Prevent the voter from voting for the same person more than once for the same office;

g. Be suitably designed for the purpose used, of durable construction, and may be used safely, efficiently, and accurately in the conduct of elections and counting ballots;

h. When properly operated, record correctly and count accurately every vote cast, including all overvotes or undervotes and all affirmative votes or negative votes on all public questions or referenda;

i. By January 1, 2008, each voting machine shall produce an individual permanent paper record for each vote cast, which shall be made available for inspection and verification by the voter at the time the vote is cast, and preserved for later use in any manual audit. In the event of a recount of the results of an election, the voter-verified paper record shall be the official tally in that election. A waiver of the provisions of this subsection shall be granted by the Attorney General if the technology to produce a permanent voter-verified paper record for each vote cast is not commercially available.

**C.19:53A-3.1 Reimbursement for purchase, retrofit of voting machine to produce paper record.**

3. Unless federal funding is made available to pay for the purchase or retrofit of a voting machine to produce a voter-verified paper record as required by P.L.2005, c.137 (C.19:53A-3.1 et al.), a county shall be reimbursed by the State for such costs upon application for reimbursement to the Attorney General and approval of the application by the Director of the Division of Budget and Accounting in the Department of the Treasury, in accordance with the provisions of Article VIII, Section II, paragraph 5 of the New Jersey Constitution.

4. This act shall take effect immediately.

Approved July 7, 2005.

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CHAPTER 138

AN ACT concerning absentee ballots and amending P.L.1953, c.211.

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

1. Section 2 of P.L.1953, c.211 (C.19:57-2) is amended to read as follows:

**C.19:57-2 Definitions.**

2. Whenever used in this act, the following terms shall, unless the context indicates otherwise, be construed to have the following meanings:

"Absentee ballot" means any military service ballot or civilian absentee ballot as herein defined.

"Absentee voter" means any person qualified to vote a military service ballot or a civilian absentee ballot under the provisions of this act.

"Armed Forces of the United States" means any branch or department of the United States Army, Navy, Air Force, Coast Guard or Marine Corps.

"Civilian absentee ballot" means a ballot for use by a civilian absentee voter as prescribed by this act.

"Civilian absentee voter" means any qualified and registered voter of the State who wants to vote by absentee ballot.

"Election," "general election," "primary election for the general election," "presidential primary election," "municipal election," "school election," and "special election" shall mean, respectively, such elections as defined in the Title to which this is a supplement (R.S.19:1-1 et seq.).

"Family member" means an adult who is a spouse, parent, child, grandparent, grandchild or sibling of a voter, whether by adoption or natural relationship. It shall also include any adult occupant regularly living with a voter in any residential building or part of a building intended for the use of no more than one family.

"Incapacitated absentee voter" means a voter who, due to incapacity, is unable to complete his ballot.

"Military service" means active service by any person, as a member of any branch or department of the United States Army, Navy, Air Force, Coast Guard or Marine Corps, or as a member of the maritime or merchant marine service, or as a reservist undergoing training under Army, Navy, Air Force, Coast Guard or Marine Corps direction.

"Military service voter" means a qualified elector under the Constitution and the laws of this State who comes within one of the following categories:

- (a) Persons in the military service and their spouses and dependents.
- (b) Patients in a veterans' hospital who have been in the military service in any war in which the United States has been engaged and have been discharged or released from such service.
- (c) Civilians attached to or serving with the Armed Forces of the United States and their spouses and dependents when residing with or accompanying them.

"Military service ballot" means a ballot for use by a military service voter as prescribed by this act.

"Member of the maritime or merchant marine service" means any person employed as an officer or crew member of a vessel documented under the laws of the United States, or a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States or enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service as an officer or crew member of any such vessel or any such person as otherwise defined in section 107 of Pub.L.99-410, the "Uniformed and Overseas Citizens Absentee Voting Act," (42 U.S.C. s. 1973ff-6).

2. Section 3 of P.L.1953, c.211 (C.19:57-3) is amended to read as follows:

**C.19:57-3 Persons entitled to vote by absentee ballot, liberal construction.**

3. The following persons shall be entitled to vote by absentee ballot in any election to be held in this State, in the manner hereinafter provided:

A military service voter who has resided in this State at least 30 days and in the county in which he claims the right to vote at least 30 days counting the time he has been absent from the election district in which he resides because of the service, work, status or relationship entitling him to a military service ballot;

A military service voter who is stationed and resident in any garrison, barrack or military or naval place or station within this State, or who resides therein as spouse or dependent of a person in the military, naval or marine service so stationed, and who claims his vote in the municipality wherein such residence is located, shall be entitled to vote by military absentee ballot in any election for which he is duly registered to cast his vote in the election district of his residence in said municipality, but not otherwise; and

A civilian absentee voter as defined in section 2 of P.L.1953, c.211 (C.19:57-2).

This act shall be liberally construed to effectuate these purposes.

3. Section 4 of P.L.1953, c.211 (C.19:57-4) is amended to read as follows:

**C.19:57-4 Applications for absentee ballots.**

4. At any time not less than seven days prior to an election in which he desires to vote by mail, a civilian absentee voter may apply to the person designated in section 6 of P.L.1953, c.211 (C.19:57-6), for a civilian absentee ballot. Such application or request shall be made in writing, shall be signed by the applicant and shall state his or her place of voting residence and the address to which said ballot shall be sent.

Any military service voter desiring to vote in any election or any relative or friend of a military service voter who believes that such voter will desire to vote in any election, may apply to the person designated in section 6 of P.L.1953, c.211 (C.19:57-6) for a military service ballot to be sent to such voter. A military service voter may use a federal postcard application form to apply for a military service ballot. On any application made by a military service voter the voter may request a military service ballot for all subsequent elections through and including the next two regularly scheduled general elections for federal office which take place after the request is made; if such a request is made, a military service ballot shall be sent in a timely manner to the voter for all such elections.

Any civilian absentee voter who fails to apply within the seven-day time prescribed above may apply in person to the county clerk for an absentee ballot on any day up to 3 p.m. of the day before the election.

In the event of sickness or confinement, the qualified voter may apply in writing for and obtain an absentee ballot by authorized messenger, who shall be so designated over the signature of the voter and whose printed name and address shall appear on the application in the space provided. The authorized messenger shall be a family member or a registered voter of the county in which the application is made and shall place his signature on the application in the space so provided in the presence of the county clerk or his designee. No person who is a candidate in the election for which the voter requests an absentee ballot shall be permitted to serve as an authorized messenger. The authorized messenger shall show a photo identification card to the county clerk, or the designee thereof, at the time the messenger submits the application form. The county clerk or his designee shall authenticate the signature of the authorized messenger, in the event such a messenger is other than a family member, by comparing it with the signature of the said person appearing on a State of New Jersey driver's license, or other identification issued or recognized as official by the federal government, the State, or any of its political subdivisions, which identification carries the full address and signature of said person. After the signature of the application and, when appropriate, authentication, the county clerk or his designee is authorized to deliver to the authorized messenger a ballot to be delivered to the qualified voter. The Attorney General shall cause to be prepared a standard authorized messenger application form, which may be included with the standard civilian absentee ballot application forms. The authorized messenger section of the application shall contain the following language above the signature of the authorized messenger: "I do hereby certify that I will deliver the absentee ballot directly to the voter and no other person, under penalty of law."

A voter who is permanently and totally disabled, and any other voter who wishes to vote only by absentee ballot in a general election, and who states that on a request for an absentee ballot, shall be furnished an application for an absentee ballot by the county clerk for future elections in which the voter shall be eligible to vote, without further request on the part of the voter and until the voter requests that he or she no longer be sent an application. A voter who is permanently and totally disabled shall have the option to indicate on an application for an absentee ballot that the voter would like to receive an absentee ballot for each election that takes place during the remainder of the calendar year in which the application is completed and submitted. A voter who exercises this option shall be furnished with an absentee ballot for each election that takes place during the remainder of the

calendar year without further request by the voter. A person voting by absentee ballot who registered by mail after January 1, 2003, who did not provide personal identification information when registering pursuant to section 16 of P.L.1974, c.30 (C.19:31-6.4) and is voting for the first time in his or her current county of residence following registration shall include the required identification information with the absentee ballot. Failure to include such information with the absentee ballot shall result in the rejection of the ballot.

4. Section 7 of P.L.1953, c.211 (C.19:57-7) is amended to read as follows:

**C.19:57-7 Absentee ballots; information and notices.**

7. a. The Attorney General, through the Division of Elections in the Department of Law and Public Safety shall be responsible for providing all information regarding military service ballots, as defined in section 2 of P.L.1953, c.211 (C.19:57-2), and overseas federal election voter ballots, as provided for in P.L.1976, c.23 (C.19:59-1 et seq.). The division shall also make available valid military service voter registration applications, military service ballot applications and overseas federal election voter registration and ballot applications to any military service or overseas federal election voter who wishes to register to vote or to vote in any jurisdiction in this State. The division shall publish or cause to be published the following notice in substantially the following form:

**NOTICE TO MILITARY SERVICE VOTERS AND  
TO THEIR RELATIVES AND FRIENDS**

If you are in the military service, or the spouse or dependent of a person in military service or are a patient in a veterans' hospital or a civilian attached to or serving with the Armed Forces of the United States, or the spouse or dependent of and accompanying or residing with a civilian attached to or serving with the Armed Forces of the United States, and desire to vote, or if you are a relative or friend of any such person who, you believe, will desire to vote in the..... (school, municipal, primary, presidential primary, general or other) election to be held on..... (date of election) kindly write to the undersigned at once making application for a military service ballot to be voted in said election to be forwarded to you, stating your name, age, serial number if you are in military service, home address and the address at which you are stationed or can be found, or if you desire the military service ballot for a relative or friend then make application under oath for a military service ballot to be forwarded to him, stating in your application that he is over the age of 18 years and stating his name, serial



number if he is in military service, home address and the address at which he is stationed or can be found.

Military service voters may also apply for a military service ballot by sending a federal postcard application form to the undersigned.

On the application for a military service ballot, military service voters may request that a military service ballot be sent for all subsequent elections through and including the next two regularly scheduled general elections for federal office which take place after the request is made.

(NOTE: MILITARY SERVICE VOTER CLAIMING MILITARY STATION AS HOME ADDRESS FOR VOTING PURPOSES MAY NOT USE MILITARY ABSENTEE BALLOT UNLESS REGISTERED TO VOTE IN THE MUNICIPALITY WHERE SUCH STATION IS LOCATED.)

Forms of application other than federal postcard application forms can be obtained from the undersigned. Dated.....

.....  
(signature and title of Director of Division of Elections)

.....  
(address of Division of Elections)

b. The county clerk of the county, in the case of any Statewide election, countywide election, or school election in a regional or other school district comprising more than one municipality; the clerk of the municipality, in the case of any municipal election or school election in a school district comprising a single municipality; and the commissioners or other governing or administrative body of the district, in the case of any election to be held in any fire district, road district, sewerage district, street lighting district, water supply district or other special district, other than a municipality, created for specified public purposes within one or more municipalities, shall publish or cause to be published the following notice in substantially the following form:

**NOTICE TO PERSONS DESIRING CIVILIAN  
ABSENTEE BALLOTS**

If you are a qualified and registered voter of the State who wants to vote by absentee ballot in the..... (school, municipal, primary, presidential primary, general, or other) election to be held on..... (date of election) kindly complete the application form below and send to the undersigned, or write or apply in person to the undersigned at once requesting that a civilian absentee ballot be forwarded to you. Such request must state your

home address, and the address to which said ballot should be sent, and must be dated and signed with your signature. If any person has assisted you to complete the absentee ballot application, the name, address and signature of the assistor must be provided on the application. Also, you must sign and date the application for it to be valid and processed. No person who is a candidate in the election for which the voter requests an absentee ballot may provide any assistance in the completion of the ballot or may serve as an authorized messenger. No civilian absentee ballot will be furnished or forwarded to any applicant unless request therefor is received not less than seven days prior to the election, and contains the foregoing information.

Voters who are permanently and totally disabled, and any other voters who wish to vote only by absentee ballot in a general election, and who state that on their request shall, after their initial request and without further action on their part, be forwarded an absentee ballot application by the county clerk for future elections in which they are eligible to vote and until the voter requests that he or she no longer be sent an application. Permanently and totally disabled voters also have the option of indicating on their absentee ballot applications that they would prefer to receive absentee ballots for each election that takes place during the remainder of this calendar year. Permanently and totally disabled voters who exercise this option will be furnished with absentee ballots for each election that takes place during the remainder of this calendar year, without further action on their part.

Application forms may be obtained by applying to the undersigned either in writing or by telephone, or the application form provided below may be completed and forwarded to the undersigned.

Dated.....

.....  
(signature and title of county clerk)

.....  
(address of county clerk)

.....  
(Telephone No. of county clerk)

APPLICATION FORM FOR CIVILIAN  
ABSENTEE BALLOT

(Form to be prepared by the Attorney General pursuant to section 17 of P.L.1977, c.47 (C.19:57-4.1)).

c. The absentee ballot materials shall contain a notice that any person voting by absentee ballot who registers by mail after January 1, 2003, who did not provide personal identification information when registering and is voting for the first time in his or her current county of residence following

registration shall include the required identification information with the absentee ballot, and that failure to include such information shall result in the rejection of the ballot.

d. Such notices as described in subsections a. and b. of this section shall be separately published prior to the 50th day immediately preceding the holding of any election.

Notices relating to any Statewide or countywide election shall be published in at least two newspapers published in the county. All officials charged with the duty of publishing such notices shall publish the same in at least one newspaper published in each municipality or district in which the election is to be held or if no newspaper be published in said municipality or district, then in a newspaper published in the county and circulating in such municipality, municipalities or district. All such notices shall be display advertisements.

5. Section 11 of P.L.1953, c.211 (C.19:57-11) is amended to read as follows:

**C.19:57-11 Forwarding of ballots.**

11. Each county clerk shall forward a military service ballot or a civilian absentee ballot, as the case may be, for use under this act by first-class mail or hand delivery to each military service voter who applies therefor or on whose behalf application is made therefor, and whose application is approved in any case where approval is required under section 10 of this act, and to each civilian absentee voter whose request therefor has been approved. Hand delivery of an absentee ballot shall be made by the county clerk or his designee only to the voter or his authorized messenger, who must appear in person. Ballots that have not been hand delivered shall be addressed to the voter at the forwarding address given in the application. All ballots to be forwarded to persons at an address located within the limits of the states of Alaska and Hawaii or anywhere else without the limits of the other 48 states and the District of Columbia shall be forwarded by air mail.

Such ballot shall be so forwarded as soon as practicable after the 40th day preceding the day upon which any election is to be held.

Whenever the clerk forwards by mail a military or civilian absentee ballot, as the case may be, to an absentee ballot voter between the 14th day and the fourth day prior to the day of an election, the ballot shall be transmitted, following approval of the application, within two business days of the receipt of the application.

6. Section 12 of P.L.1953, c.211 (C.19:57-12) is amended to read as follows:

**C.19:57-12 Requests for absentee ballots, forwarding, lists, updating of lists.**

12. a. Each county clerk, after processing the request for civilian absentee ballots and the applications for military absentee ballots requiring approval under section 10 of P.L.1953, c.211 (C.19:57-10) and furnishing the applicant with a civilian or military absentee ballot in the manner prescribed by this act, shall forward such requests, including those disapproved, to the county board of elections. Each county clerk shall also keep one list of such requests received by the clerk and another list of the applicants whose applications were approved and sent absentee ballots. Each list shall include the name and street address of each person requesting or receiving either a civilian or military absentee ballot. The clerk shall update the lists each business day and they shall be made available to the public and transmitted to all election officials charged with the duty of administering this act.

b. Each county board of elections shall keep a list of the name and street address of each person who returns a voted civilian or military absentee ballot and the name and street address of each person who delivers such a ballot personally to the board. The board shall update the list each business day and it shall be accessible to the public and transmitted to all elections officials charged with the duty of administering this act.

The county clerk and the county board of elections shall keep the lists required by this section starting no later than the 14th day prior to the day of the election and continue to do so until the day of the election.

7. Section 16 of P.L.1953, c.211 (C.19:57-16) is amended to read as follows:

**C.19:57-16 Directions to be sent with ballots; envelopes.**

16. Each county clerk shall send, with each absentee ballot, printed directions for the preparation and transmitting of absentee ballots as required by this act, which shall be printed in such manner and form as the Secretary of State shall require, together with two envelopes of such sizes that one will contain the other.

The outer envelope shall be addressed to the county board of elections of the county in which is located the home address of the person to whom the absentee ballot is sent, as certified by the county clerk. On the outside and front of each outer envelope, there shall be printed or stamped the following:

To protect your vote:

IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE VOTER TO MAIL OR TRANSPORT THIS BALLOT UNLESS THE ENVELOPE IS SEALED AND THE FOLLOWING IS COMPLETED:

Ballot mailed or transported by

.....  
(signature of bearer)

.....  
(print name of bearer)

.....  
(address of bearer)

The reserve side of the outer envelope shall contain the following:  
REMINDER

For your vote to count, you must:

- 1) Vote your ballot and place it in the inner envelope with the attached certificate.
- 2) Seal the envelope.
- 3) Place the envelope into the larger envelope addressed to the board of elections and seal that envelope.
- 4) Affix the proper postage to the envelope.
- 5) If another person will be mailing your ballot or bringing it to the board of elections, MAKE CERTAIN THAT PERSON COMPLETES THE "BEARER PORTION" ON THE ENVELOPE ADDRESSED TO THE BOARD OF ELECTIONS BEFORE THE BALLOT IS TAKEN FROM YOU. NO PERSON WHO IS A CANDIDATE IN THE ELECTION FOR WHICH YOU REQUESTED AN ABSENTEE BALLOT CAN BE THE BEARER FOR YOUR BALLOT.

The Attorney General is authorized to make such necessary changes to the instructions for absentee ballot materials as the Attorney General deems necessary or as is mandated by federal or State law.

The inner envelope shall be so designed that it can be sealed after the absentee ballot has been placed therein and the flap thereof shall be of such length and size as to leave sufficient margin, after sealing, for the printing thereon of the certificate hereinafter described. The flap shall be so arranged that, after the inner envelope has been sealed, the certificate can be contained, with the said inner envelope, in the outer envelope, and that the margin containing the certificate can be detached without unsealing the inner envelope.

On the outside of each envelope in which an absentee ballot is sent to an absentee voter by the county clerk, there shall be printed or stamped the words "Official Military Service Ballot" or "Official Civilian Absentee Ballot" as the case may be. In addition, there shall be printed or stamped the following:

To protect your vote:

IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE VOTER TO OPEN, MARK, INSPECT OR SEAL THIS BALLOT.

However, a family member may assist you in doing so. If you are an incapacitated absentee voter, a person other than a family member may also assist you in doing so.

The reverse side of each inner envelope shall contain the following statement:

ANY PERSON MAY BE FINED AND IMPRISONED AND MAY ALSO LOSE THE RIGHT TO VOTE UNTIL RESTORED BY LAW if he attempts to vote fraudulently by absentee ballot, prevents the voting of a legal voter, certifies falsely any information, interferes with a person's secrecy of voting, tampers with ballots or election documents or helps another person to do so.

8. Section 23 of P.L.1953, c.211 (C.19:57-23) is amended to read as follows:

**C.19:57-23 Marking and handling of absentee ballots by voters; return by mail or personal delivery; record.**

23. Any absentee voter shall be entitled to mark any absentee ballot, so forwarded to him, for voting at any election by indicating his choice of candidates for the offices named, and as to public questions, if any, stated thereon, in accordance with the election laws of this State, except that in such ballots to be voted in any presidential primary election or primary election for the general election, as the case may be, his choice shall be limited to the candidates of his political party or to any person or persons whose names are written thereon by him. When so marked, such ballot shall be placed in said inner envelope, which shall then be sealed, and the voter shall then fill in the form of certificate attached to said inner envelope, at the end of which he shall sign and print his name in his own handwriting. The inner envelope with the certificate shall then be placed in said outer envelope, which shall then be sealed. No person who is a candidate in the election for which the voter requests an absentee ballot shall be permitted to provide any assistance in the completion of the ballot.

No absentee voter shall permit any person in any way, except as provided hereafter, to unseal, mark or inspect his ballot, interfere with the secrecy of his absentee ballot vote, complete or sign the certificate, or seal the inner or outer envelope, nor shall any person do so.

An absentee voter shall be entitled to assistance from a family member in performing any of the actions above. An incapacitated absentee voter shall also be entitled to assistance from a person other than a family member in performing any of such actions. The family member or other person providing such assistance shall certify that he did assist the voter and will maintain the secrecy of the vote by both printing and signing his name in the

space provided on the certificate. In no event may a candidate for election provide such assistance, nor may any person, at the time of providing such assistance, campaign or electioneer on behalf of any candidate.

Said sealed outer envelope with the inner envelope and the ballot enclosed therein shall then either be mailed with sufficient postage to the county board of elections to which it is addressed or delivered personally by the voter or a bearer designated by him to such board or its designee. Such ballot must be received by such board or its designee before the time designated by R.S.19:15-2 or R.S.19:23-40 for the closing of the polls, as may be appropriate on the day of an election.

At the time any person delivers a ballot to the county board, he shall sign a record which the county shall maintain of all absentee ballots personally delivered to it.

No person who is a candidate in the election for which the voter requests an absentee ballot shall be permitted to serve as an authorized messenger or bearer. The messenger or bearer, by signing the certification provided for in section 4 of P.L.1953, c.211(C.19:57-4), certifies that he or she received an absentee ballot directly from the voter and no other person and is authorized to deliver the ballot to the appropriate board of election on behalf of the voter.

9. Section 28 of P.L.1953, c.211 (C.19:57-28) is amended to read as follows:

**C.19:57-28 Person receiving absentee ballot cannot vote in person.**

28. No person who has applied for a civilian absentee ballot and to whom a civilian absentee ballot has been either delivered in person or forwarded by mail by a county clerk, shall be permitted to vote in person at the polling place in his election district on the day of the election, but such person may execute such ballot in the manner provided by this act.

10. This act shall take effect immediately.

Approved July 7, 2005.

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## CHAPTER 139

AN ACT concerning voter registration, polling records and voter lists, and amending and supplementing various parts of the statutory law.

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

**C.19:14-21.1 Information sent to newly-registered voters for general election.**

1. Notwithstanding the provisions of any other law to the contrary, a voter who registers after the 29th day prior to a general election and who is eligible to participate in that election may be sent, instead of a sample ballot, notice of the voter's polling place, information on where to obtain a sample ballot prior to the election, a statement indicating that a sample ballot will be available at the polling place on the day of the election, and, if applicable, information on a county website where a sample ballot may be viewed.

**C.19:23-30.1 Information sent to newly-registered voters for primary election.**

2. Notwithstanding the provisions of any other law to the contrary, a voter who registers after the 29th day prior to a primary election and who is eligible to participate in that election may be sent, instead of a sample ballot, notice of the voter's polling place, information on where to obtain a sample ballot prior to the election, a statement indicating that a sample ballot will be available at the polling place on the day of the election, and, if applicable, information on a county website where a sample ballot may be viewed.

**C.19:60-10.1 Information sent to newly-registered voters for school election.**

3. Notwithstanding the provisions of any other law to the contrary, a voter who registers after the 29th day prior to a school election and who is eligible to participate in that election may be sent, instead of a sample ballot, notice of the voter's polling place, information on where to obtain a sample ballot prior to the election, a statement indicating that a sample ballot will be available at the polling place on the day of the election, and, if applicable, information on a county website where a sample ballot may be viewed.

4. R.S.19:12-7 is amended to read as follows:

**Publication of notice of elections.**

19:12-7. a. The county board in each county shall cause to be published in a newspaper or newspapers which, singly or in combination, are of general circulation throughout the county, a notice containing the information specified in subsection b. hereof, except for such of the contents as may be omitted pursuant to subsection c. or d. hereof. Such notice shall be published once during the 30 days next preceding the day fixed for the closing of the registration books for the primary election, once during the calendar week next preceding the week in which the presidential primary election or the primary election for the general election is held, as the case may be, once during the 30 days next preceding the day fixed for the closing of the regis-



tration books for the general election, and once during the calendar week next preceding the week in which the general election is held.

b. Such notice shall set forth:

(1) For the primary election for the general election:

(a) That a primary election for making nominations for the general election and for the selection of members of the county committees of each political party will be held on the day and between the hours and at the places provided for by or pursuant to this Title.

(b) The place or places at which and hours during which a person may register, the procedure for the transfer of registration, and the date on which the books are closed for registration or transfer of registration.

(c) The several State, county, municipal and party offices or positions to be filled, or for which nominations are to be made, at such primary election.

(d) The existence of registration and voting aids, including: (i) the availability of registration and voting instructions at places of registration as provided under R.S.19:31-6; and (ii), if available, the accessibility of voter information to the deaf by means of a telecommunications device.

(e) The availability of assistance to a person unable to vote due to blindness, disability or inability to read or write.

(f) In the case of the notice published during the calendar week next preceding the week in which the primary election is held, that a voter who, prior to the election, shall have moved within the same county without (i) filing, on or before the 21st day preceding the election, a notice of change of residence with the commissioner of registration of the county or the municipal clerk of the municipality in which the voter resides on the day of the election, (ii) returning the confirmation notice sent to the voter by the commissioner of registration of the county, if such a notice has been sent to the voter, or (iii) otherwise notifying the commissioner of registration of the voter's change of address within the county shall be permitted to correct the voter's registration and to vote in the primary election by provisional ballot at the polling place of the district in which the voter resides on the day of the election. The notice shall further provide that the voter may contact the county commissioner of registration or municipal clerk to determine the proper polling place location for the voter.

(2) For the general election:

(a) That a general election will be held on the day and between the hours and at the places provided for by or pursuant to this Title.

(b) The place or places at which and hours during which a person may register, the procedure for transfer of registration, and the date on which the books are closed for registration or transfer of registration.

(c) The several State, county and municipal offices to be filled and, except as provided in R.S.19:14-33 of this Title as to publication of notice of any Statewide proposition directed by the Legislature to be submitted to the people, the State, county and municipal public questions to be voted upon at such general election.

(d) The existence of registration and voting aids, including: (i) the availability of registration and voting instructions at places of registration as provided under R.S.19:31-6; and (ii) the accessibility of voter information to the deaf by means of a telecommunications device.

(e) The availability of assistance to a person unable to vote due to blindness, disability or inability to read or write.

(f) In the case of the notice published during the calendar week next preceding the week in which the general election is held, that a voter who, prior to the election, shall have moved within the same county without (i) filing, on or before the 21st day preceding the election, a notice of change of residence with the commissioner of registration of the county or the municipal clerk of the municipality in which the voter resides on the day of the election, (ii) returning the confirmation notice sent to the voter by the commissioner of registration of the county, if such a notice has been sent to the voter, or (iii) otherwise notifying the commissioner of registration of the voter's change of address within the county shall be permitted to correct the voter's registration and to vote in the general election by provisional ballot at the polling place of the district in which the voter resides on the day of the election. The notice shall further provide that the voter may contact the county commissioner of registration or municipal clerk to determine the proper polling place location for the voter.

(3) For a school election:

(a) The day, time and place thereof,

(b) The offices, if any, to be filled at the election,

(c) The substance of any public question to be submitted to the voters thereat,

(d) That a voter who, prior to the election, shall have moved within the same county without (i) filing, on or before the 21st day preceding the election, a notice of change of residence with the commissioner of registration of the county or the municipal clerk of the municipality in which the voter resides on the day of the election, (ii) returning the confirmation notice sent to the voter by the commissioner of registration of the county, if such a notice has been sent to the voter, or (iii) otherwise notifying the commissioner of registration of the voter's change of address within the county shall be permitted to correct the voter's registration and to vote in the school election by provisional ballot at the polling place of the district in which the voter resides on the day of the election,

(e) That if the voter has any questions as to where to vote on the day of the election, the voter may contact the county commissioner of registration or municipal clerk to determine the proper polling place location for the voter; and

(f) Such other information as may be required by law.

(4) For the presidential primary election:

(a) That a primary for the selection of delegates and alternates to national conventions of political parties will be held on the day and between the hours and at the places provided for pursuant to this Title.

(b) The place or places at which and hours during which a person may register, the procedure for the transfer of registration, and the date on which the books are closed for registration or transfer of registration.

(c) The existence of registration and voting aids, including: (i) the availability of registration and voting instructions at places of registration as provided under R.S.19:31-6; and (ii), if available, the accessibility of voter information to the deaf by means of a telecommunications device.

(d) The availability of assistance to a person unable to vote due to blindness, disability or inability to read or write.

c. If such publication is made in more than one newspaper, it shall not be necessary to duplicate in the notice published in each such newspaper all the information required under this section, so long as:

(1) The municipal officers or party positions to be filled, or nominations made, or municipal public questions to be voted upon by the voters of any municipality, shall be set forth in at least one newspaper having general circulation in such municipality;

(2) All offices to be filled, or nominations made therefor, or public questions to be voted upon, by the voters of the entire State or of the entire county shall be set forth in a newspaper or newspapers which, singly or in combination, have general circulation throughout the county;

(3) Information relating to nominations and elections in each Legislative District comprised in whole or part in the county, shall be published in at least a newspaper or newspapers which singly or in combination, have general circulation in every municipality of the county which is comprised in such legislative district.

d. Such part or parts of the original notices as published which pertain to day of registration or primary election which has occurred shall be eliminated from such notice in succeeding insertions.

e. (Deleted by amendment, P.L.1999, c.232.)

f. The cost of publishing the notices required by this section shall be paid by the respective counties, unless otherwise provided for by law.

5. Section 6 of P.L.1991, c.249 (C.19:15-18.3) is amended to read as follows:

**C.19:15-18.3 Challenged voter may appeal to Superior Court judge.**

6. Any person whose name does not appear on a challenge list prepared by the superintendent of elections of the county but who is challenged and denied the right to vote on the day of a municipal, primary, general, or special election by a duly authorized challenger or by a member of a district board of elections, may apply to a Superior Court judge sitting at the county seat for permission to vote. No papers need be filed; the court shall entertain oral applications. The challenged voter may appear pro se or with counsel. The challenger or the member of the district board, as the case may be, may appear or be represented by counsel. The challenged voter shall be permitted to state by oath or affirmation the facts which the voter believes establish eligibility to vote, shall furnish a copy of the affidavit the voter signed when challenged, a copy of the affidavit signed by the challenger and the identifying document found invalid by the challenger and the district board. The rules of evidence shall not apply to those proceedings. The judge shall grant the application and provide the challenged voter with written authorization to vote on that day if the judge finds the following facts to be established by the testimony of the applicant or, in the case of a dispute of facts or some questions as to the challenged voter's credibility, by a preponderance of the following evidence:

a. The challenged voter is at least 18 years old and a citizen of the United States and of this State, has resided in the county at least 30 days prior to the date of the election, and has not been convicted of a crime which would disenfranchise a person under the laws of this State, and either:

b. The challenged voter is properly registered at his location; or

c. The challenged voter was properly registered at his location as of the last election at which the challenged voter voted but has moved to another location within the county since then and in good faith attempted to register at the new address within the time prescribed by law.

For the purposes of this section, a good faith attempt to register shall include: completing the prescribed registration form no later than 21 days before the election in the presence of a person who appears to be over 18 years old and says that he or she can and will witness the form and mail it to the register for the applicant; completing a form received in the mail from the commissioner of registration, superintendent of elections or the county board which states that information has been received that the applicant has moved and placing the completed form in a proper mailbox with proper postage, if necessary, no later than 21 days before the election; completing a registration form in any government office; and reasonably relying upon

the oral statements of an official at a polling place that they will insure proper reregistration.

The judge of the Superior Court having the application shall cause a full record of the proceeding to be taken stenographically, transcribed and filed in the office of the county clerk of the county, which record shall be open and public record. All costs and expenses of such proceedings shall be paid by the county.

6. R.S.19:31-2 is amended to read as follows:

**Commissioner of registration.**

19:31-2. In all counties having a superintendent of elections, the superintendent of elections is hereby constituted the commissioner of registration and in all other counties the secretary of the county board is hereby constituted the commissioner of registration.

The commissioner of registration shall have complete charge of the registration of all eligible voters within their respective counties.

The commissioner of registration shall have power to appoint temporarily, and the commissioner of registration in counties of the first class having more than 800,000 inhabitants shall have power to appoint on a permanent, or temporary basis, such number of persons, as in the commissioner's judgment may be necessary in order to carry out the provisions of this Title. All persons appointed by the commissioner of registration in counties of the first class having more than 850,000 inhabitants according to the latest federal decennial census to serve for terms of more than six months in any one year shall be in the career service of the civil service and shall be appointed, and hold their positions, in accordance with the provisions of Title 11A, Civil Service. All persons appointed by the commissioner of registration in counties of the first class having more than 600,000 but less than 850,000 inhabitants according to the latest federal decennial census to serve for terms of more than six months in any one year, other than the chief deputy and chief clerk and confidential secretary and chief custodian, shall be in the career service of the civil service and shall be appointed and hold their positions, in accordance with the provisions of Title 11A, Civil Service. Persons appointed by the commissioner of registration in such counties to serve for terms of six months or less in any one year and persons appointed by the commissioner of registration shall not be subject to any of the provisions of Title 11A, Civil Service, but shall be in the unclassified service.

In each county the commissioner of registration shall submit to the Attorney General on or before February 15 of each year a plan providing for evening registration for the primary election and on or before July 1 plans

providing for evening registration for the general election, which plans shall be subject to approval by the Attorney General. Evening registration shall be made available in the office of each commissioner of registration between the hours of 4 p.m. and 9 p.m. on the 21st day preceding the primary and general elections and, in any year in which municipal elections are to be held in any municipality within the county, on the 21st day preceding those municipal elections.

In each county, the commissioner of registration may also establish a plan for out-of-office registration, including door-to-door registration.

Nothing in this section shall preclude the commissioner from providing pursuant to plan evening registration in excess of the requirements of this section, or shall preclude or in any way limit out-of-office registration conducted by persons or groups other than the commissioner.

The commissioner of registration shall provide such printed forms, blanks, supplies and office telephone and transportation equipment and shall prescribe such reasonable rules and regulations not inconsistent with those of the Attorney General as are necessary in the opinion of the commissioner to carry out the provisions of this Title and any amendments or supplements thereto.

Subject to the limitations set forth in chapter 32 of this Title, all necessary expenses incurred, as and when certified and approved by the commissioner of registration shall be paid by the county treasurer of the county.

Nothing in the provisions of subtitle 2 of the Title, Municipalities and Counties (R.S.40:16-1 et seq.), shall in anywise be construed to affect, restrict or abridge the powers herein conferred on the commissioners of registration of the several counties.

All powers granted to the commissioner in all counties not having superintendents of elections by the provisions of this Title are hereby conferred on the county board in such counties and any and all duties conferred upon the commissioner in all counties not having a superintendent of elections by the provisions of this Title shall only be exercised and performed by such commissioner under the instructions and directions of and subject to the approval of the county board of such counties.

7. Section 2 of P.L.1994, c.170 (C.19:31-3.3) is amended to read as follows:

**C.19:31-3.3 Digitalized images of signatures, use.**

2. In those counties in which the commissioner of registration employs data processing equipment capable of creating or receiving, storing, and printing a digitalized image of the signature of a person registered to vote, the commissioner may eliminate the use of the duplicate permanent registra-

tion binders and may authorize and direct the use at the polls in place of such a binder, as a signature copy register for the purposes of this Title and Title 40 of the Revised Statutes, of a polling record which identifies on each page the election at which the record is used, which indicates for each registrant the name, address, and date of birth of the registrant and identifies the municipality and the particular election district therein from which the person is registered, and which includes adjacent to the registrant's name and address an imprint of the digitalized image of the registrant's signature and sufficient space, immediately to the left or right of that imprint, for the registrant to sign the record, which imprint and signature shall be used as the signature comparison record as prescribed by this Title. The polling record shall also include for each registrant sufficient space for the notation of remarks as provided by R.S.19:15-23 and for the recording of any challenge and the determination thereof by the district board as provided by R.S.19:15-24, or by other elections officials charged with the same duties as the district board in connection with the conduct of an election. In the case of a primary election, the polling record shall also indicate for each registrant the political party, if any, of which the registrant is a member for the purpose of voting at that primary election.

Polling records for each election shall be prepared by the commissioner of registration not later than the 10th day preceding the election. At each election, the delivery of the polling records to the municipal clerk and to the district boards or other elections officials charged with the same duties as the district board in connection with the conduct of an election, and the return of those records by the district boards or such other elections officials to the commissioner of registration, shall be made in the manner and in accordance with the schedule prescribed by law for the delivery and return at that election of the signature copy registers.

The commissioner of registration shall retain the polling records for any election for a period of not less than six years following that election.

8. R.S.19:31-6 is amended to read as follows:

**Registration places, time, requirements.**

19:31-6. Any person qualified to vote in an election shall be entitled to vote in the election if the person shall have registered to vote on or before the 21st day preceding the election by:

- a. registering in person at any offices designated by the commissioner of registration for providing and receiving registration forms;
- b. completing a voter registration form while applying for a motor vehicle driver's license from an agent of the New Jersey Motor Vehicle Commission, as provided for in section 24 of P.L.1994, c.182 (C.39:2-3.2);

c. completing and returning to the Attorney General or having returned thereto a voter registration form received from a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), while applying for services or assistance or seeking a recertification, renewal or change of address at an office of that agency;

d. completing and returning to the Attorney General a voter registration form obtained from a public agency, as defined in subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3);

e. completing and returning to the Attorney General or having returned thereto a voter registration form received from a door-to-door canvass or mobile registration drive, as provided for in section 19 of P.L.1974, c.30 (C.19:31-6.7);

f. completing and returning to the Attorney General a federal mail voter registration form, as prescribed in subsection (b) of section 9 of the "National Voter Registration Act of 1993," (42 U.S.C. s. 1973gg et seq.);

g. completing and returning to the Attorney General or the appropriate county clerk an application for a federal postcard application form to register to vote, as provided for in the "Overseas Absentee Voting Act" (42 U.S.C. s. 1973ff-1 et seq.) and section 4 of P.L.1976, c.23 (C.19:59-4); or

h. completing a provisional ballot affirmation statement and voting the provisional ballot in the previous election, if the person who submitted the provisional ballot in that election is determined not to be a registered voter.

When the commissioner has designated a place or places other than his office for receiving registrations, the commissioner shall cause to be published a notice in a newspaper circulated in the municipality wherein such place or places of registration shall be located. Such notice shall be published pursuant to R.S.19:12-7.

Any office designated by the commissioner of registration for receiving registration forms shall have displayed, in a conspicuous location, registration and voting instructions. These instructions shall be the same as those provided for polling places under R.S.19:9-2 and shall be provided by the commissioner.

9. Section 1 of P.L.1966, c.177 (C.19:31-6.1) is amended to read as follows:

**C.19:31-6.1 Acceptance of applications for registration during 20 days prior to election, ineligibility to vote.**

1. Notwithstanding any other provisions of the Title to which this act is a supplement, any person authorized by law to accept applications for voter registration shall accept, during the 20-day period prior to any election, the application for registration of all eligible voters who shall personally



appear for registration before such person, or the registration card mailed or delivered to such person, but no eligible voter so registered shall be entitled to vote in the election immediately following said 20-day period. Any person registered under the provisions of this act shall be advised that he will not be eligible to vote in the election immediately forthcoming but will be eligible to vote in elections held thereafter.

Applications for registration pursuant to the provisions of this act shall be received at such place or places as may be designated by any duly authorized election official.

10. Section 15 of P.L.1974, c.30 (C.19:31-6.3) is amended to read as follows:

**C.19:31-6.3 Public agency defined; completion, submission of registration forms.**

15. a. As used in this section, "public agency" shall mean:

The Division of Worker's Compensation, the Division of Employment Services and the Division of Unemployment and Temporary Disability Insurance, established initially by section 5 of P.L.1948, c.446 (C.34:1A-5), in the Department of Labor and Workforce Development;

The Division of Taxation in the Department of the Treasury, continued under section 24 of P.L.1948, c.92 (C.52:18A-24);

The New Jersey Transit Corporation, established pursuant to section 4 of P.L.1979, c.150 (C.27:25-4);

Any free county library established under the provisions of article 1 of chapter 33 of Title 40 of the Revised Statutes;

Any regional library established under the provisions of P.L.1962, c.134 (C.40:33-13.3 et seq.);

Any free public library established under the provisions of article 1 of chapter 54 of Title 40 of the Revised Statutes;

Any joint free public library established under the provisions of P.L.1959, c.155 (C.40:54-29.3 et seq.);

Any public institution of higher education as included under the provisions of N.J.S.18A:62-1;

Any eligible institution, as defined by subsection a. of section 3 of P.L.1979, c.132 (C.18A:72B-17), that receives financial assistance, aid, or grants from State funds;

Any office or commercial establishment where State licenses or permits, other than licenses or permits issued by a professional or occupational board established under the laws of this State, are available to individual members of the public; and

Any recruitment office of the New Jersey National Guard.

b. Any person entitled to register to vote may register as a voter in the election district in which that person resides at any time prior to the 21st day preceding any election by completing a registration form described in section

16 of P.L.1974, c.30 (C.19:31-6.4) and submitting the form to the commissioner of registration of the county wherein the person resides or alternatively, in the case of a registration form provided by the employees or agents of a public agency or a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), to those employees or agents or to the Attorney General. Any registration form addressed to a commissioner of registration may be mailed to or delivered to the office of that commissioner, and in the case of a registration form available at a public agency, the form shall be mailed to the Attorney General or delivered to the commissioner of registration in the county of the registrant. A registration form postmarked, stamped or otherwise marked as having been received from the registration applicant, on or before the 21st day preceding any election shall be deemed timely.

11. Section 16 of P.L.1974, c.30 (C.19:31-6.4) is amended to read as follows:

**C.19:31-6.4 Registration forms, contents, availability; duties of officials.**

16. a. The Attorney General shall cause to be prepared and shall provide to each county commissioner of registration forms of size and weight suitable for mailing, which shall require the information required by R.S.19:31-3 in substantially the following form:

VOTER REGISTRATION APPLICATION

Print clearly in ink. Use ballpoint pen or marker.

(1) This form is being used as (check one):

- New registration
- Address change
- Name change

(2) Name:.....  
Last First Middle

(3) Are you a citizen of the United States of America?  Yes  No

(4) Will you be 18 years of age on or before election day?  Yes  No

If you checked 'No' in response to either of these questions, do not complete this form.

(5) Street Address where you live:

.....  
Street Address Apt. No.

.....  
(6) City or Town County Zip Code

(7) Address Where You Receive Your Mail (if different from above):

.....  
(8) Date of Birth:

.....  
Month Day Year

(9) Telephone Number (optional) .....

(10) Name and address of Your Last Voter Registration

.....  
.....  
.....

(11) If you are registering by mail to vote and will be voting for the first time in your current county of residence, please provide one of the following:

(a) your New Jersey driver's license number:.....

(b) the last four digits of your Social Security Number.....

OR submit with this form a copy of any one of the following documents: a current and valid photo identification card; a current utility bill, bank statement, government check, pay check or any other government or other identifying document that shows your name and current address. If you do not provide either your New Jersey driver's license number or the last four digits of your Social Security Number, or enclose a copy of one of the documents listed above, you will be asked for identification when voting for the first time, unless you are exempt from doing so under federal or State law.

(12) Declaration - I swear or affirm that:

I am a U.S. citizen.

I live at the above address.

I will be at least 18 years old on or before the day of the next election.

I am not on parole, probation or serving a sentence due to a conviction for an indictable offense under any federal or State laws.

I UNDERSTAND THAT ANY FALSE OR FRAUDULENT REGISTRATION MAY SUBJECT ME TO A FINE OF UP TO \$1,000.00, IMPRISONMENT UP TO FIVE YEARS, OR BOTH PURSUANT TO R.S.19:34-1.

.....  
 Signature or mark of the registrant      Date

(13) If applicant is unable to complete this form, print the name and address of individual who completed this form.

.....  
 Name

.....  
 Address

In addition, the form may include notice to the applicant of information and options relating to the registration and voting process, including but not limited to notice of qualifications required of a registered voter; notice of the final day by which a person must be registered to be eligible to vote in an election; notice of the effect of a failure to provide required identification information; a place at which the applicant may indicate availability for service as a member of the district board of elections; a place at which the applicant may indicate whether he or she requires a polling place which is accessible to elderly and physically disabled voters or whether he or she is legally blind; and a place at which the applicant may indicate a desire to receive information concerning absentee voting. The form may also include a space for the voter registration agency to record whether the applicant registered in person, by mail or by other means.

b. The reverse side of the registration form shall bear the address of the Attorney General or the commissioner of registration to whom such form is supplied, and a United States postal permit the charges upon which shall be paid by the State.

c. The Attorney General shall cause to be prepared registration forms of the size, weight and form described in subsection a. of this section in both the English and Spanish language and shall provide such forms to each commissioner of registration of any county in which there is at least one election district in which bilingual sample ballots must be provided pursuant to R.S.19:14-21, R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4).

d. The commissioner of registration shall furnish such registration forms upon request in person to any person or organization in such reasonable quantities as such person or organization shall request. The commissioner shall furnish no fewer than two such forms to any person upon request by mail or by telephone.

e. Each such registration form shall have annexed thereto instructions specifying the manner and method of registration and stating the qualifications for an eligible voter.

f. The Attorney General shall also furnish such registration forms and such instructions to the Director of the Division of Worker's Compensation, the Director of the Division of Employment Services, and the Director of the

Division of Unemployment and Temporary Disability Insurance in the Department of Labor and Workforce Development; to the Director of the Division of Taxation in the Department of the Treasury; to the Executive Director of the New Jersey Transit Corporation; to the appropriate administrative officer of any other public agency, as defined by subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3); to the Adjutant General of the Department of Military and Veterans' Affairs; and to the chief administrative officer of any voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11).

g. All registration forms received by the Attorney General in the mail or forwarded to the Attorney General shall be forwarded to the commissioner of registration in the county of the registrant.

h. An application to register to vote received from the New Jersey Motor Vehicle Commission or a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), shall be deemed to have been timely made for the purpose of qualifying an eligible applicant as registered to vote in an election if the date on which the commission or agency shall have received that document in completed form, as indicated in the lower right hand corner of the form, was not later than the 21st day preceding that election.

i. Each commissioner of registration shall make note in the permanent registration file of each voter who is required to provide the personal identification information required pursuant to this section, as amended, and R.S.19:15-17, R.S.19:31-5 and Pub.L.107-252 (42 U.S.C. s. 15301 et seq.), to indicate the type of identification provided by the voter and the date on which it is provided. Prior to the June 2004 primary election, when such a newly registered voter seeks to vote for the first time following his or her registration, the voter will be required to provide such personal identification information. Beginning with the June 2004 primary election, when such a newly registered voter seeks to vote for the first time following his or her registration, the voter will not be required to provide such information if he or she had previously provided the personal identification information required pursuant to this section. The required information shall be collected and stored for the time and in the manner required pursuant to regulations promulgated by the Attorney General.

j. The Attorney General shall amend the voter registration application form if necessary to conform to the requirements of applicable federal or State law.

12. R.S.19:31-7 is amended to read as follows:

**Registration by municipal clerks.**

19:31-7. For the convenience of the voters the respective municipal clerks or their duly authorized clerk or clerks in all municipalities shall also

be empowered to register applicants for permanent registration up to and including the 21st day preceding any election and after any such election in the manner indicated above, subject to such rules and regulations as may be prescribed by the commissioner, in counties having a superintendent of elections, and the county board in all other counties. Duly authorized clerk as used in this section shall mean a clerk who resides within the municipality and has been approved by the commissioner or the county board as the case may be. For this purpose the commissioner shall forward to each municipal clerk a sufficient supply of registration forms. The commissioners shall keep a record of the serial numbers of these forms and shall periodically make such checks as are necessary to accurately determine if all such forms are satisfactorily accounted for. Each municipal clerk shall transmit daily to the commissioner all of the filled out registration forms that he may have in his office at the time.

13. R.S.19:31-11 is amended to read as follows:

**Change of residence notice.**

19:31-11. a. In all counties within the State, change of residence notices shall be made by a written request, signed by the registrant, forwarded to the commissioner by mail, and actually received by the commissioner, or by calling in person at the office of the commissioner or the municipal clerk. The commissioner shall provide change of residence notices in card form for the use of any registered voter moving to another address within the same election district or to another election district within the same county. Copies of these notices shall also be available at the office of the municipal clerk in each municipality. Each municipal clerk shall transmit daily to the commissioner all the filled out change of residence notices that may be in the municipal clerk's office at the time. These notices shall be printed upon cards, shall contain a blank form showing where the applicant last resided and the address and exact location to which the applicant has moved and shall have a line for the applicant's signature, printed name and date of birth. Upon receipt of such change of residence notice the commissioner shall cause the signature to be compared with the registration forms of the applicant and, if such signature appears to be of and by one and the same legal voter, the commissioner shall cause the entry of the change of residence to be made on those registration forms and the registrant shall thereupon be qualified to vote in the election district to which the registrant shall have so moved. If the commissioner is not satisfied as to the signature on the request for a change of residence, a confirmation notice as prescribed by subsection d. of R.S.19:31-15 shall be sent by mail with postage prepaid to the registrant at the new address.

The application for change of residence shall be filed with the commissioner or municipal clerk, as the case may be, on or before the 21st day preceding any election.

b. In any county any voter who, prior to an election, shall move within the same county after the time above prescribed for filing an application for change of residence without having made application for change of residence, or who has not returned a confirmation notice sent to the voter by the commissioner of registration of the county, if such a notice has been sent to the voter, or who has not moved since the previous election but whose registration information is missing or otherwise deficient, or has otherwise failed to notify the commissioner of registration of the voter's change of address within the county, shall be permitted to vote in that election in the district to which the voter has moved, upon making a written affirmation regarding the change of address at the polling place of the district in which the voter resides on the day of the election. No identifying document shall be required from the voter for this affirmation. A district board member shall provide the voter with a provisional ballot, and an envelope with an affirmation statement that conforms with the requirements for such documents contained in subsection b. of section 7 of P.L.1999, c.232 (C.19:53C-1). The voter shall complete the provisional ballot and affirmation statement, place the ballot in the envelope, seal and return it to the district board member. The board member shall review the information in the affirmation statement for completeness before forwarding it for inspection, tabulation and notation by the county board of elections, as provided for by sections 7 through 26 of P.L.1999, c.232 (C.19:53C-1 through C.19:53C-20). The affirmation statement shall constitute a transfer to the registrant's new residence for any subsequent election. However, if the voter has moved from one residence to another within the same election district at any time, the voter shall be permitted to vote in such election district at any election in the same manner as other voters at the polling place upon written affirmation by the registrant to the district board member of the registrant's change of address.

c. A voter who moves from an election district in one county to an election district in another county prior to the close of registration preceding an election shall register in the new county of residence, in accordance with the provisions of R.S.19:31-6, in order to be permitted to vote.

14. R.S.19:31-13 is amended to read as follows:

**Change in registration due to name change.**

19:31-13. Whenever the registrant after his or her original registration shall change his or her name due to marriage, divorce, or by judgment of court, the registrant shall in person or by mail submit to the commissioner of registration a written statement notifying the commissioner of the change,

which statement shall take such form, and be printed on a postal card suitable for mailing of such design, as the Attorney General shall prescribe and shall be signed by the registrant. The commissioner, upon receipt of such a notice of change of name, shall revise accordingly the name of the registrant as it appears among the items of information concerning the registrant included on the registrant's registration forms, shall make a photographic copy of the notice of name change submitted by the registrant, and shall affix the original notice so submitted to the registrant's original registration form and the photographic copy of that notice to the registrant's duplicate registration record.

When notice of such change in name has not been received by or filed with the commissioner prior to the 21st day preceding any election, such person may be permitted to vote under the name under which the person was registered prior to that change at the first election following such change in name at which the person shall appear to vote, after signing the signature copy register with both the registered name and his or her new name. The commissioner shall then revise accordingly the name of the registrant as it appears on the registrant's registration forms, make a photographic copy of the notice, and affix the original and copy of the notice to the registrant's permanent registration forms as hereinabove prescribed.

15. R.S.19:31-15 is amended to read as follows:

**Removal of name from registry; change of residence; confirmation.**

19:31-15. a. Upon receipt by the commissioner of registration of a county from a registered voter of that county of a request that the name of the registrant be removed from the registry list of voters of the county, the commissioner shall so remove the registrant's name from that list. Notice by a registered voter to the commissioner of registration of a county that the registrant has ceased to reside in the county shall, for the purposes of this subsection, be deemed a request for removal of the registrant's name from the county registry list.

b. The commissioner of registration of any county may agree with the United States Postal Service or its licensee to receive information provided by the Postal Service concerning the change by any Postal Service customer of that customer's address within the county. If it appears from information so received that a Postal Service customer registered to vote in the county has moved to a different address, then (1) if that address is within the county, the commissioner shall cause the registration records of the registrant to be corrected accordingly and shall transmit to the resident by forwardable mail a notice of the change and a postage prepaid, pre-addressed return form by which the registrant may verify or correct the address information, or (2) if that address is not within the county, the commissioner shall undertake the



confirmation notice procedure prescribed under subsection d. of this section to confirm the change of address.

c. The commissioner of registration of a county shall cause the name of a registrant to be removed from the registry list of the county if the registrant (1) confirms in writing, by return of a confirmation notice as prescribed under subsection d. of this section or by other means, that the registrant has changed residence to a place outside the county, or (2) has failed to respond to a confirmation notice as so prescribed and has not, in any election during the period beginning on the date on which the commissioner sends the confirmation notice to the registrant and ending on the day after the second general election for federal office following that date on which the notice is sent, (a) voted, or (b) appeared to vote and, if necessary, correct the official record of the registrant's address.

Other than as provided under subsection a. of this section, the name of a registrant shall not be removed from the registry list of a county on the ground that the registrant has changed residence except as provided by this subsection.

d. A confirmation notice sent to ascertain whether a registrant continues to reside at the address from which that registrant is registered to vote shall be a postage prepaid and pre-addressed return card, sent by forwardable mail, which shall include: (1) space on which the registrant's current address may be entered; (2) the statement "To any voter who continues to reside at the residence address to which this notice is addressed or who no longer resides at that residence address but continues to reside in ..... (name of county): please mail or personally deliver this postage prepaid card to the commissioner of registration to whom it is addressed not later than ..... (calendar date of the 21st day preceding the next election to be held in the county). If you do not return this card by that date, then at any election held subsequent to that date and on or before ..... (calendar date of the day after the second general election for federal office following that date), you may be required at the polls to affirm or confirm your address before you are permitted to vote, and if you do not vote in an election during that period, your name will be removed from the registry of eligible voters."; and (3) a statement, the text of which shall be prescribed by the Attorney General, setting forth the means by which a registrant who has changed residence to a county different from that in which is located the residence to which the notice was originally addressed may retain the right to vote.

e. The commissioner of registration shall correct the registry list of eligible voters in accordance with change of residence information obtained in conformity with the provisions of this section.

16. R.S.19:31-18 is amended to read as follows:

**Registry lists; certification and transmission; contents.**

19:31-18. On or before the eighth day preceding any general election the commissioner shall certify and transmit to the county clerk a complete list of all persons who are registered in each election district in each municipality in the county together with a statement as to the number of persons registered in each district. The list of registered voters shall include only the following information for each registered voter: name, address, date of birth, political party affiliation, and voting history. Except when so ordered by a court, the list of registered voters shall not include voter signatures. On the face of the list of registered voters the commissioner shall in figures state the total number of names of persons registered. Such lists shall be arranged substantially in the following form:

	Grand Street	
Residence number or other designation		Name of voter
14		Jones, Charles M.
15		Smith, John M

17. Section 2 of P.L.1947, c.347 (C.19:31-18.1) is amended to read as follows:

**C.19:31-18.1 Registry lists; distribution.**

2. a. The county clerk in all counties shall cause copies of the registry lists, certified and transmitted under R.S.19:31-18, to be printed in handbill form, and shall furnish to any voter applying for the same such copies, charging therefor \$0.25 per copy of the list of voters of each election district. He shall also furnish five printed copies thereof to each district board, which shall within two days post two such registry lists, one in the polling place and one in another conspicuous place within the election district. The county clerk shall also forthwith deliver to the superintendent of elections of the county, if any there be, and to the chairmen of the county committees of each of the several political parties in the county, five copies of the lists of voters of each election district in the county; and to the municipal clerk of each of the municipalities in the county five copies of the lists of voters of each election district in such municipality; and to the county board 10 copies of the lists of voters of each election district in each of such municipalities. The county clerk shall also, upon the request of the chairman of the State committee of any of the several political parties, but not more than once in each calendar year, forthwith deliver a copy of the lists of voters of each election district in each of the municipalities in his county. In no case shall a list of registered voters furnished pursuant to this section include voter signatures. In any county where the voter registration lists are recorded on magnetic tape, the county clerk shall satisfy the request by delivery of a copy of the

magnetically recorded lists, including with the tape, where available, a statement of the number of records on the tape and the length, layout and block size of those records.

b. In any county where the voter registration lists are recorded on magnetic tape or electronic data processing cards, the commissioner of registration shall furnish a copy of such tape or cards to any voter requesting such tape or cards, for which copy such commissioner shall make a charge which shall be uniform in any calendar year and which shall reflect only the cost of reproducing such tape or cards, but which in any case shall not exceed \$375.

c. No person shall use voter registration lists or copies thereof prepared pursuant to this section as a basis for commercial solicitation of the voters listed thereon. Any person making such use of such lists or copies thereof shall be a disorderly person, and shall be punished by a fine not exceeding \$500.00.

18. R.S.19:31-20 is amended to read as follows:

**Delivery of signature copy registers.**

19:31-20. On or before the eighth day preceding the presidential primary election, the primary election for the general election and the general election, respectively, the commissioner in counties not having a superintendent of elections, shall deliver to the municipal clerk in each municipality the signature copy registers for each election district in such municipality and shall take a receipt for same. The municipal clerk shall thereupon deliver at his office, or in any other way he sees fit, such registers to a member or members of the proper district boards at the same time and together with the primary sample ballots or the general election sample ballots, as the case may be. The registers shall be used by the district boards on election days and for the purpose of mailing the sample ballots. The commissioner in counties having a superintendent of elections shall deliver such registers at his office, or in any other way he may see fit, to the various district boards, taking a receipt for same.

Before delivering the registers the commissioner shall cause to be printed upon a separate sheet or sheets of paper, to be inserted inside of the front cover of such registers in conspicuous type, such instructions to election officers regarding the use and disposition of the binders and forms as he deems necessary.

19. Section 7 of P.L.1999, c.232 (C.19:53C-1) is amended to read as follows:

**C.19:53C-1 Preparation of provisional ballots; written notices.**

7. a. (1) The county clerk or the municipal clerk, in the case of a municipal election, shall arrange for the preparation of a provisional ballot packet

for each election district. It shall include the appropriate number of provisional ballots, the appropriate number of envelopes with an affirmation statement, the appropriate number of written notices to be distributed to voters who vote by provisional ballot and one provisional ballot inventory form affixed to the provisional ballot bag. The clerk shall arrange for the preparation of and placement in each provisional ballot bag of a provisional ballot packet and an envelope containing a numbered seal. The envelope shall contain, on its face, the instructions for the use of the seal, the number and the election district location of the provisional ballot bag, and the identification numbers of the seal placed in the envelope. Each provisional ballot bag shall be sealed with a numbered security seal before being forwarded to the appropriate election district.

(2) Each provisional ballot bag and the inventory of the contents of each such bag shall be delivered to the designated polling place no later than the opening of the polls on the day of an election.

b. The county clerk or the municipal clerk, in the case of a municipal election, shall arrange for the preparation of the envelope, affirmation statement, and written notice that is to accompany each provisional ballot. The envelope shall be of sufficient size to accommodate the provisional ballot, and the affirmation statement shall be affixed thereto in a manner that enables it to be detached once completed and verified by the county commissioner of registration. The statement shall require the voter to provide the voter's name, and to indicate whether the voter is registered to vote in a county but has moved within that county since registering to vote; or is registered to vote in the election district in which that polling place is located but the voter's registration information is missing or otherwise deficient. The statement shall further require the voter to provide the voter's most recent prior voter registration address and address on the day of the election and date of birth. The statement shall include the statement: "I swear or affirm, that the foregoing statements made by me are true and correct and that I understand that any fraudulent voting may subject me to a fine of up to \$1,000, imprisonment up to five years or both, pursuant to R.S.19:34-11." It shall be followed immediately by spaces for the voter's signature and printed name, and in the case of a name change, the voter's printed old and new name and a signature for each name, the date the statement was completed, political party affiliation, if used in a primary election, and the name of the person providing assistance to the voter, if applicable. Each statement shall also note the number of the election district, or ward, and name of the municipality at which the statement will be used. The Attorney General shall prepare for inclusion in the affirmation statement language for the voter to submit the information required in the registration form described in section 16 of P.L.1974, c.30 (C.19:31-6.4) in order to enable the county commissioner of registration to process the statement as a voter registration application, which shall be valid for future elections if the individual who submitted

the provisional ballot is determined not to be a registered voter. The Attorney General shall also prepare and shall provide language for any written instructions necessary to assure proper completion of the statement.

The written notice shall contain information to be distributed to each voter who votes by provisional ballot. The notice shall state that, if the voter is a mail-in registrant voting for the first time in his or her current county of residence following registration and was given a provisional ballot because he or she did not provide required personal identification information, the voter shall be given until the close of business on the second day after the election to provide identification to the applicable county commissioner of registration, and the notice shall contain a telephone number at which the commissioner may be contacted. The notice shall further state that failure to provide the required personal identification information within that time period shall result in the rejection of the ballot. The notice shall state that pursuant to section 4 of P.L.2004, c.88 (C.19:61-4), any individual who casts a provisional ballot will be able to ascertain under a system established by the State whether the ballot was accepted for counting, and if the vote was not counted, the reason for the rejection of the ballot. The notice shall include instructions on how to access such information.

c. For the primary for the general election, the provisional ballots shall be printed in ink on paper of a color that matches the color of the voting authority, which shall indicate the party primary of the voter. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in P.L.1999, c.232 (C.19:53C-1 et seq.). Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the primary election.

The clerk of the county or municipality shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots for each political party, a corresponding number of envelopes with affirmation statements, and a corresponding number of written notices. Additional provisional ballots, envelopes, and notices shall be available for delivery to that election district on the day of the election, if necessary.

d. For the general election the provisional ballots shall be printed in ink. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in this act. Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the general election.

The clerk of the county or municipality shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots, a corresponding number of envelopes with affirmation statements, and a corresponding number of written notices. Additional provisional ballots, envelopes, and notices shall be available for delivery to that election district on the day of the election, if necessary.

e. For a school election the provisional ballots shall be printed in ink. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in this act. Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the school election.

The clerk of the county shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots, a corresponding number of envelopes with affirmation statements, and a corresponding number of written notices. Additional provisional ballots, envelopes, and notices shall be available for delivery to that election district on the day of the election, if necessary.

f. Following the effective date of P.L.2004, c.88 (C.19:61-1 et al.), a provisional ballot that requires the voter to punch out a hole in the ballot as a means of recording the voter's vote shall not be used in any election in this State.

g. For the presidential primary election, the provisional ballots shall be printed in ink on paper of a color that matches the color of the voting authority, which shall indicate the party of the voter. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in P.L.1999, c.232 (C.19:53C-1 et al.). Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the primary election for the general election.

The clerk of the county or municipality shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots for each political party and a corresponding number of envelopes with affirmation statements. Additional provisional ballots and envelopes shall be available for delivery to that election district on the day of the election, if necessary.

20. This act shall take effect on January 1, 2006, except that the county commissioners of registration may take such anticipatory action as may be needed to effectuate the purposes of this act .

Approved July 7, 2005.

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CHAPTER 140

AN ACT directing the use of certain electronic devices in conducting bingo and increasing certain prize amounts and amending P.L.1954, c.6.

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

1. Section 2 of P.L.1954, c.6 (C.5:8-25) is amended to read as follows:

**C.5:8-25 Licensing of certain entities to hold games of chance, use of certain electronic devices permitted.**

2. It shall be lawful for the governing body of any municipality, at any time after this act shall become operative within such municipality and except when prohibited by this act, to license bona fide organizations or associations of veterans of any war in which the United States has been engaged, churches or religious congregations and religious organizations, charitable, educational and fraternal organizations, civic and service clubs, senior citizen associations and clubs, officially recognized volunteer fire companies, and officially recognized volunteer first aid or rescue squads, to hold and operate games of chance of, and restricted to, the specific kind of game of chance commonly known as bingo or lotto played for prizes with cards bearing numbers or other designations, five or more in one line, the holder covering numbers, as objects, similarly numbered, are drawn from a receptacle and the game being won by the person who first covers a previously designated arrangement of numbers on such a card, by selling shares or tickets or rights to participate in such games and by conducting the games accordingly, when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, religious or public-spirited uses, and, in the case of senior citizen associations or clubs, to the support of such organizations, and for any such organization, association, church, congregation, society, club, fire company, first aid or rescue squad, or senior citizen association or club, when so licensed, to hold, operate and conduct such games of chance by its active members pursuant to this act and such license, and under such conditions and regulations for the supervision and conduct thereof as shall be prescribed by rules and regulations duly adopted from time to time by the Legalized Games of

Chance Control Commission, hereinafter designated as the control commission, not inconsistent with the provisions of this act, but only when the entire net proceeds thereof are devoted to the uses aforesaid and for any person or persons to participate in and play such games of chance conducted under any such license.

The control commission shall, pursuant to regulations promulgated by it, authorize the use in conducting bingo or lotto of electronic devices that are the functional equivalent of the cards, numbered objects, and receptacle described herein to the extent that the use of such devices is not inconsistent with any other provision of this act or the provisions of subparagraph A of the New Jersey Constitution, Article IV, Section 7, paragraph 2. Any such electronic device shall comply with specifications prescribed by the commission and shall be approved by the commission prior to use. Such devices shall not include any device into which currency, coins or tokens may be inserted or from which currency, coins or tokens, or any receipt for monetary value, can be dispensed or which, once provided to a person participating in bingo, is capable of communicating with other such devices. Nothing contained in this section shall be construed as allowing electronic devices used by a qualified organization in conducting bingo or lotto to be linked to electronic devices used by any other qualified organization in conducting bingo or lotto.

2. Section 4 of P.L.1954, c.6 (C.5:8-27) is amended to read as follows:

**C.5:8-27 Investigation of applicant, license issued, fees, limitations on amount of prizes.**

4. The governing body of the municipality shall make an investigation of the qualifications of each applicant and the merits of each application, with due expedition after the filing of the application, and if it shall determine that the applicant is duly qualified to be licensed under this act to hold, operate and conduct games of chance under the provisions of this act and the rules and regulations governing the holding, operation and conduct thereof in the municipality; that the member or members of the applicant designated in the application to hold, operate or conduct the games of chance which the license is applied for are bona fide active members of the applicant and are persons of good moral character and have never been convicted of crime; that such games of chance are to be held, operated and conducted in accordance with the provisions of this act and in accordance with the rules and regulations governing the holding, operation and conduct thereof and that the proceeds thereof are to be disposed of as provided by this act, and if the governing body is satisfied that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person holding, operating or conducting or assisting in the holding, operation or conduct of any such game of chance except as in this act otherwise provided; and that no prize will be offered and given in excess of the sum or value of \$1,000,



or an amount established by regulation of the control commission not earlier than one year after the effective date of P.L. 2005, c.140, in any single game of chance, and that the aggregate of all prizes offered and given in all such games of chance, held, operated and conducted on a single occasion, under said license shall not exceed the sum or value of \$3,000, or an amount established by regulation of the control commission not earlier than one year after the effective date of P.L. 2005, c.140, it shall issue a license to the applicant for the holding, operation and conduct of the specific kind of games of chance applied for, accordingly, upon payment of a license fee or fees prescribed by regulation promulgated by the control commission for each occasion upon which any game or games are to be conducted under such license.

The \$1,000 limitation on single game prizes and the \$3,000 aggregate prize limitation established in this section shall not apply to games in which the prize is determined based upon a percentage of the gross receipts from the sale of cards to participate in the game. The control commission shall, by regulation, prescribe the method of play and set the minimum and maximum percentage to be awarded in any such game.

No license for the holding, operation and conduct of any game or games of chance shall be issued under this act which shall be effective for a period of more than one year.

3. Section 12 of P.L.1954, c.6 (C.5:8-35) is amended to read as follows:

**C.5:8-35 Limitations on admission charges and prizes.**

12. No amount in excess of the amount prescribed by regulation promulgated by the control commission shall be charged by any licensee for admission to any room or place in which any game or games of chance are to be held, operated and conducted under any license issued under this act, which admission fee, upon payment thereof, shall entitle the person paying the same to a card entitling him to participate without additional charge in all regular games of chance to be played under such license on such occasion, and no charge in excess of the amount prescribed by regulation promulgated by the control commission shall be made for a single opportunity to participate in all special games to be played under such license on such occasion. No prize greater in amount or value than \$1,000, or an amount established by regulation of the control commission not earlier than one year after the effective date of P.L.2005, c.140, shall be offered or given in any single game conducted under any such license and the aggregate amount or value of all prizes offered and given in all games played on a single occasion shall not exceed \$3,000 or an amount established by regulation of the control commission not earlier than one year after the effective date of P.L.2005, c.140, and all winners shall be determined and all prizes shall be awarded in any

game played on any occasion within the same calendar day as that upon which the winner is determined.

4. This act shall take effect immediately.

Approved July 7, 2005.

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#### CHAPTER 141

AN ACT concerning the air toxics surcharge, repealing P.L.2004, c.51.

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

**Repealer.**

1. P.L.2004, c.51 (C.13:1D-59 et seq.) is repealed.
2. This act shall take effect immediately and shall apply retroactively to calendar year 2004 and calendar years thereafter.

Approved July 7, 2005.

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#### CHAPTER 142

AN ACT concerning the collective negotiations units for employees in the Executive Branch of State government and supplementing P.L.1941, c.100 (C.34:13A-1 et seq.).

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

**C.34:13A-5.10 Findings, declarations relative to collective negotiations units for Executive Branch employees; units designated.**

1. a. The Legislature finds and declares that, for more than three decades, there have been broad-based collective negotiations units for the employees in the Executive Branch of State government. This existing unit structure has contributed to the stability of labor relations between the public employees and the Executive Branch and has served to avoid disruption of services to the public. To foster continued harmonious labor relations between State employees and the Executive Branch, the existing structure for collective negotiations units must be codified.

b. (1) There shall be only ten collective negotiations units for civilian employees of the Executive Branch of State government. The units shall be as follows: administrative and clerical; professional; primary level supervi-

sory; high level supervisory; operations, maintenance and services; crafts; inspection and security; health care and rehabilitation services; State colleges and universities; and State colleges and universities adjuncts.

(2) An existing or newly established title that is not assigned managerial, executive or confidential duties, as defined in subsections (f) and (g) of section 3 of P.L.1941, c.100 (C.34:13A-3), may be placed in one of the ten collective negotiations units for civilian employees by the Governor's Office of Employee Relations. Such placements may be challenged through a unit clarification procedure pursuant to the rules of the New Jersey Public Employment Relations Commission.

2. This act shall take effect immediately.

Approved July 7, 2005.

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## CHAPTER 143

AN ACT concerning continuing education programs for optometrists and amending P.L.1975, c.24.

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

1. Section 2 of P.L.1975, c.24 (C.45:12-9.2) is amended to read as follows:

**C.45:12-9.2 Requirement of continuing education; exemption; approval of programs by board; fees.**

2. All registered active optometrists now or hereafter licensed in the State of New Jersey shall be required to take courses of study relating to the practice of the profession of optometry or to maintain proficiency in some other alternative manner to be prescribed and established by the New Jersey State Board of Optometrists; except that any practitioner who has been granted his license by examination during the preceding year shall be exempt from this requirement for the succeeding year. The board shall approve only such continuing educational programs as are available to all persons practicing optometry in the State on a reasonable nondiscriminatory basis. The board may approve programs to be held within or without the State of New Jersey. The board shall approve such programs that enable optometrists in all sections of the State to attend such programs. In no event shall the board approve a program offered by any professional association that discriminates against any licensed optometrists in the State, except that the board shall permit a professional association to impose a differential in registration fees

not to exceed 150% of the fee charged to members of that professional association.

2. This act shall take effect immediately.

Approved July 7, 2005.

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## CHAPTER 144

AN ACT concerning the employment of teaching staff members and supplementing chapters 26 and 27 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:26-2a Definitions relative to employment of novice teachers; registration with DOE.**

1. a. As used in this section:

"Certificate of eligibility" means a certificate with lifetime validity issued by the State Board of Examiners to candidates who meet degree, academic, and applicable test requirements for teacher certification;

"Certificate of eligibility with advanced standing" means a certificate with lifetime validity issued by the State Board of Examiners to candidates who meet degree, academic and test requirements for teacher certification and complete a State-approved college professional education preparation program;

"Novice teacher" means any teacher working under a valid certificate of eligibility, certificate of eligibility with advanced standing, or provisional certificate who has not yet been issued a standard instructional certificate;

"Provisional certificate" means a certificate issued by the State Board of Examiners to candidates who hold either a certificate of eligibility or a certificate of eligibility with advanced standing and are employed as part of a State-approved district training program or residency leading to standard certification;

"Provisional teacher program" means the school-based training and evaluation program provided to all novice teachers during the first year of teaching in the State;

"Standard instructional certificate" means a permanent certificate issued to a person who has met all teacher certification requirements.

b. A board of education may employ a person who holds a valid certificate of eligibility or certificate of eligibility with advanced standing to teach as a novice teacher in the public schools of the district. Upon the employment of a novice teacher, the board of education shall immediately register the employment with the Department of Education and request

issuance of a provisional certificate. When the provisional certificate is issued by the department, its effective date for all purposes shall be the date on which the novice teacher began employment with the board of education. The board of education shall also enroll the novice teacher in the provisional teacher program and comply with all responsibilities assigned to the district by the department.

**C.18A:27-4a Definitions relative to employment of novice teachers; benefits of employment.**

2. a. As used in this section:

"Certificate of eligibility" means a certificate with lifetime validity issued by the State Board of Examiners to candidates who meet degree, academic, and applicable test requirements for teacher certification;

"Certificate of eligibility with advanced standing" means a certificate with lifetime validity issued by the State Board of Examiners to candidates who meet degree, academic and test requirements for teacher certification and complete a State-approved college professional education preparation program;

"Novice teacher" means any teacher working under a valid certificate of eligibility, certificate of eligibility with advanced standing, or provisional certificate who has not yet been issued a standard instructional certificate;

"Provisional certificate" means a certificate issued by the State Board of Examiners to candidates who hold either a certificate of eligibility or a certificate of eligibility with advanced standing and are employed as part of a State-approved district training program or residency leading to standard certification.

b. A novice teacher employed by a board of education under a valid certificate of eligibility, certificate of eligibility with advanced standing, or a provisional certificate shall be deemed to be a teaching staff member for all purposes and shall be entitled to all benefits and other emoluments of employment provided by law and regulation to teaching staff members. A novice teacher shall also receive the terms and conditions of employment provided to teaching staff members in the employing district under the collective bargaining agreement including, but not limited to, salary, sick leave, and health insurance benefits.

3. This act shall take effect immediately and shall apply to all novice teachers employed on or after July 1, 2004.

Approved July 7, 2005.

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CHAPTER 145

AN ACT concerning voter registration and voting systems and amending, supplementing and repealing various parts of the statutory law.

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

**C.19:31-31 Establishment of single Statewide voter registration system.**

1. a. No later than January 1, 2006, there shall be established in the Department of Law and Public Safety a single Statewide voter registration system, as required pursuant to section 303 of the federal "Help America Vote Act of 2002," Pub.L.107-252 (42 U.S.C. s.15483). The principal computer components of the system shall be under the direct control of the Attorney General. The Attorney General shall be responsible for creating the network necessary to maintain the system and providing the computer software, hardware and security necessary to ensure that the system is accessible only to those executive departments and State agencies so designated by the Attorney General, each county commissioner of registration, each county and municipal clerk, and individuals under certain circumstances, as provided for by this section. The system shall be the official State repository for voter registration information for every legally registered voter in this State, and shall serve as the official voter registration system for the conduct of all elections in the State.

b. The Statewide voter registration system shall include, but not be limited to, the following features:

(1) the name and registration information of every legally registered voter in the State;

(2) the ability to assign a unique identifier to each legally registered voter in the State;

(3) interactivity among appropriate State agencies so designated by the Attorney General, each county commissioner of registration, each county board of elections, and each county clerk such that these entities shall have immediate electronic access to all or selected records in the system, as determined by the Attorney General, to receive or transmit all or selected files in the system and to print or review all or selected files in the system;

(4) the ability to permit any county commissioner of registration to enter voter registration information on an expedited basis at the time the information is provided thereto and to permit the Attorney General to provide technical support to do so whenever needed;

(5) the ability to permit each municipal clerk to view or print information in the system;

(6) the ability to permit an individual, by July 1, 2006, to verify via the Internet whether that individual, and only that individual, is included in the system as a legally registered voter, whether the information pertaining to that individual required by subsection c. of this section is correct, and if not, a means to notify the pertinent county commissioner of registration of the corrections that must be made and to so verify in a way that does not give

one individual access to the information required by subsection c. of this section for any other individual;

(7) a Statewide street address index and map in electronic form that can accurately identify the location of every legally registered voter in this State; and

(8) any other functions required pursuant to Pub.L.107-252 (42 U.S.C. s.15301 et seq.), or Title 19 of the Revised Statutes, or that may be deemed necessary by the Attorney General.

c. The Statewide voter registration system shall include, but not be limited to, the following information for every legally registered voter in this State:

- (1) last, first and middle name;
- (2) street address at time of registration or rural route, box number or apartment number, if any;
- (3) city or municipality, and zip code;
- (4) date of birth;
- (5) telephone number, if provided on voter registration form;
- (6) previous name or address if individual re-registered due to change of name or address;
- (7) ward and election district number, if either is available;
- (8) (a) current and valid New Jersey driver's license number, or;  
(b) if the registrant has not been issued a New Jersey driver's license number, the last four digits of the registrant's social security number; or  
(c) unique identifying number for any individual who has not been issued the information sought in subparagraph (a) or (b) of this paragraph;
- (9) notation that a copy of one of the following documents has been submitted with the voter registration application, if required: current and valid photo identification card; a current utility bill, bank statement, government check, pay check or any other government document showing the registrant's name and current address;
- (10) the method by which the individual registered and whether that person needs to provide additional identification information to vote using a voting machine instead of a provisional ballot;
- (11) political party affiliation, if designated;
- (12) digitalized signature;
- (13) date of registration or re-registration;
- (14) name and street address of the individual assisting in the completion of the form, if the applicant for registration is unable to do so;
- (15) voting participation record for ten-year period; and
- (16) any other information required pursuant to Pub.L.107-252 (42 U.S.C. s.15301 et seq.), or Title 19 of the Revised Statutes, or that the Attorney General determines is necessary to assess the eligibility of an individual to be registered to vote and to vote in this State.

**C.19:31-32 Replacement of existing voter registration files.**

2. a. The Statewide voter registration system shall replace all other computer or electronic-based registry files of voters and other voter registration files established and maintained by each county commissioner of registration for voter registration and election administration purposes established pursuant to the provisions of Title 19 and Title 40 of the Revised Statutes, and shall be the single system for storing and managing the official file of registered voters throughout the State. A commissioner may, however, continue to use and maintain as a supplement to the system the original and duplicate permanent registration binders and voting records and shall continue to use and maintain the signature copy registers or polling records provided for in Title 19 of the Revised Statutes.

b. Each county commissioner of registration shall be responsible for adding to, deleting from, amending and otherwise conducting on a regular basis maintenance for the files of every legally registered voter in that commissioner's county as contained in the Statewide voter registration system, pursuant to the provisions of section 303 of Pub.L.107-252 (42 U.S.C. s. 15301 et seq.) and Title 19 of the Revised Statutes. Each commissioner shall be responsible for verifying the accuracy of the name, address and other data of registered voters in the commissioner's respective county as contained in the system. The commissioner who receives the voter registration forms of individuals who have registered to vote in the county or who are re-registering for any reason shall be responsible for entering the information on those forms into the system on an expedited basis, including but not limited to forms and information received pursuant to chapter 31 of Title 19 of the Revised Statutes. The information the commissioner shall use to update and maintain the system shall be that required by subsection c. of section 1 of P.L.2005, c.145 (C.19:31-31).

c. The Attorney General and each county commissioner of registration shall be responsible for developing and providing the technological security measures needed to prevent unauthorized access to the Statewide voter registration system established pursuant to section 1 of P.L.2005, c.145 (C.19:31-31) and to the information for any individual on the system required by subsection c. of section 1 of that act.

d. The Attorney General, in consultation with each county commissioner of registration, shall develop minimum standards to safeguard the accuracy of the files contained in the Statewide voter registration system. Such standards shall include procedures to ensure that reasonable effort is made to remove registrants who are ineligible to vote pursuant to federal or State law and to ensure that eligible voters are not removed in error from the system.

e. (1) The Attorney General and the Chief Administrator of the New Jersey Motor Vehicle Commission in the Department of Transportation shall enter into an agreement to match information in the database of the State-



wide voter registration system with information in the database of the commission, including social security numbers, to the extent required to enable verification of the accuracy of the information provided on applications for voter registration.

(2) The Attorney General shall enter into an agreement with the Commissioner of the Department of Health and Senior Services to match information in the database of the Statewide voter registration system with State agency information on death records.

(3) The Attorney General shall enter into an agreement with the Commissioner of the Department of Corrections to match information in the database of the Statewide voter registration system with State agency information on individuals who are incarcerated, on probation, or on parole as the result of a conviction for an indictable offense.

(4) The Attorney General shall enter into an agreement with the Administrative Office of the Courts to match information in the database of the Statewide voter registration system with State agency information on individuals who are incarcerated, on probation, or on parole as the result of a conviction for an indictable offense.

(5) The Attorney General shall enter into an agreement with the State Parole Board to match information in the database of the Statewide voter registration system with State agency information on individuals who are on parole.

**C.19:31-33 Annual report; submission, contents.**

3. Each year the Attorney General shall prepare and submit to the Governor and the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly and the Minority Leader of the General Assembly a report that:

- a. assesses the current status of the Statewide voter registration system;
- b. assesses the hardware and software required to maintain and expand the system;
- c. reviews existing or planned statewide voter registration systems in other states or as may be required by Pub.L.107-252 (42 U.S.C. s.15301 et seq.) or the federal Election Assistance Commission created by that law;
- d. recommends ways to strengthen and expand electronic communications among those executive departments and State agencies designated by the Attorney General to have access to the system, the county commissioners of registration and the county and municipal clerks; and
- e. recommends ways to improve the effectiveness of the system in the administration of elections and voting in this State.

In preparing the report, the Attorney General shall solicit the views of county commissioners of registration and such other individuals familiar with the system as the Attorney General may wish to consult.

The Attorney General shall submit the initial report to the Governor and the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly and the Minority Leader of the General Assembly no later than two years after the effective date of P.L.2005, c.145 (C.19:31-31 et al.).

**C.19:31-34 Rules, regulations.**

4. The Attorney General may promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of this act, P.L.2005, c.145 (C.19:31-31 et al.).

5. Section 2 of P.L.1976, c.83 (C.19:4-11) is amended to read as follows:

**C.19:4-11 District with one voting machine or four electronic system voting devices; accommodation for person with disabilities; number of voters.**

2. a. Subject to the provisions of law as to redistricting, each election district in which only one voting machine or four electronic system voting devices are used shall contain no more than 750 voters, except an election district in which there is located a public or private institution where persons entitled to vote may reside, and in such district the number of voters shall be as near to 750 as is practicable.

b. Notwithstanding the provisions of subsection a. of this section, no later than January 1, 2006 each election district shall also include at least one voting system capable of permitting individuals with disabilities to vote.

6. Section 3 of P.L.1976, c.83 (C.19:4-12) is amended to read as follows:

**C.19:4-12 Districts with more voters; allotment of voting machines devices; appointment of additional members of district board.**

3. Except as provided pursuant to subsection b. of section 2 of P.L.1976, c.83 (C.19:4-11), each district in which two voting machines or five electronic system voting devices are to be used shall contain, as nearly as is practicable, 1,000 voters, and each district in which three voting machines or eight electronic system voting devices are to be used shall contain, as nearly as is practicable, 1,500 voters.

Nothing herein shall prevent any election district from containing fewer voters than prescribed above, if necessary for the convenience of the voters.

In a district where more than two voting machines or five electronic system voting devices are to be used, two additional members of the district board, who shall not be members of the same political party, shall be appointed for each additional voting machine or system.

7. R.S.19:31-2 is amended to read as follows:

**Commissioner of registration.**

19:31-2. In all counties having a superintendent of elections, the superintendent of elections is hereby constituted the commissioner of registration and in all other counties the secretary of the county board is hereby constituted the commissioner of registration.

The commissioner of registration shall have complete charge of the registration of all eligible voters within their respective counties. Pursuant to the provisions of section 2 of P.L.2005, c.145 (C.19:31-32), the commissioner of registration shall be responsible for adding to, deleting from, amending and maintaining the records of persons registered to vote in the commissioner's county contained in the Statewide voter registration system established pursuant to section 1 of that act.

The commissioner of registration shall have power to appoint temporarily, and the commissioner of registration in counties of the first class having more than 800,000 inhabitants shall have power to appoint on a permanent, or temporary basis, such number of persons, as in the commissioner's judgment may be necessary in order to carry out the provisions of this Title. All persons appointed by the commissioner of registration in counties of the first class having more than 850,000 inhabitants according to the latest federal decennial census to serve for terms of more than six months in any one year shall be in the career service of the civil service and shall be appointed, and hold their positions, in accordance with the provisions of Title 11A, Civil Service. All persons appointed by the commissioner of registration in counties of the first class having more than 600,000 but less than 850,000 inhabitants according to the latest federal decennial census to serve for terms of more than six months in any one year, other than the chief deputy and chief clerk and confidential secretary and chief custodian, shall be in the career service of the civil service and shall be appointed and hold their positions, in accordance with the provisions of Title 11A, Civil Service. Persons appointed by the commissioner of registration in such counties to serve for terms of six months or less in any one year and persons appointed by the commissioner of registration shall not be subject to any of the provisions of Title 11A, Civil Service, but shall be in the unclassified service.

In each county the commissioner of registration shall submit to the Attorney General on or before February 15 of each year a plan providing for evening registration for the primary election and on or before July 1 plans providing for evening registration for the general election, which plans shall be subject to approval by the Attorney General. Evening registration shall be made available in the office of each commissioner of registration between the hours of 4 p.m. and 9 p.m. on the 21st day preceding the primary and general elections and, in any year in which municipal elections are to be held

in any municipality within the county, on the 21st day preceding those municipal elections.

In each county, the commissioner of registration may also establish a plan for out-of-office registration, including door-to-door registration.

Nothing in this section shall preclude the commissioner from providing pursuant to plan evening registration in excess of the requirements of this section, or shall preclude or in any way limit out-of-office registration conducted by persons or groups other than the commissioner.

The commissioner of registration shall provide such printed forms, blanks, supplies and office telephone and transportation equipment as are necessary in the opinion of the commissioner to carry out the provisions of this Title and any amendments or supplements thereto.

Subject to the limitations set forth in chapter 32 of this Title, all necessary expenses incurred, as and when certified and approved by the commissioner of registration shall be paid by the county treasurer of the county.

Nothing in the provisions of subtitle 2 of the Title, Municipalities and Counties (R.S.40:16-1 et seq.), shall in anywise be construed to affect, restrict or abridge the powers herein conferred on the commissioners of registration of the several counties.

All powers granted to the commissioner in all counties not having superintendents of elections by the provisions of this Title are hereby conferred on the county board in such counties and any and all duties conferred upon the commissioner in all counties not having a superintendent of elections by the provisions of this Title shall only be exercised and performed by such commissioner under the instructions and directions of and subject to the approval of the county board of such counties.

8. Section 1 of P.L.1991, c.504 (C.19:31-3.1) is amended to read as follows:

**C.19:31-3.1 Statewide voter information on party affiliation.**

1. If the commissioner of registration has maintained information in any form regarding a registrant's party affiliation, the commissioner shall be responsible for maintaining that information for a period of 10 years as part of the current voter information file of the registrant if it is already on computer or magnetic tape or electronic data processing equipment of any kind and for converting such information to such tape or equipment if the information exists but is not on such tape or equipment, so that it becomes part of the Statewide voter registration system.

9. Section 2 of P.L.1994, c.170 (C.19:31-3.3) is amended to read as follows:

**C.19:31-3.3 Digitalized images of signatures, use; other information.**

2. The commissioner may eliminate the use of the duplicate permanent registration binders and may authorize and direct the use at the polls in place of such a binder, as a signature copy register for the purposes of this Title and Title 40 of the Revised Statutes, of a polling record which identifies on each page the election at which the record is used, which indicates for each registrant the name, address, and date of birth of the registrant and identifies the municipality and the particular election district therein from which the person is registered, and which includes adjacent to the registrant's name and address an imprint of the digitalized image of the registrant's signature and sufficient space, immediately to the left or right of that imprint, for the registrant to sign the record, which imprint and signature shall be used as the signature comparison record as prescribed by this Title. The polling record shall also include for each registrant the registrant's date of birth, an indication of whether the registrant has applied for an absentee ballot in that election, and a place to indicate whether the registrant has provided identification pursuant to R.S.19:15-17, if such identification is required. The polling record shall also include for each registrant sufficient space for the notation of remarks as provided by R.S.19:15-23 and for the recording of any challenge and the determination thereof by the district board as provided by R.S.19:15-24, or by other elections officials charged with the same duties as the district board in connection with the conduct of an election. In the case of a primary election, the polling record shall also indicate for each registrant the political party, if any, of which the registrant is a member for the purpose of voting at that primary election.

Polling records for each election shall be prepared by the commissioner of registration not later than the 10th day preceding the election. At each election, the delivery of the polling records to the municipal clerk and to the district boards or other elections officials charged with the same duties as the district board in connection with the conduct of an election, and the return of those records by the district boards or such other elections officials to the commissioner of registration, shall be made in the manner prescribed by the commissioner.

The commissioner of registration shall retain the polling records for any election for a period of not less than six years following that election.

10. Section 17 of P.L.1974, c.30 (C.19:31-6.5) is amended to read as follows:

**C.19:31-6.5 Acceptance of registration, commissioner's duties.**

17. a. Upon receipt of any completed registration form, the commissioner of registration shall review it, and if it is found to be in order, shall:

(1) Send to the registrant written notification that such registrant is duly registered to vote. No registrant shall be considered a registered voter until the commissioner of registration reviews the application submitted by the registrant and deems it acceptable. On the face of such notification in the upper left-hand corner shall be printed the words: "Do Not Forward. Return Postage Guaranteed. If not delivered in 2 days, return to the Commissioner of Registration."

(2) In as timely a manner as possible, enter the information provided for the registrant on the completed registration form into the Statewide voter registration system established pursuant to section 1 of P.L.2005, c.145 (C.19:31-31).

(3) Paste, tape, or photocopy the completed registration form onto an original registration form, and shall paste or tape a copy of such completed registration form onto a duplicate registration form, both of which shall be filed as provided in R.S.19:31-10. Nothing in this paragraph shall preclude any commissioner of registration from keeping the original mail registration form on file.

(4) In the case of a registrant currently registered in another county of this State, notify the commissioner of registration of such other county to remove the individual's name from the registry list of voters of the county and place into an appropriate retention file all registration documents or material relating to that voter. The commissioner of registration of the current county of the registrant shall secure and maintain the entire voting history of that registrant.

b. The commissioner shall notify a registrant of the reasons for any refusal to approve his registration.

c. (Deleted by amendment, P.L.1994, c.182.)

11. Section 1 of P.L.1994, c.170 (C.19:31-10.1) is amended to read as follows:

**C.19:31-10.1 Maintenance of original, updated voter registration forms.**

1. The commissioner of registration may eliminate use of original permanent registration binders, as provided for in R.S.19:31-10, and may maintain in a permanent and separate file the original completed voter registration form of each voter, and any new or amended forms filed by that voter.

12. R.S.19:31-15 is amended to read as follows:

**Removal of name from Statewide voter registration system; change of residence; confirmation.**

19:31-15. a. Upon receipt by the commissioner of registration of a county from a registered voter of that county of a request that the name of the registrant be removed from the Statewide voter registration system, the commissioner shall so remove the registrant's name. Notice by a registered voter to the commissioner of registration of a county that the registrant has

ceased to reside in the State shall, for the purposes of this subsection, be deemed a request for removal of the registrant's name from the Statewide voter registration system.

b. The commissioner of registration of any county may agree with the United States Postal Service or its licensee to receive information provided by the Postal Service concerning the change by any Postal Service customer of that customer's address within the county. If it appears from information so received that a Postal Service customer registered to vote in the county has moved to a different address, then (1) if that address is within the county, the commissioner shall cause the registration records of the registrant to be corrected accordingly and shall transmit to the resident by forwardable mail a notice of the change and a postage prepaid, pre-addressed return form by which the registrant may verify or correct the address information, or (2) if that address is not within the county, the commissioner shall undertake the confirmation notice procedure prescribed under subsection d. of this section to confirm the change of address.

c. The commissioner of registration of a county shall cause the name of a registrant to be removed from the Statewide voter registration system if the registrant (1) confirms in writing, by return of a confirmation notice as prescribed under subsection d. of this section or by other means, that the registrant has changed residence to a place outside the State, or (2) has either not notified the commissioner or failed to respond to a confirmation notice as so prescribed and has not, in any election during the period beginning on the date on which the commissioner sends the confirmation notice to the registrant and ending on the day after the second general election for federal office following that date on which the notice is sent, (a) voted, or (b) appeared to vote in any county and, if necessary, correct the official record of the registrant's address.

Other than as provided under subsection a. of this section, the name of a registrant shall not be removed from the Statewide voter registration system on the ground that the registrant has changed residence except as provided by this subsection.

d. A confirmation notice sent to ascertain whether a registrant continues to reside at the address from which that registrant is registered to vote shall be a postage prepaid and pre-addressed return card, sent by forwardable mail, which shall include: (1) space on which the registrant's current address may be entered; (2) the statement "To any voter who continues to reside at the residence address to which this notice is addressed or who no longer resides at that residence address but continues to reside in..... (name of county): please mail or personally deliver this postage prepaid card to the commissioner of registration to whom it is addressed not later than..... (calendar date of the 21st day preceding the next election to be held in the county). If you do not return this card by that date, then at any election held subsequent to that date and on or before..... (calendar date of the day

after the second general election for federal office following that date), you may be required at the polls to affirm or confirm your address before you are permitted to vote, and if you do not vote in an election during that period, your name will be removed from the registry of eligible voters."; and (3) a statement, the text of which shall be prescribed by the Attorney General, setting forth the means by which a registrant who has changed residence to a county different from that in which is located the residence to which the notice was originally addressed may retain the right to vote.

e. The commissioner of registration shall correct the registry list of eligible voters in accordance with change of residence information obtained in conformity with the provisions of this section.

13. R.S.19:31-18 is amended to read as follows:

**Registry lists; distribution; contents.**

19:31-18. On or before the eighth day preceding any general election the commissioner shall certify and transmit to the county clerk a complete list of all persons who are registered in each election district in each municipality in the county together with a statement as to the number of persons registered in each district. The list of registered voters shall include only the following information for each registered voter: name, address, date of birth, political party affiliation, and voting history. Except when so ordered by a court, the list of registered voters shall not include voter signatures. The list shall be drawn from the Statewide voter registration system, established pursuant to section 1 of P.L.2005, c.145 (C.19:31-31). It shall in figures state the total number of names of persons registered. Such lists shall be arranged substantially in the following form:

Residence number or other designation	Grand Street	Name of voter
14		Jones, Charles M.
15		Smith, John M

14. Section 2 of P.L.1947, c.347 (C.19:31-18.1) is amended to read as follows:

**C.19:31-18.1 Registry lists; distribution; availability, use.**

2. a. The county clerk in all counties shall cause copies of the registry lists, certified and transmitted under R.S.19:31-18, to be printed, and shall furnish to any voter applying for the same such copies, charging therefor \$0.25 per copy of the list of voters of each election district. The clerk shall also furnish five printed copies thereof to each district board, which shall within two days post two such registry lists, one in the polling place and one in another conspicuous place within the election district. The county clerk



shall also forthwith deliver to the superintendent of elections of the county, if any there be, and to the chairmen of the county committees of each of the several political parties in the county, five copies of the lists of voters of each election district in the county; and to the municipal clerk of each of the municipalities in the county five copies of the lists of voters of each election district in such municipality; and to the county board 10 copies of the lists of voters of each election district in each of such municipalities. The county clerk shall also, upon the request of the chairman of the State committee of any of the several political parties, but not more than once in each calendar year, forthwith deliver a copy of the lists of voters of each election district in each of the municipalities in his county. In no case shall a list of registered voters furnished pursuant to this section include voter signatures. The county clerk shall satisfy the request by delivery of a computer-generated or electronic copy of the list for the county from the Statewide voter registration system.

b. The commissioner of registration shall furnish a computer-generated or electronic copy of a list of registered voters in any or all election districts in the county to any voter requesting it, for which copy such commissioner shall make a charge which shall be uniform in any calendar year and which shall reflect only the cost of reproducing the list, but which in any case shall not exceed \$375.

c. No person shall use voter registration lists or copies thereof prepared pursuant to this section as a basis for commercial or charitable solicitation of the voters listed thereon. Any person making such use of such lists or copies thereof shall be a disorderly person, and shall be punished by a fine not exceeding \$500.00.

15. R.S.19:31-19 is amended to read as follows:

**Correction of records by commissioner.**

19:31-19. The commissioner shall transfer to the deleted file the permanent registration and record of voting forms of such persons as a judge of the Superior Court may, as hereinafter provided, order stricken from the Statewide voter registration system and the signature copy register.

The registrant shall be notified by the commissioner by registered mail of any transfer made pursuant to this section.

After the permanent registration form of any person has been placed in the deleted file for any reason whatsoever, the Commissioner of Registration shall note that the person's registration has been rendered void in the record for that person in the Statewide voter registration system and stamp across the face of said registration form in red ink with a rubber stamp, in type at least one inch high, the word void and underneath said word, deleted, and thereafter, the said form shall not be restored, reinstated or re-transferred to the active file.

Any person whose permanent registration form has been transferred to the deleted file shall be required to reregister, in order to be eligible to vote.

In no event, shall any person's registration form number which has been transferred to the deleted file be again used as the registration number of that person or any other person.

16. R.S.19:31-23 is amended to read as follows:

**Record of voting; maintenance of forms.**

19:31-23. Following each election the commissioner shall cause the record of voting as shown on the record of voting forms in the signature copy registers or, in counties in which polling records are used in place of those signature copy registers pursuant to section 2 of P.L.1994, c.170 (C.19:31-3.3), as shown in the polling records, to be entered on the record of voting forms in the original registration binders and the Statewide voter registration system. An entry of any record of voting which shall have been made in the system shall be retained for a period of not less than ten years following the election at which the vote so recorded was cast.

17. R.S.19:31-24 is amended to read as follows:

**General registration following complete loss, failure of Statewide voter registration system.**

19:31-24. In the event of the complete loss or failure of the Statewide voter registration system, the commissioner shall promptly provide for a general registration at the regular polling places in the district or districts for which the binders, registration forms, or other official voter registration information have been lost or destroyed.

18. R.S.19:31-26 is amended to read as follows:

**Card index file; notations, information.**

19:31-26. The commissioner may make and maintain a card index file showing on separate cards the full name, address, birth date, driver's license number, last four digits of the social security number, or unique identifying number, municipality, ward and district, registration number and date of registration of each person registered in his county. This file shall be arranged alphabetically according to names irrespective of municipality, ward, district, registration number, and date of registration. Reasonably sufficient space shall be reserved on each card for the notations to be made thereon as herein provided.

The commissioner shall cause to be made notation on these cards as to each registrant respectively whose registration forms have been transferred from one register to another or to the inactive, death or conviction files concurrently with such transfer. The card with such notations shall show the location of the registration forms of each registrant at all times. All changes

of address of the registrant, including those within the same district, shall be noted on these cards concurrently with changes of address on the registration forms.

19. R.S.19:33-1 is amended to read as follows:

**Procedure for removing names from register.**

19:33-1. A judge of the Superior Court shall order stricken from the Statewide voter registration system and any other register the name of any person who shall be shown to his satisfaction not to be entitled to vote at any election in the election district wherein he is registered, and the commissioner shall, upon such order, cause the name of such person to be stricken from the system and from the register.

Such judge shall hear an application to strike off in a summary manner at the time and day specified in the notice hereafter provided; but no name shall be stricken or ordered stricken from any such system and register in the absence of the person to be affected thereby, unless it shall appear to the judge by affidavit of the commissioner of registration or his deputy or assistant that notice by mail has been given such person, either personally or by leaving the same at his registered place of residence, or present actual residence, if known to the commissioner, at least five entire days before the day and time of hearing before such judge, that at such hearing application would be made to have the name of such registered person stricken from the system and register, and of the grounds on which such application would be based. Such judge shall not order any name stricken subsequent to the sixth Tuesday preceding any election. The commissioner shall notify the judge, five days before the day and time specified, when the application will be made, and the judge shall hear the application at the time and day specified in the notice.

In addition to the notice by mail, the commissioner shall also publish in one or more newspapers within the county at least five entire days before the day and time of hearing before such judge, the names and registered addresses of such persons as shall be affected by this proceeding, giving notice through such publication of the time and place where the application is to be made for the removal of said names from the system and registry lists.

The judge shall cause a full record of the proceedings of such application, including the appearances and a statement of his findings of fact and law and of the order made pursuant thereto, to be taken stenographically, transcribed and filed in the office of the county clerk, which record shall be public. All costs and expenses of such proceedings shall be paid by the county. The commissioner of registration, after the hearing before the judge, shall amend the record for the person in the Statewide voter registration system and transfer to the inactive file the permanent registration and record

of voting forms of such persons as the judge shall have ordered stricken from the system and signature copy register pursuant to this section.

The registrant shall be immediately notified by the commissioner by mail of any removal from the system or transfer made pursuant to this section. In counties other than counties of the first class this notice by mail shall be sent in addition to the notice by publication.

20. Section 19 of P.L.1999, c.232 (C.19:53C-13) is amended to read as follows:

**C.19:53C-13 Opening of provisional ballot bag.**

19. When the office of the commissioner of registration receives a provisional ballot bag that has been found to be in good order, the commissioner thereof shall first break the seal and open the bag. In any county where the superintendent of elections is the commissioner of registration, the county board of elections may sort the provisional ballots if so agreed to in advance by both the superintendent and the board. Envelopes marked "SPOILED" shall be set aside and remain unopened. The name, signature and other information contained on the form as supplied by a voter shall be compared with the name, signature and other information that the commissioner of registration has in the Statewide voter registration system for that voter. No affirmation statement shall be separated from a provisional ballot envelope until all affirmation statements have been reviewed by the commissioner of registration. After a comparison of the voter's address is completed by the commissioner of registration and prior to separating the affirmation statement from the envelope and counting the ballot, the letter "p" shall be placed adjacent to the voter's name in the Statewide voter registration system and on the signature copy register together with the name of the municipality in which the voter voted the provisional ballot. If two provisional ballots from the same voter are received, both such ballots shall not be counted, the affirmation statements shall not be separated from the envelopes, and the ballots shall be put aside for further investigation.

Whenever the address supplied by the voter on the affirmation statement does not match the address for such a person contained in the Statewide voter registration system, but it is clear that the circumstance of a voter matches the circumstance of a voter described in subsection b. of R.S.19:31-11, the updated information on the affirmation statement shall be recorded and shall constitute a transfer by the voter to a new address for any subsequent election.

After the examination of the affirmation statement by the commissioner of registration, the county board of elections shall determine if a provisional ballot voter is legally entitled to have voted and if a provisional ballot conforms to the requirements established by law.

The members of the county board shall then proceed to count and canvass the votes cast on each provisional ballot only after all of the provisional ballots cast in the county have been subjected to the verification process by the county commissioner of registration. Immediately after the canvass is complete, the county board of elections shall certify the results of the canvass to the county clerk or municipal clerk or other appropriate officials, as the case may be, showing the results of the canvass by municipality.

The outside front of each envelope that contains a voided provisional ballot shall have the word "VOID" written next to the circled number.

Unless provided otherwise by this section, all provisional ballot materials shall be processed by the county board of elections in accordance with the procedures established for absentee ballots pursuant to section 31 of P.L.1953, c.211 (C.19:57-31).

21. Section 10 of P.L.1953, c.211 (C.19:57-10) is amended to read as follows:

**C.19:57-10 Comparison of signatures; investigation of application.**

10. Upon receipt of any request for a civilian absentee ballot or any application for a military absentee ballot from a military service voter who is required under section 3 of this act to be registered in the municipality where he intends to cast such military absentee ballot, the county clerk shall, with the cooperation of the commissioner of registration, cause the signature of the applicant on the request to be compared with the signature of said person appearing on the permanent registration form, or the digitalized image of the voter's signature stored in the Statewide voter registration system, in order to determine from such examination and any other available information if the applicant is a voter qualified to cast a ballot in the election in which he desires to vote, and determine in case of a primary election in which political party primary the voter is entitled to vote. The commissioner of registration or the superintendent of elections in counties having a superintendent of elections may investigate any application or request for an absentee ballot.

If after such examination, the county clerk is satisfied that the applicant is entitled to a ballot, he shall mark on the application "Approved." If after such examination the county clerk determines that the applicant is not entitled to a ballot, he shall mark on the application "Disapproved" and shall so notify the applicant, stating the reason therefor.

22. Section 22 of P.L.1953, c.211 (C.19:57-22) is amended to read as follows:

**C.19:57-22 Absentee ballots; commissioner of registration, duties.**

22. The commissioner of registration upon receipt of such information from the county clerk shall mark the applicant's record in the Statewide voter registration system and duplicate voting record appearing on the signature copy registers as follows:

In the proper space provided for the recording of the number of the voter's ballot at the election in which the applicant wishes to vote, the commissioner of registration shall record therein in red, in the case of a civilian absentee voter, the initial "A," which shall mean that a civilian absentee ballot was delivered or mailed to the applicant by the county clerk, and in the case of a military absentee voter, the initial "M," which shall mean that a military service ballot was delivered or mailed to the applicant by the county clerk.

Whenever the commissioner of registration receives from the county clerk notice that an absentee ballot has been forwarded to a voter, during the time when the signature copy registers are in the custody of other election officials pursuant to this Title, or are in transit to or from such officials, the said commissioner shall, prior to the opening of the polls on election day, forward to each district board of elections a list of all absentee voters to whom ballots have been sent but whose duplicate voting record has not been marked in the manner herein prescribed. Such lists may be prepared in the same manner as a challenge sheet and may be included therein together with other causes for challenge. No district board of elections shall permit any person to vote whose registration record shall be marked with the initial A or M in red or whose name shall appear on any list or notice furnished by the commissioner of registration to the effect that such voter has received an absentee ballot.

Whenever a civilian absentee ballot has been delivered to a voter less than 7 days prior to an election and up to 3 p.m. of the day before the election, and the signature copy registers are in the custody of other election officials, or in transit to or from such officials, the county clerk shall prepare a master list of all such ballots, which list shall be transmitted to the commissioner of registration in sufficient time to permit such commissioner to notify the appropriate municipal clerk. The municipal clerk shall notify the judge of the district election board to mark the voter's record accordingly.

23. Section 24 of P.L.1953, c.211 (C.19:57-24) is amended to read as follows:

**C.19:57-24 Duties of county board of elections after receiving absentee and military service ballots.**

24. The county board of elections shall, promptly after receiving each civilian absentee ballot, remove the inner envelope, containing the ballot, from the outer envelope and shall compare the signature and the information

contained on the flap of the inner envelope with the signature and information contained in the respective requests for civilian absentee ballots. In addition, as to civilian absentee ballots issued less than 7 days prior to an election, the county board of elections shall also check to establish that the absentee voter did not vote in person. The county board shall reject any such ballot unless the board is satisfied as a result of such comparison or by reference to the Statewide voter registration system that the voter is legally entitled to vote and that the ballot conforms with the requirements of this act.

The county board of elections shall, promptly after receiving each military service ballot, remove the inner envelope, containing the ballot, from the outer envelope and ascertain through the commissioner of registration whether or not the name of the person, whose name appears following the certificate on the flap of said inner envelope, has been certified by the county clerk to the commissioner of registration of the county as a person to whom a military service ballot, to be voted at the election at which it is intended to be voted, has been forwarded pursuant to this act.

The county board shall investigate the qualifications of a military service voter under this act by comparison of the contents of said certificate with the information appearing upon the application for said military service ballot, including the signatures thereon when the military service voter's signature appears upon said application, and by comparison with the military records of the State when deemed desirable.

In the case of a military service or civilian absentee ballot to be voted at a presidential primary election or a primary election for the general election, whether or not the military service or civilian absentee voter has indicated in said certificate his intention to vote it in a primary election of any political party in which he is not entitled to vote in according to the Statewide voter registration system, and if it shall appear from said record that he is not entitled to vote said ballot in any primary election of the political party which has been so indicated, such ballots shall be rejected.

Any absentee ballot which is received by a county board of elections shall be rejected if both the inner and outer envelopes are unsealed or if either envelope has a seal that has been tampered with.

Disputes as to the qualifications of military service or civilian absentee voters to vote or as to whether or not or how any such military or civilian absentee ballot shall be counted in such election shall be referred to the Superior Court for determination.

After such investigation the county board of elections shall detach or separate the certificate from the inner envelope containing the military service or civilian absentee ballot, unless it has been rejected by it or by the Superior Court, marking the envelope so as to identify the election district in which the ballot contained therein is to be voted as indicated by the absentee voter's home address appearing on the certificate attached to or accompanying said inner envelope and, in the case of ballots to be voted at

a primary election for a general election, so as to identify the political party in the primary election of which it is to be voted.

24. Section 32 of P.L.1953, c.211 (C.19:57-32) is amended to read as follows:

**C.19:57-32 Marking of duplicate voting records.**

32. As soon as practicable after such election, the commissioner of registration shall cause to be marked in the Statewide voter registration system and all duplicate voting records which have not been marked with a red "A" or "M" in accordance with this act, to show that an absentee ballot was delivered or forwarded to the respective registered voters. For each civilian absentee ballot, and for each military absentee ballot cast by a military service voter who is required under section 3 of this act to be registered in the municipality where he intends to cast such absentee ballot, that has been voted, received and counted, the commissioner of registration shall also, by reference to the certificates removed from the inner envelopes of such ballots, cause to be noted the word "Voted" in the space provided in the Statewide voter registration system and duplicate voting record for recording the ballot number of the voter's ballot in such election, and in the case of a presidential primary election or the primary election for the general election he shall also cause to be noted in the proper space of the Statewide voter registration system or other record of voting form the first three letters of the name of the political party primary in which such ballot was voted. The record contained in the Statewide voter registration system and of voting forms in the original permanent registration binders shall be conformed to the foregoing entries in the duplicate forms.

25. Section 29 of P.L.1964, c.134 (C.19:58-29) is amended to read as follows:

**C.19:58-29 Marking of Statewide voter registration system, duplicate voting records.**

29. As soon as practicable after each election, the commissioner of registration shall cause to be marked the Statewide voter registration system and all duplicate voting records to show that a Presidential ballot was delivered or forwarded to the respective registered voters. For each such ballot that has been voted, received and counted, the commissioner of registration shall also, by reference to the certificates removed from the inner envelopes of such ballots, cause to be noted the words "Voted by Presidential Ballot" in the space provided in the Statewide voter registration system and duplicate voting record for recording the ballot number of the voter's ballot in such election. The record of voting forms in the Presidential ballot file shall be conformed to the foregoing entries in the duplicate forms.



**Repealer.**

26. Section 2 of P.L.1947, c.277 (C.19:31-14.5) is hereby repealed.

27. This act shall take effect on January 1, 2006.

Approved July 12, 2005.

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**CHAPTER 146**

AN ACT to improve polling place accessibility, amending R.S.19:8-2, R.S.19:8-3 and P.L.1974, c.30, and amending and supplementing P.L.1991, c.429.

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

1. R.S.19:8-2 is amended to read as follows:

**Suggested list of available places, selection.**

19:8-2. The clerk of every municipality, on or before January 10 of each presidential year and on or before April 1 of every other year shall certify to the county board of every county wherein such municipality is located a suggested list of places in the municipality suitable for polling places. The county board shall select the polling places for the election districts in the municipalities of the county for all elections in the municipalities thereof, including all commission government elections in the county. The county boards shall not be obliged to select the polling places so suggested by the municipal clerks, but may choose others where they may deem it expedient. Preference in locations shall be given to schools and public buildings where space shall be made available by the authorities in charge, upon request, if same can be done without detrimental interruption of school or the usual public services thereof, and for which the authority in charge shall be reimbursed, by agreement, for expenses of light, janitorial and other attending services arising from such use. Each polling place selected shall be accessible to individuals with disabilities and the elderly. A polling place shall be considered accessible if it is in compliance with the federal "Americans with Disabilities Act of 1990" (42 U.S.C. s. 12101 et seq.). In no case shall the authorities in charge of a public school or other public building deny the request of the county board for the use, as a polling place, of any building they own or lease.

Where the county board shall fail to agree as to the selection of the polling place or places for any election district, within five days of an elec-

tion, the county clerk shall select and designate the polling place or places in any such election district.

The county board may select a polling place other than a schoolhouse or public building outside of the district but such polling place shall not be located more than 1,000 feet distant from the boundary line of the district. The Attorney General may, however, permit a polling place to be more than 1,000 feet distant from the boundary line of the district if there is no suitable polling place accessible to individuals with disabilities and the elderly within the district or 1,000 feet distant from the boundary line of the district.

Whenever possible, the county board shall contact the managers or owners of commercial or private buildings that the board deems suitable to use as polling places, and are in or near an election district lacking an accessible polling place, to determine whether a portion of such a building may be used as a polling place on the day of an election. Reimbursement for the use of a portion of such a building shall be the same as provided by this section for schools and public buildings.

Neither the owner nor operator of a facility designated as a polling place by the county board is permitted or authorized to relocate the polling place room in the building without the express prior approval of the board.

2. R.S.19:8-3 is amended to read as follows:

**Schoolhouses and public buildings; other locations; certification of expenses.**

19:8-3. The county board may select the schoolhouse or schoolhouses, public building or public buildings as the polling places in any municipality in the county whether or not such schoolhouses or public buildings are located within the election district for which the polling place is established; and shall designate the rooms or places, entrances and exits to be used in the schoolhouses or public buildings.

The county board may select a polling place other than a schoolhouse or public building for an election district, when the location of the election district and of the schoolhouses and public buildings in the municipality in which the election district is located is such that inconvenience would be caused the voters of such election district by locating the polling place thereof in a schoolhouse or public building. In the selection of a polling place other than a schoolhouse or public building for an election district, consideration shall be given to the use of buildings accessible to individuals with disabilities and the elderly.

The county board shall determine and certify to the board of chosen freeholders the amount to be paid the several boards of education or municipalities, as the case may be, for expenses in connection with the use of schoolhouses or public buildings for election purposes; not to exceed in any case the amount paid for polling places in private premises.

3. Section 1 of P.L.1991, c.429 (C.19:8-3.1) is amended to read as follows:

**C.19:8-3.1 Accessibility of polling places.**

1. Each polling place selected by the county board of elections for use in any election shall be accessible to individuals with disabilities and the elderly unless:

a. the Attorney General determines that a state of emergency exists that would otherwise interfere with the efficient administration of that election; or

b. the Attorney General grants a temporary waiver based upon a determination that all potential polling places have been surveyed and no accessible polling place is available, nor is the municipality able to make one temporarily accessible in or near the election district involved. Temporary waivers shall be granted no more than twice for any polling place following the effective date of P.L.2005, c.146, and each waiver shall be granted for no more than one year. Before the expiration of the waiver, the board shall formulate a plan to establish an accessible location for the polling place in or near the election district. A copy of the waiver and the plan shall be filed with the Voting Accessibility Advisory Committee, established pursuant to section 11 of P.L.1991, c.429 (C.19:8-3.7).

4. Section 2 of P.L.1991, c.429 (C.19:8-3.2) is amended to read as follows:

**C.19:8-3.2 Inaccessible polling place; alternate place, means.**

2. The Attorney General shall establish, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to ensure that in any election a voter who is elderly or has a disability and is assigned to an inaccessible polling place will, upon advance request of that voter, either be permitted to vote at the alternative, accessible polling place nearest to that voter's residence which has a common ballot or be provided with a civilian absentee ballot, pursuant to section 4 of P.L.1953, c.211 (C.19:57-4), as an alternative means of casting a ballot on the day of the election.

5. Section 3 of P.L.1991, c.429 (C.19:8-3.3) is amended to read as follows:

**C.19:8-3.3 Polling places, compliance with federal ADA.**

3. The Attorney General shall be responsible for ensuring that each polling place is in compliance with the federal "Americans with Disabilities Act of 1990" (42 U.S.C. s. 12101 et seq.) and shall exercise oversight authority over the county boards of elections to ensure that each polling place is in compliance with that federal act.

6. Section 4 of P.L.1991, c.429 (C.19:8-3.4) is amended to read as follows:

**C.19:8-3.4 Report of inaccessible polling places, ADA guidelines.**

4. No later than February 15 of each presidential year and no later than May 15th of every other year, beginning with May 15 next following the enactment of P.L.2005, c.146, each Voting Accessibility Advisory Committee, established pursuant to section 11 of P.L.1991, c.429 (C.19:8-3.7) shall report to the Attorney General and the county board of elections, on the form provided by the Attorney General, a list of all polling places in the county, specifying any found inaccessible. The committee shall indicate the reasons for inaccessibility, according to guidelines established in the federal "Americans with Disabilities Act of 1990" (42 U.S.C. s. 12101 et seq.), and shall consult with the county board of elections to determine the efforts made pursuant to P.L.1991, c.429 (C.19:8-3.1 et seq.) to locate alternative polling places or the actions needed to make the existing facilities accessible. Each county board of elections shall notify the Attorney General and the committee of any changes in polling place locations before the next general election, including any changes required due to the alteration of district boundaries.

7. Section 5 of P.L.1991, c.429 (C.19:8-3.5) is amended to read as follows:

**C.19:8-3.5 Review and compliance.**

5. No later than July 1st of each year, beginning with July 1 next following the enactment of P.L.2005, c.146, the Attorney General shall review the reports of the Voting Accessibility Advisory Committee and shall ensure that every possible effort has been made to comply with the provisions of this act, as amended .

8. Section 11 of P.L.1991, c.429 (C.19:8-3.7) is amended to read as follows:

**C.19:8-3.7 Voting Accessibility Advisory Committee in each county.**

11. a. The county executive in each county in which that office is established, or the governing body of the county in any other county, shall establish a Voting Accessibility Advisory Committee, which shall consist of at least seven and not more than 11 members as follows:

- (1) The four members of the county board of elections; and
- (2) Three or more public members, to be appointed by the county executive or county governing body as follows:
  - (a) A representative of the county executive or a member of the county governing body, as appropriate;
  - (b) At least one individual with a disability;

(c) At least one individual trained in the provisions of the federal "Americans with Disabilities Act of 1990" (42 U.S.C. s. 12101 et seq.); and

(d) If the county executive or governing body so elects, any other person deemed able by the executive or governing body to be of assistance.

b. In order to accurately evaluate the accessibility of all polling locations, the Voting Accessibility Advisory Committee shall undertake a physical inspection of each polling place in the county. A committee member who has a disability should participate in any such inspection. The results shall be used in completing the list of any polling places found inaccessible, pursuant to section 4 of P.L.1991, c.429 (C.19:8-3.4).

c. The committee shall receive notice of complaints filed from its county with the Division of Elections in the Department of Law and Public Safety pursuant to section 6 of P.L.2004, c.88 (C.19:61-6) that concern the accessibility of polling places to individuals with disabilities and the elderly.

9. Section 16 of P.L.1974, c.30 (C.19:31-6.4) is amended to read as follows:

**C.19:31-6.4 Registration forms, contents, availability, duties of officials.**

16. a. The Attorney General shall cause to be prepared and shall provide to each county commissioner of registration forms of size and weight suitable for mailing, which shall require the information required by R.S.19:31-3 in substantially the following form:

**VOTER REGISTRATION APPLICATION**

Print clearly in ink. Use ballpoint pen or marker.

(1) This form is being used as (check one):

- New registration
- Address change
- Name change

(2) Name:.....  
Last                      First                      Middle

(3) Are you a citizen of the United States of America? Yes No

(4) Will you be 18 years of age on or before election day? Yes  No

If you checked 'No' in response to either of these questions, do not complete this form.

(5) Street Address where you live:

.....  
Street Address      Apt. No.

.....  
(6) City or Town County Zip Code

(7) Address Where You Receive Your Mail (if different from above):

.....

(8) Date of Birth:

.....  
Month Day Year

(9) Telephone Number (optional) .....

(10) Name and address of Your Last Voter Registration

.....  
.....  
.....

(11) If you are registering by mail to vote and will be voting for the first time in your current county of residence, please provide one of the following:

(a) your New Jersey driver's license number:.....

(b) the last four digits of your Social Security Number.....

OR submit with this form a copy of any one of the following documents: a current and valid photo identification card; a current utility bill, bank statement, government check, pay check or any other government or other identifying document that shows your name and current address. If you do not provide either your New Jersey driver's license number or the last four digits of your Social Security Number, or enclose a copy of one of the documents listed above, you will be asked for identification when voting for the first time, unless you are exempt from doing so under federal or State law.

(12) Declaration - I swear or affirm that:

I am a U.S. citizen.

I live at the above address.

I will be at least 18 years old on or before the day of the next election.

I am not on parole, probation or serving a sentence due to a conviction for an indictable offense under any federal or State laws.

I UNDERSTAND THAT ANY FALSE OR FRAUDULENT REGISTRATION MAY SUBJECT ME TO A FINE OF UP TO \$1,000.00, IMPRISONMENT UP TO FIVE YEARS, OR BOTH PURSUANT TO R.S.19:34-1.

.....  
 Signature or mark of the registrant      Date

(13) If applicant is unable to complete this form, print the name and address of individual who completed this form.

.....  
 Name

.....  
 Address

In addition, the form may include notice to the applicant of information and options relating to the registration and voting process, including but not limited to notice of qualifications required of a registered voter; notice of the final day by which a person must be registered to be eligible to vote in an election; notice of the effect of a failure to provide required identification information; a place at which the applicant may indicate availability for service as a member of the district board of elections; a place at which the applicant may indicate whether he or she requires a polling place which is accessible to individuals with disabilities and the elderly or whether he or she is legally blind; and a place at which the applicant may indicate a desire to receive information concerning absentee voting. The form may also include a space for the voter registration agency to record whether the applicant registered in person, by mail or by other means.

b. The reverse side of the registration form shall bear the address of the Attorney General or the commissioner of registration to whom such form is supplied, and a United States postal permit the charges upon which shall be paid by the State.

c. The Attorney General shall cause to be prepared registration forms of the size, weight and form described in subsection a. of this section in both the English and Spanish language and shall provide such forms to each commissioner of registration of any county in which there is at least one election district in which bilingual sample ballots must be provided pursuant to R.S.19:14-21, R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4).

d. The commissioner of registration shall furnish such registration forms upon request in person to any person or organization in such reasonable quantities as such person or organization shall request. The commissioner shall furnish no fewer than two such forms to any person upon request by mail or by telephone.

e. Each such registration form shall have annexed thereto instructions specifying the manner and method of registration and stating the qualifications for an eligible voter.

f. The Attorney General shall also furnish such registration forms and such instructions to the Director of the Division of Worker's Compensation,

the Director of the Division of Employment Services, and the Director of the Division of Unemployment and Temporary Disability Insurance in the Department of Labor and Workforce Development; to the Director of the Division of Taxation in the Department of the Treasury; to the Executive Director of the New Jersey Transit Corporation; to the appropriate administrative officer of any other public agency, as defined by subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3); to the Adjutant General of the Department of Military and Veterans' Affairs; and to the chief administrative officer of any voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11).

g. All registration forms received by the Attorney General in the mail or forwarded to the Attorney General shall be forwarded to the commissioner of registration in the county of the registrant.

h. An application to register to vote received from the New Jersey Motor Vehicle Commission or a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), shall be deemed to have been timely made for the purpose of qualifying an eligible applicant as registered to vote in an election if the date on which the commission or agency shall have received that document in completed form, as indicated in the lower right hand corner of the form, was not later than the 21st day preceding that election.

i. Each commissioner of registration shall make note in the permanent registration file of each voter who is required to provide the personal identification information required pursuant to this section, as amended, and R.S.19:15-17, R.S.19:31-5 and Pub.L.107-252 (42 U.S.C. s. 15301 et seq.), to indicate the type of identification provided by the voter and the date on which it is provided. Prior to the June 2004 primary election, when such a newly registered voter seeks to vote for the first time following his or her registration, the voter will be required to provide such personal identification information. Beginning with the June 2004 primary election, when such a newly registered voter seeks to vote for the first time following his or her registration, the voter will not be required to provide such information if he or she had previously provided the personal identification information required pursuant to this section. The required information shall be collected and stored for the time and in the manner required pursuant to regulations promulgated by the Attorney General.

j. The Attorney General shall amend the voter registration application form if necessary to conform to the requirements of applicable federal or State law.

**C.19:8-3.8 "Polling Place Accessibility Fund"; use.**

10. a. There shall be established in the Department of Law and Public Safety a non-lapsing fund to be known as the "Polling Place Accessibility Fund," hereinafter referred to as the fund, to be held separate from all other



funds of the State. The money in the fund shall be derived from funds provided by the federal government to improve accessibility to polling places pursuant to section 261 of the federal "Help America Vote Act of 2002," Pub.L.107-252 (42 U.S.C. s. 15421 et seq.), appropriations by the Legislature, any funds donated to the State and designated for purposes prescribed by subsection b. of this section and such other sources as the Legislature shall designate. All earnings received from the investment or deposit of moneys in the fund shall be credited to the fund.

b. The money in the fund shall be made available by the Attorney General as grants to the county boards of elections for the purpose of ensuring polling place compliance with the federal "Americans with Disabilities Act of 1990" (42 U.S.C. s. 12101 et seq.), as provided for by P.L.1991, c.429 (C.19:8-3.1 et seq.), as amended and supplemented.

c. All grants from the fund shall be awarded pursuant to rules and regulations promulgated by the Attorney General. All monetary awards shall be granted at the discretion of the Attorney General, subject to available moneys in the fund.

11. This act shall take effect immediately.

Approved July 12, 2005.

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## CHAPTER 147

AN ACT concerning commercial motor vehicles, amending R.S. 39:1-1, P.L.1990, c.103 and R.S.39:4-128, and supplementing chapter 4 of Title 39 of the Revised Statutes.

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

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

**Words and phrases defined.**

39:1-1. As used in this subtitle, unless other meaning is clearly apparent from the language or context, or unless inconsistent with the manifest intention of the Legislature:

"Alley" means a public highway wherein the roadway does not exceed 12 feet in width.

"Authorized emergency vehicles" means vehicles of the fire department, police vehicles and such ambulances and other vehicles as are approved by the chief administrator when operated in response to an emergency call.

"Automobile" includes all motor vehicles except motorcycles.

"Berm" means that portion of the highway exclusive of roadway and shoulder, bordering the shoulder but not to be used for vehicular travel.

"Business district" means that portion of a highway and the territory contiguous thereto, where within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the roadway.

"Car pool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating capacity of nine passengers or less.

"Chief Administrator" or "Administrator" means the Chief Administrator of the New Jersey Motor Vehicle Commission.

"Commercial motor vehicle" includes every type of motor-driven vehicle used for commercial purposes on the highways, such as the transportation of goods, wares and merchandise, excepting such vehicles as are run only upon rails or tracks and vehicles of the passenger car type used for touring purposes or the carrying of farm products and milk, as the case may be.

"Commission" means the New Jersey Motor Vehicle Commission established by section 4 of P.L.2003, c.13 (C.39:2A-4).

"Commissioner" means the Commissioner of Transportation of this State.

"Commuter van" means a motor vehicle having a seating capacity of not less than seven nor more than 15 adult passengers, in which seven or more persons commute on a daily basis to and from work and which vehicle may also be operated by the driver or other designated persons for their personal use.

"Crosswalk" means that part of a highway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the shoulder, or, if none, from the edges of the roadway; also, any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other marking on the surface.

"Dealer" includes every person actively engaged in the business of buying, selling or exchanging motor vehicles or motorcycles and who has an established place of business.

"Deputy Chief Administrator" means the deputy chief administrator of the commission.

"Deputy director" means the deputy chief administrator.

"Director" means the chief administrator.

"Division" means the New Jersey Motor Vehicle Commission acting directly or through its duly authorized officers or agents.

"Driver" means the rider or driver of a horse, bicycle or motorcycle or the driver or operator of a motor vehicle, unless otherwise specified.

"Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, friction, by concussion, by percussion, or by detonator 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 or of destroying life or limb.

"Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

"Flammable liquid" means any liquid having a flash point below 200 degrees Fahrenheit, and a vapor pressure not exceeding 40 pounds.

"Gross weight" means the combined weight of a vehicle and a load thereon.

"High occupancy vehicle" or "HOV" means a vehicle which is used to transport two or more persons and shall include public transportation, car pool, van pool, and other vehicles as determined by regulation of the Department of Transportation.

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

"Horse" includes mules and all other domestic animals used as draught animals or beasts of burden.

"Inside lane" means the lane nearest the center line of the roadway.

"Intersection" means the area embraced within the prolongation of the lateral curb lines or, if none, the lateral boundary lines of two or more highways which join one another at an angle, whether or not one such highway crosses another.

"Laned roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

"Leased limousine" means any limousine subject to regulation in the State which:

a. Is offered for rental or lease, without a driver, to be operated by a limousine service as the lessee, for the purpose of carrying passengers for hire; and

b. Is leased or rented for a period of one year or more following registration.

"Leased motor vehicle" means any motor vehicle subject to registration in this State which:

a. Is offered for rental or lease, without a driver, to be operated by the lessee, his agent or servant, for purposes other than the transportation of passengers for hire; and

b. Is leased or rented for a period of one year or more following registration.

"Limited-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway; and includes any highway designated as a "freeway" or "parkway" by authority of law.

"Local authorities" means every county, municipal and other local board or body having authority to adopt local police regulations under the Constitution and laws of this State, including every county governing body with relation to county roads.

"Magistrate" means any municipal court and the Superior Court, and any officer having the powers of a committing magistrate and the chief administrator.

"Manufacturer" means a person engaged in the business of manufacturing or assembling motor vehicles, who will, under normal business conditions during the year, manufacture or assemble at least 10 new motor vehicles.

"Metal tire" means every tire the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

"Motorized bicycle" means a pedal bicycle having a helper motor characterized in that either the maximum piston displacement is less than 50 cc. or said motor is rated at no more than 1.5 brake horsepower and said bicycle is capable of a maximum speed of no more than 25 miles per hour on a flat surface.

"Motorcycle" includes motorcycles, motor bikes, bicycles with motor attached and all motor-operated vehicles of the bicycle or tricycle type, except motorized bicycles as defined in this section, whether the motive power be a part thereof or attached thereto and having a saddle or seat with driver sitting astride or upon it or a platform on which the driver stands.

"Motor-drawn vehicle" includes trailers, semitrailers, or any other type of vehicle drawn by a motor-driven vehicle.

"Motor vehicle" includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles.

"Noncommercial truck" means every motor vehicle designed primarily for transportation of property, and which is not a "commercial vehicle."

"Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with this subtitle placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

"Omnibus" includes all motor vehicles used for the transportation of passengers for hire, except commuter vans and vehicles used in ridesharing arrangements and school buses, if the same are not otherwise used in the transportation of passengers for hire.

"Operator" means a person who is in actual physical control of a vehicle or street car.

"Outside lane" means the lane nearest the curb or outer edge of the roadway.

"Owner" means a person who holds the legal title of a vehicle, or if a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee, lessee or mortgagor shall be deemed the owner for the purpose of this subtitle.

"Parking" means the standing or waiting on a street, road or highway of a vehicle not actually engaged in receiving or discharging passengers or merchandise, unless in obedience to traffic regulations or traffic signs or signals.

"Passenger automobile" means all automobiles used and designed for the transportation of passengers, other than omnibuses and school buses.

"Pedestrian" means a person afoot.

"Person" includes natural persons, firms, copartnerships, associations, and corporations.

"Pneumatic tire" means every tire in which compressed air is designed to support the load.

"Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads, such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

"Private road or driveway" means every road or driveway not open to the use of the public for purposes of vehicular travel.

"Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except street cars.

"Recreation vehicle" means a self-propelled or towed vehicle equipped to serve as temporary living quarters for recreational, camping or travel purposes and used solely as a family or personal conveyance.

"Residence district" means that portion of a highway and the territory contiguous thereto, not comprising a business district, where within any 600 feet along such highway there are buildings in use for business or residential purposes which occupy 300 feet or more of frontage on at least one side of the highway.

"Ridesharing" means the transportation of persons in a motor vehicle, with a maximum carrying capacity of not more than 15 passengers, including the driver, where such transportation is incidental to the purpose of the

driver. The term shall include such ridesharing arrangements known as car pools and van pools.

"Right-of-way" means the privilege of the immediate use of the highway.

"Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately, but not to all such roadways, collectively.

"Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians, which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

"School bus" means every motor vehicle operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or privately operated for the transportation of children to or from school for secular or religious education, which complies with the regulations of the New Jersey Motor Vehicle Commission affecting school buses, including "School Vehicle Type I" and "School Vehicle Type II" as defined below:

"School Vehicle Type I" means any vehicle designed to transport 16 or more passengers, including the driver, used to transport enrolled children, and adults only when serving as chaperones, to or from a school, school connected activity, day camp, summer day camp, summer residence camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the regulations of the New Jersey Motor Vehicle Commission and either the Department of Education or the Department of Human Services, whichever is the appropriate supervising agency.

"School Vehicle Type II" means any vehicle designed to transport less than 16 passengers, including the driver, used to transport enrolled children, and adults only when serving as chaperones, to or from a school, school connected activity, day camp, summer day camp, summer residence camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the regulations of the New Jersey Motor Vehicle Commission and either the Department of Education or the Department of Human Services, whichever is the appropriate supervising agency.

"School zone" means that portion of a highway which is either contiguous to territory occupied by a school building or is where school crossings are established in the vicinity of a school, upon which are maintained appro-

priate "school signs" in accordance with specifications adopted by the chief administrator and in accordance with law.

"School crossing" means that portion of a highway where school children are required to cross the highway in the vicinity of a school.

"Semitrailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

"Shipper" means any person who shall deliver, or cause to be delivered, any commodity, produce or article for transportation as the contents or load of a commercial motor vehicle. In the case of a sealed ocean container, "shipper" shall not be construed to include any person whose activities with respect to the shipment are limited to the solicitation or negotiation of the sale, resale, or exchange of the commodity, produce or article within that container.

"Shoulder" means that portion of the highway, exclusive of and bordering the roadway, designed for emergency use but not ordinarily to be used for vehicular travel.

"Sidewalk" means that portion of a highway intended for the use of pedestrians, between the curb line or the lateral line of a shoulder, or if none, the lateral line of the roadway and the adjacent right-of-way line.

"Sign." See "Official traffic control devices."

"Slow-moving vehicle" means a vehicle run at a speed less than the maximum speed then and there permissible.

"Solid tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

"Street" means the same as highway.

"Street car" means a car other than a railroad train, for transporting persons or property and operated upon rails principally within a municipality.

"Stop," when required, means complete cessation from movement.

"Stopping or standing," when prohibited, means any cessation of movement of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

"Suburban business or residential district" means that portion of highway and the territory contiguous thereto, where within any 1,320 feet along that highway there is land in use for business or residential purposes and that land occupies more than 660 feet of frontage on one side or collectively more than 660 feet of frontage on both sides of that roadway.

"Through highway" means every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter.

"Trackless trolley" means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

"Traffic" means pedestrians, ridden or herded animals, vehicles, street cars, and other conveyances either singly, or together, while using any highway for purposes of travel.

"Traffic control signal" means a device, whether manually, electrically, mechanically, or otherwise controlled, by which traffic is alternately directed to stop and to proceed.

"Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

"Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.

"Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

"Van pooling" means seven or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry seven to 15 adult passengers.

"Vehicle" means every device in, upon or by which a person or property is or may be transported upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks or motorized bicycles.

2. Section 3 of P.L.1990, c.103 (C.39:3-10.11) is amended to read as follows:

**C.39:3-10.11 Definitions relative to commercial driver licenses.**

3. For purposes of this act, a term shall have the meaning set forth in R.S.39:1-1 unless another meaning for the term is set forth in this act, or unless another meaning is clearly apparent from the language or context of this act, or unless the meaning for the term set forth in R.S.39:1-1 is inconsistent with the manifest intent of the Legislature in this act.

For purposes of this act:

"Alcohol concentration" means:

- a. The number of grams of alcohol per 100 milliliters of blood; or
- b. The number of grams of alcohol per 210 liters of breath.

"Commercial driver license" or "CDL" means a license issued in accordance with this act to a person authorizing the person to operate a certain class of commercial motor vehicle.

"Commercial Driver License Information System" or "CDLIS" means the information system established pursuant to the federal "Commercial



Motor Vehicle Safety Act of 1986," Pub.L.99-570 (49 U.S.C. s.2701 et seq.) to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

"Commercial motor vehicle" or "CMV" means a motor vehicle or combination of motor vehicles used or designed to transport passengers or property:

- a. If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or displays a gross vehicle weight rating of 26,001 or more pounds;
- b. If the vehicle has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- c. If the vehicle is designed to transport 16 or more passengers including the driver;
- d. If the vehicle is designed to transport eight or more but less than 16 persons, including the driver, and is used to transport such persons for hire on a daily basis to and from places of employment;
- e. If the vehicle is transporting or used in the transportation of hazardous materials and is required to be placarded in accordance with Subpart F. of 49 C.F.R. s.172, or the vehicle displays a hazardous material placard; or
- f. If the vehicle is operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or is privately operated, and is used for the transportation of children to or from a school, school connected activity, day camp, summer day camp, summer residence camp, nursery school, child care center, preschool center or other similar places of education.

The chief administrator may, by regulation, include within this definition such other motor vehicles or combination of motor vehicles as he deems appropriate.

This term shall not include recreation vehicles.

This term shall not include motor vehicles designed to transport eight or more but less than sixteen persons, including the driver, which are owned and operated directly by businesses engaged in the practice of mortuary science when those vehicles are used exclusively for providing transportation related to the provision of funeral services and which shall not be used in that capacity at any time to pick up or discharge passengers to any airline terminal, train station or other transportation center, or for any purpose not directly related to the provision of funeral services.

"Controlled substance" means any substance so classified under subsection (6) of section 102 of the "Controlled Substances Act" (21 U.S.C. s.802), and includes all substances listed on Schedules I through V of 21 C.F.R. s.1308, or under P.L.1970, c.226 (C.24:21-1 et seq.) as they may be revised from time to time. The term, wherever it appears in this act or administrative regulation promulgated pursuant to this act, shall include controlled substance analogs.

"Controlled substance analog" means a substance that has a chemical structure substantially similar to that of a controlled dangerous substance and that was specifically designed to produce an effect substantially similar to that of a controlled dangerous substance. The term shall not include a substance manufactured or distributed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. s.355).

"Conviction" means a final adjudication that a violation has occurred, a final judgment on a verdict, a finding of guilt in a tribunal of original jurisdiction, or a conviction following a plea of guilty, non vult or nolo contendere accepted by a court. It also includes an unvacated forfeiture of bail, bond or collateral deposited to secure the person's appearance in court, or the payment of a fine or court costs, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

"Disqualification" means either:

- a. The suspension, revocation, cancellation, or any other withdrawal by a state of a person's privilege to operate a commercial motor vehicle;
- b. A determination by the Federal Motor Carrier Safety Administration under the rules of practice for motor carrier safety contained in 49 C.F.R. s.386, that a person is no longer qualified to operate a commercial motor vehicle under 49 C.F.R. s.391; or
- c. The loss of qualification which automatically follows conviction of an offense listed in 49 C.F.R.s.383.51.

"Domicile" means that state where a person has a true, fixed, and permanent home and principal residence and to which the person intends to return whenever the person is absent.

"Driver license" means a license issued by this State or any other jurisdiction to a person authorizing the person to operate a motor vehicle.

"Endorsement" means an authorization to a commercial driver license required to permit the holder of the license to operate certain types of commercial motor vehicles.

"Felony" means any offense under any federal law or the law of a state, including this State, that is punishable by death or imprisonment for a term exceeding one year. The term includes, but is not limited to, "crimes" as that term is defined in N.J.S.2C:1-1 et seq.

"Foreign jurisdiction" means any jurisdiction other than a state of the United States.

"Gross vehicle weight rating" or "GVWR" means the value specified by a manufacturer as the loaded weight of a single or a combination (articulated) vehicle. The GVWR of a combination (articulated) vehicle, commonly referred to as the "gross combination weight rating" or "GCWR," is the GVWR of the power unit plus the GVWR of the towed unit or units. In the

absence of a value specified for the towed unit or units by the manufacturer, the GVWR of a combination (articulated) vehicle is the GVWR of the power unit plus the total weight of the towed unit, including the loads on them.

"Hazardous material" means a substance or material determined by the Secretary of the United States Department of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce and so designated pursuant to the provisions of the "Hazardous Materials Transportation Act" (49 U.S.C. s.1801 et seq.).

"Motor vehicle" includes all vehicles propelled otherwise than by muscular power, except such vehicles as run only upon rails or tracks. The term "motor vehicle" includes motorized bicycles.

"Non-commercial motor vehicle" means a motor vehicle or combination of motor vehicles other than a "commercial motor vehicle" as defined in this section.

"Out-of-service order" means a temporary prohibition against operating a commercial motor vehicle.

"Recreation vehicle" means a self-propelled or towed vehicle equipped to serve as temporary living quarters for recreational, camping, or travel purposes and is used solely as a family or personal conveyance.

"Representative vehicle" means a motor vehicle which represents the type of motor vehicle that a commercial driver license applicant operates or expects to operate.

"Serious traffic violation" means conviction for one of the following offenses committed while operating a commercial motor vehicle:

- a. Excessive speeding, involving any single offense for a speed of 15 miles per hour or more above the speed limit;
- b. Reckless driving, as defined by state or local law or regulation, including, but not limited to, offenses of driving a commercial motor vehicle in willful or wanton disregard of the safety of persons or property, including violations of R.S.39:4-96;
- c. Improper or erratic traffic lane changes;
- d. Following a vehicle ahead too closely, including violations of R.S.39:4-89;
- e. A violation, arising in connection with a fatal accident, of state or local law relating to motor vehicle traffic control, other than a parking violation;
- f. Any other violation of a state or local law relating to motor vehicle traffic control determined by the Secretary of the United States Department of Transportation in 49 C.F.R. s.383.5 to be a serious traffic violation;
- g. Driving a commercial motor vehicle without a commercial driver license in the driver's possession; or
- h. Driving a commercial motor vehicle without the proper class of commercial driver license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

This term shall not include vehicle weight or defect violations.

"State" means a state of the United States or the District of Columbia.

"Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks as defined by the director. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons.

"Vehicle group" means a class or type of vehicle with certain operating characteristics.

3. Section 4 of P.L.1990, c.103 (C.39:3-10.12) is amended to read as follows:

**C.39:3-10.12 Tests for commercial driver license.**

4. a. Notwithstanding any other provision of law to the contrary, the chief administrator shall adopt and administer a classified licensing system and a program for testing and ensuring the fitness of persons to operate commercial motor vehicles in accordance with the minimum federal standards established under the federal "Commercial Motor Vehicle Safety Act of 1986," Pub. L. 99-570 (49 U.S.C. s. 2701 et seq.) and the regulations promulgated pursuant to that law. The chief administrator shall not issue a commercial driver license to a person unless that person passes a knowledge and skills test for the operation of a commercial motor vehicle which complies with the federal standards. The chief administrator may issue commercial driver examination or learner's permits, subject to such conditions and restrictions as deemed necessary, to carry out the provisions of this act.

b. A knowledge and skills test shall not be required by the chief administrator for the renewal of a commercial driver license issued pursuant to the provisions of this act. However, a knowledge and skills test may be required for (1) the renewal of an endorsement permitting the operation of vehicles required to be placarded for hazardous materials, (2) for the renewal or reissuance of a commercial driver license if the license was suspended or revoked under section 12 of this act during the last license period preceding the renewal or reissuance, or (3) for the renewal or reissuance of a license which had not been renewed for a period of three or more years.

c. Upon the request of an applicant for a commercial driver license, the chief administrator shall administer to the applicant oral knowledge tests for the commercial driver license and any endorsements if the applicant supplies sufficient proof or otherwise demonstrates to the satisfaction of the chief administrator his inability to comprehend a written test. The chief administrator shall provide an English and Spanish version of the knowledge tests for a commercial driver license and for any endorsements and shall be

authorized to provide versions in such other languages as he, in his discretion, may deem appropriate.

d. A person who satisfactorily completes the knowledge tests required by this act for a commercial driver license and any endorsement shall not be required under R.S.39:3-10, R.S.39:3-10.1, or any other section in Title 39 of the Revised Statutes to take any other knowledge test for the operation of a commercial motor vehicle.

e. (Deleted by amendment, P.L.2005, c.147).

f. For the purposes of an application for a commercial driver license by a person who has never held a license issued under the provisions of this act, a person who satisfactorily completes the knowledge test for the commercial driver license but not the test for an endorsement, or a person who satisfactorily completes the knowledge test for an endorsement but not the test for the commercial driver license, shall not be required to retake that test which was satisfactorily completed.

g. No provision in this act, or in any manual, test, or administrative procedure developed to implement the provisions of this act, shall be deemed to expand the requirements for commercial motor vehicle operators concerning pre-trip inspection, after-trip inspection and inspection during a trip as such requirements are set forth in federal law or regulation. This subsection, however, shall not be deemed to limit the authority of the chief administrator, or the authority of any State department or agency, to promulgate, pursuant to other provisions of State law, standards and procedures on vehicle inspections which are consistent with federal law and regulation.

h. Classified licensing of drivers of school buses shall be by endorsement on the commercial driver licenses issued pursuant to P.L.1990, c.103 (C.39:3-10.9 et seq.).

4. Section 6 of P.L.1990, c.103 (C.39:3-10.14) is amended to read as follows:

**C.39:3-10.14 Request for and provision of driving record and license information.**

6. a. Before issuing a commercial driver license to an applicant, the chief administrator shall notify the Commercial Driver License Information System of the proposed issuance and shall request driving record information from the Commercial Driver License Information System, the National Driver Register, and from any other state which has issued a commercial driver license, non-commercial motor vehicle driver license or basic driver license to the applicant to determine whether the applicant has a commercial driver license, non-commercial motor vehicle driver license or basic driver license issued by another state, whether the applicant's driving privilege has been suspended, revoked, cancelled, or whether the applicant has been disqualified from operating a commercial motor vehicle.

The chief administrator also shall provide driving record and other information to the licensing authority of any other state, or province or territory of Canada, which requests such information in connection with a commercial driver license. The chief administrator may charge such fees as are deemed appropriate to cover the costs of providing information, except that no fee shall be charged if the other jurisdiction does not charge this State for similar requests.

b. Within 10 days after the issuance of a commercial driver license, the chief administrator shall notify the Commercial Driver License Information System of that fact, providing all information required to ensure identification of the licensee.

5. Section 7 of P.L.1990, c.103 (C.39:3-10.15) is amended to read as follows:

**C.39:3-10.15 Notification of moving violations, disqualification or suspension.**

7. Within 10 days after receiving a report of the conviction of a holder of a commercial driver license for any violation of state law related to motor vehicle traffic control committed in a vehicle, other than a parking violation, or a report of the conviction of a person who is not the holder of a commercial driver license for any violation of state law related to motor vehicle traffic control committed in a commercial vehicle, other than a parking violation, or after the disqualification of the holder of a commercial driver license or suspension of privileges for a period of 60 days or more, the commission shall notify the driver licensing authority in the licensing state, if other than this State, and the Commercial Driver License Information System of the conviction, suspension, or disqualification. The notification shall include all information the chief administrator deems necessary.

6. Section 10 of P.L.1990, c.103 (C.39:3-10.18) is amended to read as follows:

**C.39:3-10.18 Possession of valid commercial driver license mandatory.**

10. a. (1) (Deleted by amendment, P.L.2005, c.147).

(2) On and after April 1, 1992, and except when operating under a valid commercial driver examination or learner's permit and accompanied by the holder of a commercial driver license valid for the class or type of vehicle being operated, a person shall not operate a commercial motor vehicle unless the person has been issued and is in possession of a valid commercial driver license and applicable endorsements for the class and type of vehicle being operated. A person shall not operate a commercial motor vehicle if the person is restricted from operating a commercial vehicle of that class or type.

(3) A person violating this subsection shall be fined not less than \$250 or more than \$500, or imprisoned for not more than 60 days, or both. If that person has never been licensed to operate a commercial motor vehicle in this

State or any other jurisdiction, the chief administrator shall refuse to issue a license to operate a commercial motor vehicle to that person for a period of 180 days from the date of the violation. This penalty shall not be applicable in cases where failure to have actual possession of the commercial driver license is due to an administrative or technical error by the commission. If a person charged with a failure to have possession of a valid commercial driver license can exhibit the license to the judge of the court before whom he is summoned to answer to a charge and the license was valid on the day the person was charged, the judge may dismiss the charge. However, the judge may impose court costs.

b. (1) A person who has been refused a commercial driver license, whose commercial motor vehicle driving privilege or any endorsement has been suspended or revoked, who has been prohibited or disqualified from operating a commercial motor vehicle, who is subject to an out-of-service order, or whose driving privilege is suspended or revoked, shall not operate a commercial motor vehicle during the period of refusal, suspension, revocation, prohibition, or disqualification, or during the period of the out-of-service order.

(2) A person who violates this subsection shall, upon conviction, be fined not less than \$500 or more than \$5,000 for each offense, or imprisoned for a term of not more than 90 days, or both; provided, however, a person who operates a commercial motor vehicle during the period of an out-of-service order shall, upon conviction, be fined not less than \$1,100 or more than \$2,750 and may be imprisoned for a term of not more than 90 days. If a person is involved in an accident resulting in personal injury to another person while operating a commercial motor vehicle in violation of this subsection, the court shall impose both a period of imprisonment for 90 days and a fine of \$5,000.

(3) An employer shall not knowingly allow, require, permit or authorize a driver to operate a commercial motor vehicle during the period of refusal, suspension, revocation, prohibition, disqualification, or during the period of the out-of-service order. An employer who is convicted of a violation of this subsection shall be subject to a fine of not less than \$2,750 or more than \$11,000.

In addition, the commercial motor vehicle driving privilege of a person convicted under this subsection shall be suspended in accordance with section 12 of this act.

7. Section 12 of P.L.1990, c.103 (C.39:3-10.20) is amended to read as follows:

**C.39:3-10.20 Suspension of commercial motor vehicle driving privilege.**

12. a. In addition to the imposition of any other penalty provided by law, the chief administrator shall suspend for not less than one year nor more than

three years the commercial motor vehicle driving privilege of a person convicted for a first violation of:

(1) R.S.39:4-50 if the motor vehicle was a commercial motor vehicle or section 5 of this act.

(2) R.S.39:4-129 if the motor vehicle was a commercial motor vehicle operated by the person.

(3) Using a commercial motor vehicle in the commission of any "crime" as defined in subsection a., c., or d. of N.J.S.2C:1-4.

(4) Refusal to submit to a chemical test under section 2 of P.L.1966, c.142 (C.39:4-50.2) or section 16 of this act if the motor vehicle was a commercial motor vehicle.

(5) Paragraph (1) of subsection b. of section 10 of this act.

(6) A violation, arising in connection with a fatal accident, of State or local law relating to motor vehicle traffic control, other than a parking violation, regardless of whether the motor vehicle operated by the person was a commercial motor vehicle or a non-commercial motor vehicle.

b. If a first violation of any of the violations specified in subsection a. of this section takes place while transporting hazardous material or takes place in a vehicle displaying a hazardous material placard, the chief administrator shall suspend the commercial motor vehicle driving privilege of the person for three years.

c. Subject to the provisions of subsection d. of this section, the chief administrator shall revoke for life the commercial motor vehicle driving privilege of a person for a second or subsequent violation of any of the offenses specified in subsection a. or any combination of those offenses arising from two or more separate incidents.

d. The chief administrator may issue rules and regulations establishing guidelines, including conditions under which a revocation of commercial motor vehicle driving privilege for life under subsection c. may be reduced to a period of not less than 10 years.

e. Notwithstanding any other provision of law to the contrary, the chief administrator shall revoke for life the commercial motor vehicle driving privilege of a person who uses a commercial motor vehicle in the commission of a crime involving the manufacture, distribution, or dispensing of a controlled substance or controlled substance analog, or possession with intent to manufacture, distribute, or dispense a controlled substance or controlled substance analog. A revocation under this subsection shall not be subject to reduction in accordance with subsection d. of this section.

f. (1) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 60 days if the person is convicted of a serious traffic violation, other than a violation arising in connection with a fatal accident as set forth in paragraph (6) of subsection a. of this section, and that conviction constitutes the second serious traffic violation committed in a commercial motor vehicle or non-



commercial motor vehicle in this or any other state arising from separate incidents occurring within a three-year period. The chief administrator shall suspend the commercial motor vehicle driving privilege for 120 days if the conviction constitutes the third or subsequent serious traffic violation, other than a violation arising in connection with a fatal accident as set forth in paragraph (6) of subsection a. of this section, committed in a commercial motor vehicle or non-commercial motor vehicle in this or any other state arising from separate incidents occurring within a three-year period.

(2) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 60 days if the person is convicted of a violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); or section 10 of P.L.2005, c.147 (C.39:4-128.11). The chief administrator shall suspend the commercial motor vehicle driving privilege for not less than 120 days if the conviction constitutes the second violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); section 10 of P.L.2005, c.147 (C.39:4-128.11) or any combination of such violations in this or any other state arising from separate incidents occurring within a three-year period. The chief administrator shall suspend the commercial motor vehicle driving privilege for not less than one year if the conviction constitutes the third or subsequent violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); section 10 of P.L.2005, c.147 (C.39:4-128.11) or any combination of such violations in this or any other state arising from separate incidents occurring within the past three years.

(3) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 180 days or more than one year if the person is convicted of violating a driver or vehicle out-of-service order while driving a commercial motor vehicle transporting nonhazardous materials. The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than one year or more than five years if the conviction constitutes the second conviction in a separate incident in this or any other state within a 10- year period of violating a driver or vehicle out-of-service order while driving a commercial motor vehicle transporting nonhazardous materials. The chief administrator shall suspend the commercial motor vehicle driving privilege for a person for a period of not less than three years or more than five years if the conviction constitutes the third or subsequent conviction in a separate incident in this or any other state within a 10-year period of violating a driver or vehicle out-of-service order while driving a commercial motor vehicle transporting nonhazardous materials.

(4) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 180 days or more than two years if the person is convicted of violating a driver or vehicle out-of-service order while driving a commercial motor vehicle transporting hazardous materials required to be placarded under Subpart F of 49

C.F.R.s.172, or while operating a vehicle designed to transport 16 or more passengers, including the driver. The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than three years or more than five years if the conviction constitutes a second or subsequent conviction in a separate incident within a 10-year period in this or any other state of violating a driver or vehicle out-of-service order while driving a commercial motor vehicle transporting hazardous materials required to be placarded under Subpart F of 49 C.F.R. s.172, or while operating a vehicle designed to transport 16 or more passengers, including the driver.

g. A court shall make a report to the chief administrator within three days in such form as the chief administrator may require concerning conviction for violation of P.L. 1990, c.103 (C.39:3-10.9 et seq.). The chief administrator shall notify the Commercial Driver License Information System of the suspension, revocation, or cancellation. In the case of non-residents, the chief administrator also shall notify the licensing authority of the state which issued the commercial driver license or the state where the person is domiciled. The chief administrator shall provide these notices within 10 days after the suspension, revocation, cancellation, or disqualification.

h. The chief administrator shall in accordance with this section suspend a commercial motor vehicle driving privilege of a person holding, or required to hold, a commercial driver license issued by this State if the person is convicted in another state or foreign jurisdiction of an offense of a substantially similar nature to the offenses specified in subsection a., e., f., g., h., i. or j. of this section. For purposes of this section, a violation such as driving while intoxicated, driving under the influence, or driving while ability is impaired shall be considered substantially similar offenses. For purposes of this section, a violation committed in another state but substantially similar to those enumerated in subsection a., e., f., g., h., i. or j. of this section committed in this State shall be included.

i. Notwithstanding any other provision of law to the contrary, a conviction under this section, or section 5 or 16 of this act, shall not merge with a conviction for a violation of R.S.39:4-50 or section 2 of P.L.1966, c.142 (C.39:4-50.2).

j. In addition to any other penalty provided by law, the chief administrator shall suspend for one year the commercial motor vehicle driving privilege of a person for a first violation of:

- (1) R.S.39:4-50 while operating a non-commercial motor vehicle;
- (2) R.S.39:4-129 while operating a non-commercial motor vehicle;
- (3) Refusing to submit to a chemical test under section 2 of P.L.1966, c.142 (C.39:4-50.2) while operating a non-commercial motor vehicle; or
- (4) Using a non-commercial motor vehicle in the commission of any "crime" as defined in subsection a., c., or d. of N.J.S.2C:1-4.

k. The chief administrator shall in accordance with this section suspend the commercial motor vehicle driving privilege of a person holding, or required to hold, a commercial driver license issued by this State if that person has been disqualified from operating a commercial motor vehicle by the Federal Motor Carrier Safety Administration pursuant to 49 C.F.R. s.383.52 because that person's driving has been determined to constitute an imminent hazard.

l. The Motor Vehicle Commission shall maintain records of accidents, convictions, and disqualification for persons holding, or required to hold, a commercial driver license in accordance with 49 C.F.R. s.384.225 and the AAMVAnet, Inc.'s "Commercial Driver License Information System State Procedures," as amended and supplemented.

8. Section 14 of P.L.1990, c.103 (C.39:3-10.22) is amended to read as follows:

**C.39:3-10.22 Waiver of skills test.**

14. The chief administrator shall waive the skills test for a commercial driver license applicant who demonstrates that he meets the requirements for a waiver under the federal "Commercial Motor Vehicle Safety Act of 1986," Pub. L. 99-570 (49 U.S.C. s. 2701 et seq.), as those requirements are set forth in 49 C.F.R. s.383.77.

9. R.S.39:4-128 is amended to read as follows:

**Vehicles required to stop at grade crossings; method of crossing; exceptions; notice to railroad of intention to cross with certain vehicles or machinery; violations; penalties.**

39:4-128. (a) The driver of any omnibus, designed for carrying more than six passengers, or of any school bus carrying any school child or children, or of any vehicle carrying explosive substance or flammable liquids as a cargo or part of a cargo, or of any commercial motor vehicle specified in 49 C.F.R. s.392.10(a) (1) through (6), before crossing at grade any track or tracks of a railroad shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped listen and look in both directions along such track or tracks, for any approaching train, and for signals indicating the approach of a train. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks. This section shall not apply to grade crossings which are no longer used for railroad traffic and which have been abandoned by the railroad company provided that appropriate signs have been posted to indicate that such grade crossing has been abandoned or is no longer used for any railroad traffic. This section shall not apply to grade crossings where the railroad track has been removed or

paved over and the warning signs erected by the railroad in accordance with R.S.48:12-58 have been removed, provided that in such case written notice is given to the Commissioner of Transportation and to the appropriate State or local authority having jurisdiction over the highway, road, or street prior to the undertaking of such removal or paving of railroad track. This section shall also not apply to grade crossings marked with a sign reading "Exempt Crossing."

The Commissioner of Transportation is hereby vested with the exclusive authority to designate and mark any railroad grade crossings across any street or highway in this State with a sign "Exempt Crossing." The commissioner shall hold a public hearing before designating any crossing as exempt with notice of such hearing to be served in accordance with regulations promulgated by the commissioner.

The commissioner shall designate a grade crossing an exempt crossing when the potential for damage and injury from accidents between motor vehicles required to stop at grade crossings and other motor vehicles traveling in the same direction exceeds that between a train and the vehicles required to stop by law. Crossings designated as exempt crossings may include, but shall not be limited to, industrial, spurline and secondary crossings. The commissioner shall promulgate such regulations as are necessary to effectuate the purpose of the establishment of exempt crossings.

(b) No person shall operate or move any crawler-type tractor, wheel tractor, tractor engine with or without trailer or trailers attached, steam shovel, derrick, roller, self-propelled concrete mixer, or any self-propelled vehicle, commercial motor vehicle, equipment, machinery, apparatus or structure having a normal operating speed of 10 or less miles per hour or a vertical body or load clearance of less than 1/2 inch per foot of the distance between any two adjacent axles or in any event of less than 9 inches, measured above the level surface of a roadway, upon or across any track or tracks at a railroad grade crossing without first complying with the following requirements.

Notice of any such intended crossing shall be given to the nearest superintendent or trainmaster of such railroad. Such notice shall specify the approximate time of crossing and a reasonable time shall be given to such railroad to provide proper protection at such crossing.

After concluding satisfactory arrangements with the proper officer of the railroad and before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest rail of such railroad, and while so stopped shall listen and look in both directions along such track or tracks for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach

of a railroad train or car. If the flagman is provided by the railroad, movement over the crossing shall be made under his jurisdiction.

(c) Any person violating the provisions of this section shall be punished by a fine of not more than \$50.00 for the first offense and for the second offense a fine of not more than \$100.00, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

(d) This section shall not be construed as limiting the authority of any municipality to adopt police regulations governing the operation of omnibuses and to provide penalties for their violation, or to relieve the owner or operator of such omnibus subject to the jurisdiction of the Board of Public Utilities from any penalty prescribed by the laws of this State for violation of orders of such board.

**C.39:4-128.11 Regulations relative to certain commercial vehicles stopping at railroad crossings.**

10. a. A driver of a commercial motor vehicle, other than a commercial motor vehicle that is required to stop at a railroad crossing in accordance with R.S.39:4-128, shall, upon approaching a railroad grade crossing, drive at a rate of speed that will permit the commercial motor vehicle to be stopped before reaching the nearest rail of the crossing. A driver shall not drive a commercial motor vehicle upon or over a railroad crossing until he has exercised due caution to ascertain that a train is not approaching the crossing.

b. A driver of a commercial motor vehicle, other than a commercial motor vehicle that is required to stop at a railroad crossing in accordance with R.S.39:4-128, shall stop that commercial motor vehicle before reaching the nearest rail of the crossing, if the tracks of the crossing are not clear of other vehicles or if there is insufficient space to drive the commercial motor vehicle completely through the crossing without stopping the commercial motor vehicle.

c. An employer shall not knowingly allow, require, permit or authorize a driver to operate a commercial motor vehicle in violation of R.S.39:4-128, section 68 of P.L.1951, c.23 (C.39:4-127.1) or this section. An employer who is convicted of any such violation shall be fined not more than \$10,000.

**C.39:5-25.1 Summons, identification of motorist as holder of commercial driver license.**

11. Upon issuance of a summons or complaint charging a motorist with any violation, other than a parking violation, under Title 39 of the Revised Statutes, a law enforcement officer shall identify on the face of the summons or complaint, whether the motorist is a holder of a commercial driver license.

12. This act shall take effect September 30, 2005

Approved July 12, 2005.

## CHAPTER 148

AN ACT permitting elections in certain municipalities to be conducted by mail and supplementing Title 19 of the Revised Statutes.

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

**C.19:62-1 Municipality with 500 or fewer persons may conduct elections by mail.**

1. Notwithstanding any other law, regulation or rule to the contrary, a municipality with a population of 500 or fewer persons, according to the latest federal decennial census, may conduct all elections by mail, provided there is an affirmative vote to do so by the governing body of the municipality and by the governing body of the county in which the municipality is located. An election conducted by mail shall be conducted pursuant to the provisions of this act, P.L.2005, c.148 (C.19:62-1 et seq.).

**C.19:62-2 Election by mail, duties of county clerk.**

2. If an election by mail is authorized pursuant to section 1 of this act, P.L.2005, c.148 (C. 19:62-1), the county clerk shall:

a. publish, in advance of the election and pursuant to rules and regulations promulgated by the Attorney General, official notice that the election shall be conducted by mail together with such other information regarding the conduct of the election as shall be deemed necessary by the Attorney General;

b. mail a ballot, including an outer envelope and an inner envelope substantially similar to the envelopes provided for absentee ballots pursuant to section 16 of P.L.1953, c.211 (C.19:57-16), not sooner than the 20th day prior to the day of the election nor later than the 14th day prior to the day of the election, to each person registered to vote in the municipality at that election;

c. designate the county clerk's office or the municipal clerk's office as the places to obtain a replacement ballot pursuant to section 5 of this act, P.L.2005, c.148 (C.19:62-5);

d. designate, after consultation with the county board of elections and pursuant to criteria established by the Attorney General, places within the county or municipality that shall be available for the deposit of voted ballots for the election;

e. make a provisional ballot available at the office of the county clerk and the office of the municipal clerk so that each person who has been a resident of the county or municipality in which the person seeks to register and vote at least 29 days prior to the day of the election and has moved to a location within the municipality after that 29th day and prior to the day of the election may vote;

f. suspend distribution to each registered voter in the municipality samples of the official ballot of any election, but distribute to each registered voter in the municipality with each ballot a copy of the voter information notice provided for in section 1 of P.L.2005, c.149 (C.19:12-7.1) as modified and supplemented by the Attorney General as deemed appropriate for use in municipalities conducting elections by mail, and such instruction about the completion of the ballot as deemed necessary by the Attorney General;

g. make certain that all qualified voters in the municipality requesting an absentee ballot between the 40th day and the 21st day prior to the day of an election receive such ballot after the 20th day prior to the day of an election and voters requesting a ballot on or before the seventh day prior to the date of the election shall receive a ballot authorized pursuant to this section; and

h. establish, after consultation with the county board of elections and in accordance with rules and regulations adopted by the Attorney General, the time by which all ballots must be received by the board on the day of an election to be considered valid and counted.

**C.19:62-3 Election by mail, duties of county board of elections.**

3. If an election by mail is authorized pursuant to section 1 of this act, P.L.2005, c.148 (C.19:62-1), the county board of elections shall:

a. consult with the county clerk and the municipal clerk with respect to the conduct of the election, as provided for in subsections d. and h. of section 2 of P.L.2005, c.148 (C.19:62-2);

b. receive all ballots for the election returned by United States mail and collect all ballots for the election which were deposited in designated places of deposit prior to the time established for the closing of the polls;

c. verify the signature of the voter on the outer envelope of each ballot returned by comparing it with the signature on that person's voter registration form, in accordance with the rules and regulations adopted by the Attorney General, and if it is determined that the voter to whom a ballot or a replacement ballot has been issued has voted more than once, not count any ballot by that voter;

d. remove the inner envelope from the outer envelope of each ballot on the day of the election and proceed with the canvass of such ballots; and

e. conduct the canvass of the ballots and the certification of the results of the election in accordance with the procedures provided for such actions in this act, P.L.2005, c.148 (C.19:62-1 et seq.) and in Title 19 of the Revised Statutes.

**C.19:62-4 Election by mail, availability of voting machine accessible to disabled persons.**

4. If an election by mail is authorized pursuant to section 1 of this act, P.L.2005, c.148 (C.19:62-1), the superintendent of elections or the commissioner of registration, as may be appropriate, shall make certain that at least one voting machine that is fully accessible to individuals with disabilities

shall be located in the office of the municipal clerk and available for use by such individuals. Other than as provided for in section 9 of P.L. 2005, c.148 (C.19:62-9), all the provisions of this Title concerning polling places shall apply to the office of a municipal clerk used for this purpose, as deemed appropriate by the Attorney General.

**C.19:62-5 Replacement ballot.**

5. A registered voter may obtain a replacement ballot if a ballot has not been received by that person, or if it has been destroyed, spoiled or lost. A registered voter seeking a replacement ballot shall proceed to the office of the county clerk or municipal clerk to obtain such a ballot and sign a sworn statement that the ballot was destroyed, spoiled, lost or not received and present the statement to the county clerk or the municipal clerk prior to the time designated by law for the closing of the polls for that election. The county clerk and municipal clerk shall each keep a record of each replacement ballot provided.

Nothing in this section shall prevent a voter seeking a replacement ballot from obtaining such a ballot from the county clerk or municipal clerk any time after ballots have been mailed to registered voters pursuant to subsection b. of section 2 of P.L.2005, c.148 (C.19:62-2) and before the day of the election or from mailing a replacement ballot to the county board of elections prior to the day of the election.

**C.19:62-6 Statement on ballot.**

6. Each ballot obtained from the county clerk or the municipal clerk shall have printed or stamped on it the following statement:

ANY PERSON WHO, BY USE OF FORCE OR ANY OTHER MEANS, UNDULY INFLUENCES A VOTER TO VOTE IN ANY PARTICULAR MANNER OR TO REFRAIN FROM VOTING IS GUILTY OF A CRIME.

**C.19:62-7 Ballots for primary election for general election.**

7. For a primary election for the general election:
- a. the county clerk shall mail the ballot of a political party to each voter in the municipality who is registered as being affiliated with the political party as of the 21st day before the day of the primary election; and
  - b. a voter who is not affiliated with any political party who wishes to vote in the primary of a political party shall apply to the county clerk or municipal clerk in writing for the ballot of the political party in whose primary the voter wishes to vote, or designate a political party affiliation for the first time by whatever means permitted by law, and the application or designation shall be presented to the clerk through the day of the election.



**C.19:62-8 Voter's actions prior to transmittal of ballot.**

8. Prior to transmitting a ballot to the county board of elections, a registered voter shall mark it and place it in the inner envelope. The inner envelope shall then be placed in the outer envelope and that envelope shall be signed and certified by the voter pursuant to instructions provided with the ballot. The voter may return the envelopes containing the marked ballot to the county board by United States mail or by depositing it at the office of the county board or any other place of deposit designated for that purpose. If the voter returns the ballot by United States mail, the voter shall provide the postage.

**C.19:62-9 Open hours of office of municipal clerk on election days.**

9. The office of the municipal clerk shall be open from 6:00 a.m. to 8:00 p.m. on the day of an election to provide replacement ballots or provisional ballots to voters, receive voted ballots being deposited in person by voters and permit individuals with disabilities to vote using a voting machine that is fully accessible to such individuals. During this time, such appropriate staff shall be available for election purposes at the office of the municipal clerk as may be required by the county board of elections to ensure the proper administration of the election process.

**C.19:62-10 Receipt time of ballot for it to be counted, counting.**

10. a. For a ballot to be counted, it shall be received by the county board of elections no later than the time established for the closing of the polls for that election, pursuant to subsection h. of section 2 of this act, P.L.2005, c.148 (C.19:62-2).

Nothing in this subsection shall preclude the board from starting to count the ballots it has received for an election prior to the time designated for the closing of the polls for that election.

b. A vote that is cast on a voting machine that is fully accessible to individuals with disabilities shall be counted and canvassed in the same manner as all other votes cast by voting machine pursuant to the provisions of this Title.

**C.19:62-11 Criteria for a ballot to be counted.**

11. If received in a timely manner, a ballot shall be counted only if:

- a. the ballot is returned in the inner envelope and the inner envelope is enclosed in the outer envelope;
- b. the envelopes in which it is returned manifest no signs of tampering or improper handling;
- c. the outer envelope is signed by the registered voter to whom the ballot has been issued; and

d. the signature is verified as provided in subsection c. of section 3 of this act, P.L.2005, c.148 (C.19:62-3).

**C.19:62-12 Challenging of voter, ballot.**

12. Any ballot and any voter casting a ballot in an election held by mail may be challenged pursuant to rules and regulations adopted by the Attorney General.

**C.19:62-13 Rules, regulations.**

13. The Attorney General shall promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be deemed necessary to effectuate the purposes of this act.

14. This act shall take effect immediately and shall be applicable to any election held on or after the 180th day following enactment.

Approved July 12, 2005.

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CHAPTER 149

AN ACT providing for the posting of a voter information notice, supplementing Title 19 of the Revised Statutes and amending R.S.19:12-7.

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

**C.19:12-7.1 Posting of voter information notice by county board of elections; content and form.**

1. a. A county board of elections shall have posted a voter information notice, which shall be referred to as a voter's bill of rights, in a conspicuous location in each polling place before the opening of the polls on the day of any election.

The notice shall contain:

the date of the election and the hours during which polling places will be open;

a statement that sample ballots are available at the polling place for review by the voter;

instruction for the use of the voting machine in that polling place and an explanation of what instructions for voting are available at the polling place for the voter;

instruction for a voter who is voting for the first time;

instruction for a voter who is required to provide identification pursuant to the federal "Help America Vote Act of 2002" and R.S.19:15-17 prior to casting a vote;

instruction on how to cast a vote if the voter cannot be present at a polling place on the day of the election;

an explanation of the right of the voter to vote in privacy, regardless of the voter's physical abilities;

an explanation of the right of the voter to a provisional ballot and the circumstances under which a voter has a right to such a ballot;

an explanation of the right of the voter to receive a replacement ballot for a ballot that has been spoiled, destroyed, lost or never received;

an explanation of the right of the voter to ask for and receive assistance in voting;

an explanation of the right of the voter to take a reasonable amount of time in casting a vote on a voting machine;

an explanation of the right of the voter to bring written material into the polling place for the voter's personal use in casting a vote;

instruction on how to contact the appropriate officials if a voter's right to vote or right to otherwise participate in the electoral process has been challenged or violated;

general information on federal and State laws that prohibit acts of fraud or misrepresentation and the penalties for those acts; and

such other statement, instruction or explanation the Attorney General may deem appropriate to ensure the full and knowledgeable participation of the voter in the process.

The requirement to post this notice in each polling place shall not replace, supersede or void any other requirement set forth in law for the posting of information in each polling place apart from the voter information notice.

b. The Attorney General shall prescribe the form and specific content of the voter information notice, which may be comprised of more than one page. If the notice is comprised of more than one page, each page shall be posted separately. For an election district in which the primary language of 10 percent or more of the registered voters is a language other than English, the Attorney General shall prescribe an official version of the voter information notice in that other language or languages for use in that election district. The notice shall be posted in English and in the other language or languages in the polling places in each such district. The alternate language shall be determined based on information from the latest federal decennial census.

c. A county board of elections may modify or supplement the voter information notice used in a county or municipality to provide additional

information specific to that county or a municipality in that county, provided, however, that any such modification or supplementation shall be submitted to the Attorney General for prior approval.

d. The voter information notice shall be printed on each sample ballot, to the extent practicable, or if not practicable, information on how to view or obtain a copy of the voter information notice shall be printed on each sample ballot.

e. The voter information notice, including one modified or supplemented pursuant to subsection c. of this section, shall be made accessible on the official Internet site of the State by the Attorney General and each county board of elections shall ensure that the official Internet site of the county contains a link to that notice.

f. The provisions of this section shall not give rise to a legal cause of action.

g. The State shall be liable for the costs incurred by local government entities for compliance with this section, and they shall be reimbursed for those costs, upon application, by the State Treasurer.

2. R.S.19:12-7 is amended to read as follows:

**Publication of notice of elections.**

19:12-7. a. The county board in each county shall cause to be published in a newspaper or newspapers which, singly or in combination, are of general circulation throughout the county, a notice containing the information specified in subsection b. hereof, except for such of the contents as may be omitted pursuant to subsection c. or d. hereof. Such notice shall be published once during the 30 days next preceding the day fixed for the closing of the registration books for the primary election, once during the calendar week next preceding the week in which the presidential primary election or the primary election for the general election is held, as the case may be, once during the 30 days next preceding the day fixed for the closing of the registration books for the general election, and once during the calendar week next preceding the week in which the general election is held.

b. Such notice shall set forth:

(1) For the primary election for the general election:

(a) That a primary election for making nominations for the general election and for the selection of members of the county committees of each political party, will be held on the day and between the hours and at the places provided for by or pursuant to this Title.

(b) The place or places at which and hours during which a person may register, the procedure for the transfer of registration, and the date on which the books are closed for registration or transfer of registration.

(c) The several State, county, municipal and party offices or positions to be filled, or for which nominations are to be made, at such primary election.

(d) The existence of registration and voting aids, including: (i) the availability of registration and voting instructions at places of registration as provided under R.S.19:31-6; and (ii), if available, the accessibility of voter information to the deaf by means of a telecommunications device.

(e) The availability of assistance to a person unable to vote due to blindness, disability or inability to read or write.

(f) In the case of the notice published during the calendar week next preceding the week in which the primary election is held, that a voter who, prior to the election, shall have moved within the same county without (i) filing, on or before the 21st day preceding the election, a notice of change of residence with the commissioner of registration of the county or the municipal clerk of the municipality in which the voter resides on the day of the election, (ii) returning the confirmation notice sent to the voter by the commissioner of registration of the county, if such a notice has been sent to the voter, or (iii) otherwise notifying the commissioner of registration of the voter's change of address within the county shall be permitted to correct the voter's registration and to vote in the primary election by provisional ballot at the polling place of the district in which the voter resides on the day of the election. The notice shall further provide that the voter may contact the county commissioner of registration or municipal clerk to determine the proper polling place location for the voter.

(2) For the general election:

(a) That a general election will be held on the day and between the hours and at the places provided for by or pursuant to this Title.

(b) The place or places at which and hours during which a person may register, the procedure for transfer of registration, and the date on which the books are closed for registration or transfer of registration.

(c) The several State, county and municipal offices to be filled and, except as provided in R.S.19:14-33 of this Title as to publication of notice of any Statewide proposition directed by the Legislature to be submitted to the people, the State, county and municipal public questions to be voted upon at such general election.

(d) The existence of registration and voting aids, including: (i) the availability of registration and voting instructions at places of registration as provided under R.S.19:31-6; and (ii) the accessibility of voter information to the deaf by means of a telecommunications device.

(e) The availability of assistance to a person unable to vote due to blindness, disability or inability to read or write.

(f) In the case of the notice published during the calendar week next preceding the week in which the general election is held, that a voter who, prior to the election, shall have moved within the same county without (i) filing, on or before the 21st day preceding the election, a notice of change of residence with the commissioner of registration of the county or the municipal clerk of the municipality in which the voter resides on the day of the election, (ii) returning the confirmation notice sent to the voter by the commissioner of registration of the county, if such a notice has been sent to the voter, or (iii) otherwise notifying the commissioner of registration of the voter's change of address within the county shall be permitted to correct the voter's registration and to vote in the general election by provisional ballot at the polling place of the district in which the voter resides on the day of the election. The notice shall further provide that the voter may contact the county commissioner of registration or municipal clerk to determine the proper polling place location for the voter.

(3) For a school election:

(a) The day, time and place thereof,

(b) The offices, if any, to be filled at the election,

(c) The substance of any public question to be submitted to the voters thereat,

(d) That a voter who, prior to the election, shall have moved within the same county without (i) filing, on or before the 21st day preceding the election, a notice of change of residence with the commissioner of registration of the county or the municipal clerk of the municipality in which the voter resides on the day of the election, (ii) returning the confirmation notice sent to the voter by the commissioner of registration of the county, if such a notice has been sent to the voter, or (iii) otherwise notifying the commissioner of registration of the voter's change of address within the county shall be permitted to correct the voter's registration and to vote in the school election by provisional ballot at the polling place of the district in which the voter resides on the day of the election,

(e) That if the voter has any questions as to where to vote on the day of the election, the voter may contact the county commissioner of registration or municipal clerk to determine the proper polling place location for the voter; and

(f) Such other information as may be required by law.

(4) For the presidential primary election:

(a) That a primary for the selection of delegates and alternates to national conventions of political parties will be held on the day and between the hours and at the places provided for pursuant to this Title.

(b) The place or places at which and hours during which a person may register, the procedure for the transfer of registration, and the date on which the books are closed for registration or transfer of registration.

(c) The existence of registration and voting aids, including: (i) the availability of registration and voting instructions at places of registration as provided under R.S.19:31-6; and (ii), if available, the accessibility of voter information to the deaf by means of a telecommunication device.

(d) The availability of assistance to a person unable to vote due to blindness, disability or inability to read or write.

c. If such publication is made in more than one newspaper, it shall not be necessary to duplicate in the notice published in each such newspaper all the information required under this section, so long as:

(1) The municipal officers or party positions to be filled, or nominations made, or municipal public questions to be voted upon by the voters of any municipality, shall be set forth in at least one newspaper having general circulation in such municipality;

(2) All offices to be filled, or nominations made therefor, or public questions to be voted upon, by the voters of the entire State or of the entire county shall be set forth in a newspaper or newspapers which, singly or in combination, have general circulation throughout the county;

(3) Information relating to nominations and elections in each Legislative District comprised in whole or part in the county, shall be published in at least a newspaper or newspapers which singly or in combination, have general circulation in every municipality of the county which is comprised in such legislative district.

d. Such part or parts of the original notices as published which pertain to day of registration or primary election which has occurred shall be eliminated from such notice in succeeding insertions.

e. (Deleted by amendment, P.L.1999, c.232.)

f. The cost of publishing the notices required by this section shall be paid by the respective counties, unless otherwise provided for by law.

g. Notices required to be published or posted pursuant to this section shall set forth a general description of the contents of the voter information notice provided for in section 1 of P.L.2005, c.149 (C.19:12-7.1), how the notice may be viewed or obtained prior to the day of an election, and that the notice will be posted in each polling place on the day of an election.

3. This act shall take effect on the 60th day following enactment.

Approved July 12, 2005.

## CHAPTER 150

AN ACT concerning recounts following elections and amending R.S.19:28-1.

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

1. R.S.19:28-1 is amended to read as follows:

**Application for recount.**

19:28-1. When any candidate at any election shall have reason to believe that an error has been made in counting the votes of that election, the candidate may, within a period of 15 days following such election, apply to a judge of the Superior Court assigned to the county wherein such district or districts are located, for a recount of the votes cast at the election in any district or districts.

When ten voters at any election shall have reason to believe that an error has been so made in counting the votes upon any public question at any election, such voters may, within a period of 15 days following such election, apply to a judge of the Superior Court assigned to the county wherein such district or districts are located, for a recount of the votes cast at the election in any district or districts on such public question.

2. This act shall take effect immediately, unless that date falls within 30 days before an election, in which case this act shall take effect on the 30th day following that election.

Approved July 12, 2005.

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CHAPTER 151

AN ACT concerning certain notification and training regarding elections, amending R.S.19:50-1 and R.S.19:50-2 and supplementing Title 19 of the Revised Statutes.

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

**C.19:8-5.1 Sign identifying polling place, hours.**

1. For seven days before the day of any election, each county board of elections may cause to be displayed a sign outside of each polling place identifying it as such, and identifying the date and hours of polling.



2. R.S.19:50-1 is amended to read as follows:

**Instructional sessions for district board members.**

19:50-1. a. Within 30 days before each election, the county board of elections shall cause new members of the district boards who are to serve in election districts to be instructed in the conduct of elections, and in their duties in connection therewith. All district board members shall be required to attend said instructional sessions for each election at least once every two years. The county board of elections shall cause to be given to each member of each district board who has received such instruction and is fully qualified to properly conduct the election, a certificate to that effect. For the purpose of giving such instruction the county board of elections shall call such meeting or meetings of the district boards as shall be necessary. The content of said meeting or meetings shall be limited solely to the instruction of district board members; lobbying or the advancement of political ends shall be prohibited. The members of the district board of each election district shall attend such meeting or meetings as shall be called for the purpose of receiving such instruction concerning their duties as shall be necessary for the proper conduct of the election. No member of any district board shall serve in any election unless he shall have received such instruction as herein provided and is fully qualified to perform the duties in connection with the election, and has received a certificate to that effect from the county board of elections; but this shall not prevent the appointment of a person as a member of the district board to fill a vacancy in an emergency, as now provided by law. In addition to the foregoing, the county board of elections shall design, prepare and distribute training manuals for district board members, pursuant to guidelines established by the Attorney General. The county board of elections shall also make the training manual available on its Internet site and on the Internet site of the Division of Elections in the Department of Law and Public Safety.

b. The Attorney General shall establish guidelines for the design of training manuals for members of district boards of election, and shall design, prepare and distribute training manuals for members of county boards of election, and county clerks. The Attorney General shall also make training manuals available on the Internet site of the Division of Elections.

3. R.S.19:50-2 is amended to read as follows:

**Instruction in use of voting machines; availability.**

19:50-2. a. For the first four successive general elections after the adoption of a new type of voting machine in a county, the county board of elections or the superintendent of elections, as the case may be, having custody of voting machines, shall designate suitable and adequate times and places

where voting machines containing sample ballots showing titles of offices to be filled, and, so far as practicable, the names of candidates to be voted for at the next election, shall be exhibited for the purpose of giving instructions in the use of voting machines. No voting machine to be assigned for use in an election shall be used for such instruction after having been prepared and sealed for the election. During public exhibition of any voting machine for the instruction of voters previous to an election, the counting mechanism thereof shall be concealed from view and the doors may be temporarily opened only when authorized by such county board of elections or such superintendent of elections or such municipal clerk, as the case may be.

b. The county board of elections shall design, prepare and make available to voters instructions on the proper operation of the voting machine used in the county. The instructions may be conveyed on cards, computer software, pamphlets, posters, video or such other media as the county board deems appropriate, subject to the guidelines set forth by the Attorney General. The instructions shall also be made available on the official Internet site of the Division of Elections in the Department of Law and Public Safety and the county board of elections shall provide a link to such instructions on its official Internet site. The Attorney General shall establish guidelines for the design of instructions for the proper operation of voting machines used in this State. The provisions of this subsection shall be in addition to any other provision for voter instruction required by law.

**C.19:12-10 Public notice of dates relevant to elections and voters; internet sites.**

4. a. Subject to guidelines established by the Attorney General, each county board of elections shall provide public notice, at appropriate times during the year, of certain dates relevant to elections and voters, including but not limited to the dates of each election and the deadlines for voter registration or application for civilian or military absentee ballots. Such notices may be made by card, poster, newspaper, newsletter, pamphlet, radio, television, Internet or by any other means deemed appropriate by the board. The provisions of this subsection are in addition to any other provision for public notice required by law.

b. Each county board of elections and the Division of Elections in the Department of Law and Public Safety shall maintain an official Internet site containing information helpful for voters, including a link to the voter's bill of rights established by law and posted on the official Internet site of the State. The Internet site of the Division of Elections that contains such information shall include links to the Internet site of each county board and the Internet site of each county board shall contain a link to the part of the division's site containing information helpful to voters.

c. The Attorney General shall review the official Internet site of each county board of elections to ensure that the information provided thereon is consistent with the information provided on the official Internet site of the Division of Elections.

5. This act shall take effect on January 1 following enactment.

Approved July 12, 2005.

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## CHAPTER 152

AN ACT requiring county boards of elections to prepare reports concerning use of emergency and provisional ballots and supplementing P.L.1992, c.3 (C.19:53B-1 et seq.) and P.L.1999, c.232 (C.19:53C-1 et seq.).

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

**C.19:53B-21 List by district, number of emergency ballots used.**

1. Within 15 calendar days after an election or three days after the certification of the results of that election, whichever occurs later, the county board of election in each county shall prepare a report which lists by election district, and includes a county wide total by category for, the number of emergency ballots, including any spoiled, void, or invalid emergency ballots, used in the election. The report shall be a government record that is available for public inspection and copying pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.).

**C.19:53C-21 List by district, number of provisional ballots used.**

2. Within 15 calendar days after an election or three days after the certification of the results of that election, whichever occurs later, the county board of election in each county shall prepare a report which lists by election district, and includes a county wide total by category for, the number of provisional ballots, including any spoiled, void, or invalid provisional ballots, used in the election. The report shall be a government record that is available for public inspection and copying pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.).

3. This act shall take effect immediately.

Approved July 12, 2005.

## CHAPTER 153

AN ACT permitting voter registration forms to be used to declare political party affiliation, amending R.S.19:23-45, P.L.1976, c.16 and P.L.1974, c.30, and supplementing chapter 31 of Title 19 of the Revised Statutes.

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

1. R.S.19:23-45 is amended to read as follows:

**Requirements for voting in primary elections; affiliation.**

19:23-45. No voter shall be allowed to vote at any primary election unless his name appears in the signature copy register.

A voter who votes in a primary election of a political party, or who signs and files with the municipal clerk or the county commissioner of registration a declaration that he desires to vote in any primary election of a political party, or who indicates on a voter registration form the voter's choice of political party affiliation and submits the form to the commissioner of registration of the county wherein the voter resides, to the employees or agents of a public agency, as defined in subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3), or a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), or to the Attorney General, shall be deemed to be a member of that party until the voter signs and files with the municipal clerk or the commissioner of registration a declaration that he desires to vote in a primary election of another political party at which time he shall be deemed to be a member of such other political party. The Attorney General shall cause to be prepared political party affiliation declaration forms and shall provide such forms to the commissioners of registration of the several counties and to the clerks of the municipalities within such counties.

No voter, except a newly registered voter at the first primary at which he is eligible to vote, or a voter who has not previously voted in a primary election, may vote in a primary election of a political party unless he was deemed to be a member of that party on the 50th day next preceding such primary election.

A member of the county committee of a political party and a public official or public employee holding any office or public employment to which he has been elected or appointed as a member of a political party shall be deemed a member of such political party.

A voter may declare the voter's party affiliation or change the voter's party affiliation, or declare that the voter is unaffiliated with any party

regardless of any previously declared party affiliation, by so indicating on a political party declaration form filed with the municipal clerk or the county commissioner of registration. A voter may also indicate that the voter wishes to declare a political party affiliation or that the voter does not want to declare a political party affiliation on a voter registration form filed at the time of initial registration.

Any person voting in the primary ballot box of any political party in any primary election in contravention of the election law shall be guilty of a disorderly persons offense, and any person who aids or assists any such person in such violation by means of public proclamation or order, or by means of any public or private direction or suggestions, or by means of any help or assistance or cooperation, shall likewise be guilty of a disorderly persons offense.

2. Section 2 of P.L.1976, c.16 (C.19:23-45.1) is amended to read as follows:

**C.19:23-45.1 Notice of requirements for voting in primary elections, publication.**

2. a. The county commissioner of registration in each of the several counties shall cause a notice to be published in each municipality of their respective counties in a newspaper or newspapers circulating therein. The notice to be so published shall be published once during each of the two calendar weeks next preceding the week in which the 50th day next preceding any primary election of a political party occurs.

b. The notice required to be published by the preceding paragraph shall inform the reader thereof that no voter, except a newly registered voter at the first primary at which he is eligible to vote, or a voter who has not previously voted in a primary election may vote in a primary election of a political party unless he was deemed to be a member of that party on the 50th day next preceding such primary election. It shall further inform the reader thereof that a voter who votes in any primary election of a political party, or who signs and files with the municipal clerk or the county commissioner of registration a declaration that he desires to vote in a primary election of a political party, or who indicates on a voter registration form the voter's choice of political party affiliation and submits the form to the commissioner of registration of the county wherein the voter resides, to the employees or agents of a public agency, as defined in subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3), or a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11) or to the Attorney General, shall be deemed to be a member of that party until the voter signs and files with the municipal clerk or the commissioner of registration a declaration that he desires to vote in a primary election of another

political party, at which time he shall be deemed to be a member of such other political party, or that the voter chooses not to be affiliated with any political party. The notice shall also state the time and location where a person may obtain political party affiliation declaration forms or voter registration forms.

3. Section 16 of P.L.1974, c.30 (C.19:31-6.4) is amended to read as follows:

**C.19:31-6.4 Registration forms, contents, availability; duties of officials.**

16. a. The Attorney General shall cause to be prepared and shall provide to each county commissioner of registration forms of size and weight suitable for mailing, which shall require the information required by R.S.19:31-3 in substantially the following form:

VOTER REGISTRATION APPLICATION

Print clearly in ink. Use ballpoint pen or marker.

(1) This form is being used as (check one):

- New registration
- Address change
- Name change

(2) Name:.....  
Last First Middle

(3) Are you a citizen of the United States of America? Yes No

(4) Will you be 18 years of age on or before election day? Yes No

If you checked 'No' in response to either of these questions, do not complete this form.

(5) Street Address where you live:

.....  
Street Address Apt. No.

.....  
(6) City or Town County Zip Code

(7) Address Where You Receive Your Mail (if different from above):

.....

(8) Date of Birth:

.....  
Month Day Year

(9) Telephone Number (optional) .....

(10) Name and address of Your Last Voter Registration

.....  
.....  
.....

(11) If you are registering by mail to vote and will be voting for the first time in your current county of residence, please provide one of the following:

- (a) your New Jersey driver's license number:.....
- (b) the last four digits of your Social Security Number.....

OR submit with this form a copy of any one of the following documents: a current and valid photo identification card; a current utility bill, bank statement, government check, pay check or any other government or other identifying document that shows your name and current address. If you do not provide either your New Jersey driver's license number or the last four digits of your Social Security Number, or enclose a copy of one of the documents listed above, you will be asked for identification when voting for the first time, unless you are exempt from doing so under federal or State law.

(12) Do you wish to declare a political party affiliation? (Optional):

- YES. Name of Party: .....
- NO. I do not wish to declare a political party affiliation at this time.

(13) Declaration - I swear or affirm that:

I am a U.S. citizen.

I live at the above address.

I will be at least 18 years old on or before the day of the next election.

I am not on parole, probation or serving a sentence due to a conviction for an indictable offense under any federal or State laws.

I UNDERSTAND THAT ANY FALSE OR FRAUDULENT REGISTRATION MAY SUBJECT ME TO A FINE OF UP TO \$15,000, IMPRISONMENT UP TO FIVE YEARS, OR BOTH PURSUANT TO R.S.19:34-1.

.....  
Signature or mark of the registrant Date

(14) If applicant is unable to complete this form, print the name and address of individual who completed this form.

.....

Name

.....

Address

In addition, the form may include notice to the applicant of information and options relating to the registration and voting process, including but not limited to notice of qualifications required of a registered voter; notice of the final day by which a person must be registered to be eligible to vote in an election; notice of the effect of a failure to provide required identification information; a place at which the applicant may indicate availability for service as a member of the district board of elections; a place at which the applicant may indicate whether he or she requires a polling place which is accessible to individuals with disabilities and the elderly or whether he or she is legally blind; a place at which the applicant may indicate a desire to receive information concerning absentee voting; and if the application indicates a political party affiliation, the voter is permitted to vote in the primary election of a political party other than the political party in which the voter was affiliated previously only if the voter registration form with the change of political party affiliation is filed prior to the 50th day next preceding the primary election. The form may also include a space for the voter registration agency to record whether the applicant registered in person, by mail or by other means.

b. The reverse side of the registration form shall bear the address of the Attorney General or the commissioner of registration to whom such form is supplied, and a United States postal permit the charges upon which shall be paid by the State.

c. The Attorney General shall cause to be prepared registration forms of the size, weight and form described in subsection a. of this section in both the English and Spanish language and shall provide such forms to each commissioner of registration of any county in which there is at least one election district in which bilingual sample ballots must be provided pursuant to R.S.19:14-21, R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4).

d. The commissioner of registration shall furnish such registration forms upon request in person to any person or organization in such reasonable quantities as such person or organization shall request. The commissioner shall furnish no fewer than two such forms to any person upon request by mail or by telephone.

e. Each such registration form shall have annexed thereto instructions specifying the manner and method of registration and stating the qualifications for an eligible voter.



f. The Attorney General shall also furnish such registration forms and such instructions to the Director of the Division of Worker's Compensation, the Director of the Division of Employment Services, and the Director of the Division of Unemployment and Temporary Disability Insurance in the Department of Labor and Workforce Development; to the Director of the Division of Taxation in the Department of the Treasury; to the Executive Director of the New Jersey Transit Corporation; to the appropriate administrative officer of any other public agency, as defined by subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3); to the Adjutant General of the Department of Military and Veterans' Affairs; and to the chief administrative officer of any voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11).

g. All registration forms received by the Attorney General in the mail or forwarded to the Attorney General shall be forwarded to the commissioner of registration in the county of the registrant.

h. An application to register to vote received from the New Jersey Motor Vehicle Commission or a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), shall be deemed to have been timely made for the purpose of qualifying an eligible applicant as registered to vote in an election if the date on which the commission or agency shall have received that document in completed form, as indicated in the lower right hand corner of the form, was not later than the 21st day preceding that election.

i. Each commissioner of registration shall make note in the permanent registration file of each voter who is required to provide the personal identification information required pursuant to this section, as amended, and R.S.19:15-17, R.S.19:31-5 and Pub.L.107-252 (42 U.S.C. s. 15301 et seq.), to indicate the type of identification provided by the voter and the date on which it is provided. Prior to the June 2004 primary election, when such a newly registered voter seeks to vote for the first time following his or her registration, the voter will be required to provide such personal identification information. Beginning with the June 2004 primary election, when such a newly registered voter seeks to vote for the first time following his or her registration, the voter will not be required to provide such information if he or she had previously provided the personal identification information required pursuant to this section. The required information shall be collected and stored for the time and in the manner required pursuant to regulations promulgated by the Attorney General.

j. The Attorney General shall amend the voter registration application form if necessary to conform to the requirements of applicable federal or State law.

k. In the event that the name of any political party entered on the voter registration form by a voter who wishes to declare a political party affiliation is not legible, the commissioner of registration shall mail the voter a political party declaration form and a letter explaining that the voter's choice was not understood and that the voter should complete and return the declaration form in order to be affiliated with a party.

**C.19:31-13.2 Eligibility to vote in primary after change of declaration if 50 days before primary.**

4. If, when submitting a voter registration form for any reason, a registrant declares thereon his or her political party affiliation and in so doing declares an affiliation with a political party other than the political party with which that person was affiliated previously, the registrant shall be ineligible to vote in the next succeeding primary election unless he or she has made the declaration of affiliation with the political party specified in the latest voter registration form no later than the 50th day next preceding such primary election.

5. This act shall take effect on January 1 following enactment.

Approved July 12, 2005.

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#### CHAPTER 154

AN ACT increasing criminal penalties involving elections and amending various parts of the statutory law.

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

1. Section 5 of P.L.1987, c.328 (C.18A:12-2.2) is amended to read as follows:

**C.18A:12-2.2 False affirmation, disqualification, fourth degree crime.**

5. 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 the fourth degree.

2. Section 7 of P.L.1960, c.195 (C.19:4-4.7) is amended to read as follows:

**C.19:4-4.7 False oath, affirmation, fourth degree crime.**

7. Any person who shall make false oath or affirmation to any statement under this act, or who shall make any false statement therein, shall be guilty of a crime of the fourth degree.

3. R.S.19:15-26 is amended to read as follows:

**Ballots marked secretly in booth; violation disorderly persons offense.**

19:15-26. Every voter to whom a ballot is given shall thereupon retire into the polling booth. Not more than one voter, except as hereinafter provided, shall be permitted to enter or be in the same booth, at one time. The voter shall prepare his ballot in the booth secretly and screened from the observation of others.

Any person or voter who shall violate the provisions of this section shall be deemed guilty of a disorderly persons offense.

4. R.S.19:17-3 is amended to read as follows:

**Filing of statements.**

19:17-3. After the district board shall have made up and certified such statements, it shall at the same time and with the ballot boxes, as hereinafter provided, deliver or safely transmit one of the statements to the clerk of the municipality wherein such election is held, who shall forthwith file the same. In counties having a superintendent of elections one of such statements shall forthwith be filed with the superintendent of elections of the county. The superintendent may arrange to accept such certificates in such municipality within the county at the office of the clerk of such municipality or some other convenient place. Any municipal clerk who shall refuse to permit such superintendent or his deputies or assistants access to his office for the purpose of collecting such certificates or any municipal clerk or other person who shall interfere or obstruct the superintendent, his deputies or assistants in the collection of such certificates, or any member of a district board who shall willfully fail or refuse to deliver such statement to the superintendent, his deputies or assistants as the case may be, shall be guilty of a crime of the fourth degree. In all counties the board shall, immediately after election, deliver or safely transmit another of the statements to the clerk of the county, who shall forthwith file the same.

For a school election a statement shall also be delivered to the board of education of the district holding the election and to the county superintendent of schools in the county in which the district is situated.

If officers were voted for or public questions were voted upon at the election by the voters of the entire State or of more than one county thereof, or of a congressional district, then the board shall, immediately after the election, inclose, seal up and transmit the fourth statement to the Attorney General by mail in stamped envelopes to be furnished by the Attorney General, addressing the same in the following manner: "To the Attorney General of New Jersey, Trenton, New Jersey." Upon receiving such statements the Attorney General shall forthwith file the same in his office.

## 5. R.S.19:18-1 is amended to read as follows:

**Election records placed in ballot box.**

19:18-1. As soon as the election shall be finished and the votes canvassed and the statements made and certified by the district board as herein required, all ballots which have been cast, whether the same have been canvassed and counted or rejected for any cause, and one tally sheet, spoiled and unused ballots, shall be carefully collected and deposited in the ballot box.

In all municipalities the signature copy registers shall not be placed in the ballot box but shall be delivered immediately by the district board to the commissioner of registration.

In order to carry out his duties, any superintendent of elections in counties having a superintendent of elections shall have access and be permitted to inspect and examine any and all signature copy registers for said county for any election which may have been or shall be held in said county and any official or person having possession or custody of same who shall refuse to deliver said signature copy registers to the office of said superintendent of elections forthwith upon demand having been made upon him by said superintendent of elections as aforesaid shall be guilty of a crime of the fourth degree. Unless the said official having custody or possession of said signature copy registers shall forthwith produce the same at the office of the superintendent of elections when demanded by him so to do, the said superintendent of elections may apply to a judge of the Superior Court assigned to the county and such judge shall forthwith make an order directing the official having possession or custody of the said signature copy registers to produce them at once in the court in which said judge may be sitting, and upon their being produced said judge shall deliver the same to the superintendent of elections.

## 6. R.S.19:23-45 is amended to read as follows:

**Requirements for voting in primary elections; affiliation.**

19:23-45. No voter shall be allowed to vote at any primary election unless his name appears in the signature copy register.

A voter who votes in a primary election of a political party or who signs and files with the municipal clerk or the county commissioner of registration a declaration that he desires to vote in any primary election of a political party, or who indicates on a voter registration form the voter's choice of political party affiliation and submits the form to the commissioner of registration of the county wherein the voter resides, to the employees or agents of a public agency, as defined in subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3), or a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), or to the

Attorney General, shall be deemed to be a member of that party until the voter signs and files with the municipal clerk or the commissioner of registration a declaration that he desires to vote in a primary election of another political party at which time he shall be deemed to be a member of such other political party. The Attorney General shall cause to be prepared political party affiliation declaration forms and shall provide such forms to the commissioners of registration of the several counties and to the clerks of the municipalities within such counties.

No voter, except a newly registered voter at the first primary at which he is eligible to vote, or a voter who has not previously voted in a primary election, may vote in a primary election of a political party unless he was deemed to be a member of that party on the 50th day next preceding such primary election.

A member of the county committee of a political party and a public official or public employee holding any office or public employment to which he has been elected or appointed as a member of a political party shall be deemed a member of such political party.

A voter may declare the voter's party affiliation or change the voter's party affiliation, or declare that the voter is unaffiliated with any party regardless of any previously declared party affiliation, by so indicating on a political party declaration form filed with the municipal clerk or the county commissioner of registration. A voter may also indicate that the voter wishes to declare a political party affiliation or that the voter does not want to declare a political party affiliation on a voter registration form filed at the time of initial registration.

Any person voting in the primary ballot box of any political party in any primary election in contravention of the election law shall be guilty of a disorderly persons offense, and any person who aids or assists any such person in such violation by means of public proclamation or order, or by means of any public or private direction or suggestions, or by means of any help or assistance or cooperation, shall likewise be guilty of a disorderly persons offense.

7. R.S.19:23-53 is amended to read as follows:

**Statements transmitted to clerks and superintendent of elections; access to office of municipal clerk.**

19:23-53. The district board shall immediately deliver or transmit this statement to the clerks of the county and municipality within which such primary election was held. In counties having a superintendent of elections one of such statements shall forthwith be filed with the superintendent of elections of the county. The superintendent may arrange to accept such

certificates in each municipality within the county at the office of the clerk of such municipality or some other convenient place. Any municipal clerk who shall refuse to permit such superintendent or his deputies or assistants access to his office for the purpose of collecting such certificates or any municipal clerk or other person who shall interfere or obstruct the superintendent, his deputies or assistants in the collection of such certificates, or any member of a district board who shall willfully fail or refuse to deliver such statement to the superintendent, his deputies or assistants as the case may be, shall be guilty of a crime of the fourth degree.

8. Section 16 of P.L.1974, c.30 (C.19:31-6.4) is amended to read as follows:

**C.19:31-6.4 Registration forms, contents, availability; duties of officials.**

16. a. The Attorney General shall cause to be prepared and shall provide to each county commissioner of registration forms of size and weight suitable for mailing, which shall require the information required by R.S.19:31-3 in substantially the following form:

**VOTER REGISTRATION APPLICATION**

Print clearly in ink. Use ballpoint pen or marker.

(1) This form is being used as (check one):

- New registration
- Address change
- Name change

(2) Name:.....  
Last First Middle

(3) Are you a citizen of the United States of America? Yes No

(4) Will you be 18 years of age on or before election day? Yes No

If you checked 'No' in response to either of these questions, do not complete this form.

(5) Street Address where you live:

.....  
Street Address Apt. No.

.....  
(6) City or Town County Zip Code

(7) Address Where You Receive Your Mail (if different from above):  
.....

(8) Date of Birth:

.....  
Month Day Year

(9) Telephone Number (optional) .....

(10) Name and address of Your Last Voter Registration  
.....  
.....  
.....

(11) If you are registering by mail to vote and will be voting for the first time in your current county of residence, please provide one of the following:

(a) your New Jersey driver's license number:.....

(b) the last four digits of your Social Security Number.....

OR submit with this form a copy of any one of the following documents: a current and valid photo identification card; a current utility bill, bank statement, government check, pay check or any other government or other identifying document that shows your name and current address. If you do not provide either your New Jersey driver's license number or the last four digits of your Social Security Number, or enclose a copy of one of the documents listed above, you will be asked for identification when voting for the first time, unless you are exempt from doing so under federal or State law.

(12) Do you wish to declare a political party affiliation? (Optional):

YES. Name of Party: .....

NO. I do not wish to declare a political party affiliation at this time.

(13) Declaration - I swear or affirm that:

I am a U.S. citizen.

I live at the above address.

I will be at least 18 years old on or before the day of the next election.

I am not on parole, probation or serving a sentence due to a conviction for an indictable offense under any federal or State laws.

I UNDERSTAND THAT ANY FALSE OR FRAUDULENT REGISTRATION MAY SUBJECT ME TO A FINE OF UP TO \$15,000, IMPRISONMENT UP TO FIVE YEARS, OR BOTH PURSUANT TO R.S.19:34-1.

.....  
Signature or mark of the registrant      Date

(14) If applicant is unable to complete this form, print the name and address of individual who completed this form.

.....  
Name

.....  
Address

In addition, the form may include notice to the applicant of information and options relating to the registration and voting process, including but not limited to notice of qualifications required of a registered voter; notice of the final day by which a person must be registered to be eligible to vote in an election; notice of the effect of a failure to provide required identification information; a place at which the applicant may indicate availability for service as a member of the district board of elections; a place at which the applicant may indicate whether he or she requires a polling place which is accessible to individuals with disabilities and the elderly or whether he or she is legally blind; a place at which the applicant may indicate a desire to receive information concerning absentee voting; and if the application indicates a political party affiliation, the voter is permitted to vote in the primary election of a political party other than the political party in which the voter was affiliated previously only if the voter registration form with the change of political party affiliation is filed prior to the 50th day next preceding the primary election. The form may also include a space for the voter registration agency to record whether the applicant registered in person, by mail or by other means.

b. The reverse side of the registration form shall bear the address of the Attorney General or the commissioner of registration to whom such form is supplied, and a United States postal permit the charges upon which shall be paid by the State.

c. The Attorney General shall cause to be prepared registration forms of the size, weight and form described in subsection a. of this section in both the English and Spanish language and shall provide such forms to each commissioner of registration of any county in which there is at least one election district in which bilingual sample ballots must be provided pursuant to R.S.19:14-21, R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4).

d. The commissioner of registration shall furnish such registration forms upon request in person to any person or organization in such reason-



able quantities as such person or organization shall request. The commissioner shall furnish no fewer than two such forms to any person upon request by mail or by telephone.

e. Each such registration form shall have annexed thereto instructions specifying the manner and method of registration and stating the qualifications for an eligible voter.

f. The Attorney General shall also furnish such registration forms and such instructions to the Director of the Division of Worker's Compensation, the Director of the Division of Employment Services, and the Director of the Division of Unemployment and Temporary Disability Insurance in the Department of Labor and Workforce Development; to the Director of the Division of Taxation in the Department of the Treasury; to the Executive Director of the New Jersey Transit Corporation; to the appropriate administrative officer of any other public agency, as defined by subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3); to the Adjutant General of the Department of Military and Veterans' Affairs; and to the chief administrative officer of any voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11).

g. All registration forms received by the Attorney General in the mail or forwarded to the Attorney General shall be forwarded to the commissioner of registration in the county of the registrant.

h. An application to register to vote received from the New Jersey Motor Vehicle Commission or a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), shall be deemed to have been timely made for the purpose of qualifying an eligible applicant as registered to vote in an election if the date on which the commission or agency shall have received that document in completed form, as indicated in the lower right hand corner of the form, was not later than the 21st day preceding that election.

i. Each commissioner of registration shall make note in the permanent registration file of each voter who is required to provide the personal identification information required pursuant to this section, as amended, and R.S.19:15-17, R.S.19:31-5 and Pub.L.107-252 (42 U.S.C. s. 15301 et seq.), to indicate the type of identification provided by the voter and the date on which it is provided. Prior to the June 2004 primary election, when such a newly registered voter seeks to vote for the first time following his or her registration, the voter will be required to provide such personal identification information. Beginning with the June 2004 primary election, when such a newly registered voter seeks to vote for the first time following his or her registration, the voter will not be required to provide such information if he or she had previously provided the personal identification information required pursuant to this section. The required information shall be collected

and stored for the time and in the manner required pursuant to regulations promulgated by the Attorney General.

j. The Attorney General shall amend the voter registration application form if necessary to conform to the requirements of applicable federal or State law.

k. In the event that the name of any political party entered on the voter registration form by a voter who wishes to declare a political party affiliation is not legible, the commissioner of registration shall mail the voter a political party declaration form and a letter explaining that the voter's choice was not understood and that the voter should complete and return the declaration form in order to be affiliated with a party.

9. Section 2 of P.L.1944, c.230 (C.19:31A-8) is amended to read as follows:

**C.19:31A-8 Signature comparison records; identification statements; disability certificates.**

2. Every person qualified to vote in any election shall at any time after the opening of the polls be at liberty to enter the polling place or room and claim his right to vote at such election in his proper district, and he shall claim such right in person before the district board in the district. The board shall permit no person to vote whose name does not appear in the signature copy register of its election district. Each voter in claiming the right to vote shall first give his full name and address to the member of the district board having charge of the duplicate permanent registration binder and voting record and the signature comparison record. Such clerk shall thereupon locate the permanent registration form and voting record and signature comparison record of the voter and shall require the voter to thereupon sign his name in the proper space on his signature comparison record if the voter has previously signed his name on the line marked sample signature. If the voter has not so signed the member of the district board shall require the voter to sign the line marked sample signature and compare the sample signature with the signature made by such person at the time he registered and if satisfied that they were made by one and the same person he shall then permit the voter to sign his name in the proper space on the signature comparison record. The voter shall sign his name without assistance using black ink in the proper column on the signature comparison record. Such signature being completed on the signature comparison record the member of the board having charge of the duplicate permanent registration binder shall audibly and publicly announce the name of the claimant and if the member of the board has ascertained from the duplicate permanent registration binder that the claimant is registered as a qualified voter and upon comparison the member of the board is satisfied that the signature of the claimant and the

sample signature on the signature copy register has been made by one and the same person, the member of the board who compared the signature of the voter shall place his initials in the proper column on the signature comparison record signifying that he has made such comparison and is satisfied that the signature of the claimant and sample signature has been made by one and the same person; whereupon the voter shall be eligible to receive a ballot unless it be shown to the satisfaction of a majority of the members of the district board that he is not entitled to vote in the district or has otherwise become disqualified.

In addition to signing the signature comparison record and after the comparison of the signature with the signature in the register, a person offering to vote at a primary election for the general election shall announce his name and the party primary in which he wishes to vote.

After a person has voted, the member of the district board having charge of the signature copy register shall place the number of the person's ballot in the proper column on the record of voting form of such person, which number shall constitute a record that the person has voted. In the case of a primary election for the general election such member of the district board shall also place in the proper column on the record of voting form the first three letters of the name of the political party whose primary ballot such person has voted.

No person shall be required to sign the signature comparison record as a means of identification if he shall have been unable to write his name when he registered, or if, having been able to write his name when registered, he subsequently shall have lost his sight or lost the hand with which he was accustomed to write or shall by reason of disease or accident be unable to write his name when he applies to vote, but each such person who alleges his inability to sign his name on the signature comparison record shall establish his identity as follows: one of the members of the district board shall read the same list of questions to the voter as were required upon registration, such questions shall be provided at each election by the commissioner of registration and are to be known as "identification statements for election day." The member of the board shall write the answers of the voter upon the identification statement. These statements shall be inserted in the front of the duplicate registry binders, at each election, and shall be numbered serially from one to twenty.

Each statement shall contain the same questions as the voter was required to answer upon registration. The questions answered upon registration shall not be turned to or inspected until the answers to the questions shall have been written on election day by the member of the board.

At the end of each list of questions shall be printed the following statement: "I certify that I have read to the above named voter each of the forego-

ing questions and that I have duly recorded his answers as above to each of said questions"; and the member of the board who has made the above record shall sign his name to such certificate and date the same, and note the time of day of making such record. If the answers to the questions asked of the voter on election day agree with the answers given by him to the same questions at the time he registered, he shall then be eligible to receive a ballot. Any person who shall permit or attempt to furnish the answers on behalf of the voter shall be guilty of a crime of the fourth degree. The commissioner of registration shall furnish sufficient identification statements for each election district in each county. The statements shall be printed on sheets approximately ten by sixteen inches and shall contain a margin of approximately two inches for binding and shall be inserted in the front of the duplicate registry binders each election and shall be in substantially the following form:

PLEASE PHOTOCOPY THIS FORM FROM P.L.1996, c.120, s.6.

At any election any person who declares under oath and establishes to the satisfaction of a majority of all the members of the district board, that by reason of an inability to read or write, blindness or other physical disability he is unable to mark his ballot without assistance, shall have the assistance of two members of the board who shall not be members of the same political party, to be assigned by the board, in preparing his ballot. Such members shall retire with such voter to the booth and assist him in the preparation of his ballot and folding the same. The member acting as clerk of the district board shall make an entry on a disability certificate for assistance, which entry shall be in the form of an oath and be inserted in the front of the duplicate registry binders each election.

In every instance when such oath was administered to a voter as herein provided, it shall state briefly what facts were sworn to and the names of the members of the board who aided such voter. Any members of the district board shall be eligible to witness the preparation of the ballot of any such voter, but no other person shall be allowed to assist him in marking his ballot or to witness the marking of the same. No member of the board shall reveal the name of any person for whom such voter has voted or anything that took place while he was being assisted.

Such voter, if blind, disabled, or unable to read or write, may, in lieu of the assistance of the board as above provided, have assistance of some person of his own selection in preparing his ballot. Such person shall retire with such voter to the booth and assist him in the preparation of his ballot and folding the same. The name and address of such person shall be recorded as above. In such case, no other person than the one so selected by the voter shall be allowed to assist such voter in marking his ballot or witness the marking of the same. No person so selected shall reveal the name of any

person for whom such voter has voted or anything that took place while he was being assisted.

The disability certificates shall be numbered serially one to twenty. The commissioner of registration shall furnish sufficient disability certificates for assistance for each election district in his county. The disability certificates for assistance shall be printed on sheets approximately ten by sixteen inches and shall contain a margin of approximately two inches for binding and shall be in substantially the following form:

PLEASE PHOTOCOPY THIS FORM FROM P.L.1996, c.120, s.6.

The commissioner of registration in each county shall furnish sufficient certificates of signature comparison records for each election district in his county to be filled in and signed at the close of the polls by the members of the district board. A blank space shall also be provided for on the certificate for the signatures of the members of the election board. Under said certificate there shall also be printed the word "Remarks" together with a number of blank lines. The commissioner shall insert one of such certificates in the front of the signature copy register in each election district in the county. At primary elections the certificate shall be in substantially the following form:

PRIMARY ELECTION  
CERTIFICATION OF SIGNATURE COMPARISON RECORD

The undersigned constituting the district board of election in the County of..... in the .....  
(City, Town, Township, Borough or Village)

..... Ward ..... District hereby certify that  
(.....) is the correct total of the number  
(Figures)

of names of voters who actually signed the signature comparison records and voted in the DEMOCRATIC PRIMARY ELECTION held on the ..... day of ..... 20....

And hereby certify that (.....) is the correct total of the num-  
(Figures)

ber of names of voters who actually signed the signature comparison records and voted in the REPUBLICAN PRIMARY ELECTION held on the..... day of....., 20....

.....Judge..... Clerk. DISTRICT

.....Inspector..... Clerk. BOARD OF

ELECTION

Remarks:.....  
.....

.....  
.....

At all other elections the certificates shall be in substantially the following form:

CERTIFICATION OF SIGNATURE COMPARISON RECORD

The undersigned constituting the district board of election in the County of.....in the.....  
(City, Town, Township, Borough or Village)  
..... Ward ..... District hereby certify that  
(.....) is the correct total of the number  
(Figures)  
of names of voters who actually signed the signature comparison records and voted in the.....election  
(General, Special or other Election as the case may be)  
held on the ..... day of....., 20.....

..... Judge..... Clerk. DISTRICT  
..... Inspector..... Clerk. BOARD OF  
ELECTION

Remarks:.....  
.....  
.....  
.....

After each election the commissioner of registration shall remove from the binders the identification statements, the disability certificates for assistance, and certifications of signature comparison records and shall preserve them in his office in a suitable place for a period of two years.

10. R.S.19:32-5 is amended to read as follows:

**Investigations by superintendents and assistants; neglect to furnish information or exhibit records, fourth degree crime.**

19:32-5. Such superintendents and their assistants, in order to enforce the laws of this State regarding the conduct of elections, shall investigate all complaints relating to the registration of voters, and for that purpose the superintendents and their assistants shall have full power and authority to

visit and inspect any house, dwelling, building, inn, lodging house or hotel and interrogate any inmate, house-dweller, keeper, caretaker, owner, proprietor or landlord thereof or therein as to any person or persons residing or claiming to reside therein or thereat; to inspect and copy any books, records, papers or documents relating to or affecting the elections, either general, special, primary or municipal, or the registration of voters in the custody and control of district boards, county boards, or the clerks or other officers of municipalities; to require every lodging-house keeper, landlord or proprietor to exhibit his register of lodgers therein at any time to the superintendent, his subordinates or any other person so designated by such superintendent.

Any person who neglects or refuses to furnish any information required or authorized by this title, or to exhibit the records, papers, or documents herein authorized to be inspected, or which are required to be exhibited, shall be guilty of a crime of the fourth degree.

11. R.S.19:32-6 is amended to read as follows:

**Subpoenas; power to issue; service; failure to testify; false statements, crime.**

19:32-6 The superintendent shall have power to issue subpoenas for the purpose of investigating any complaint of violation of the election laws of the state, such subpoenas to be issued in the name of the superintendent and for the purpose of aiding him in enforcing the provisions of the election laws. He may in proper cases issue subpoenas duces tecum. A subpoena issued by the superintendent may be served by any peace officer or any other person designated by him for that purpose.

A person who shall omit, neglect or refuse to obey a subpoena attested in the name of the superintendent and made returnable by him or who shall refuse to testify under oath before such superintendent shall be guilty of a crime of the fourth degree.

A person who shall make any false statement under oath before the superintendent shall be guilty of a crime of the fourth degree.

12. R.S.19:32-8 is amended to read as follows:

**Register of lodgers.**

19:32-8. When directed by the superintendent every landlord, proprietor, lessee or keeper of a lodging house, inn or hotel, shall keep a register in which shall be entered the names and residences, the date of arrival and departure of his guests, and the room, rooms or bed occupied by them. This register shall be arranged so that there shall be a space on the same line in which each guest or lodger shall sign his name.

Such landlord, proprietor, lessee or keeper shall make a sworn report upon a blank to be prepared and furnished by the superintendent thirty days

before the election next ensuing to such superintendent, containing a detailed description of the premises so used and occupied as a lodging house, inn or hotel, including the size and character of building, and in case only part of a building is so used, a statement as to what part, and the names of the lodgers therein, and all the employees, and all other persons living therein, including the landlord, proprietor, lessee or keeper, and members of his family, who claim a voting residence at or in such lodging house, inn or hotel, together with the length of time they have been regularly lodged or lived therein, the beginning of such residence, the color, approximate age, height, weight, whereby the persons may be identified, the nationality, the occupation and place of business of such persons, and the room occupied by each person, and whether the person is a guest, landlord, proprietor, lessee or keeper, and the signature of each person. Above the space reserved for the signature of each such person shall be printed the following words, "the foregoing statements are true." In the form of affidavit, which shall be sworn to by the landlord, proprietor, lessee or keeper of such lodging house, inn or hotel, shall be included the statement that the signatures of the guests or lodgers certified to in such report were written in the presence of such landlord, proprietor, lessee or keeper, and that he personally knows them to be the persons therein described.

To the end that the sworn report herein shall truly set forth the facts therein stated, such landlord, proprietor, lessee or keeper shall question each male person lodging or living in the lodging house, inn or hotel, as to his intention of claiming such place as a voting residence, and the person shall thereupon declare his intention thereof, and if he shall claim the place as his voting residence, he shall give to such landlord, proprietor, lessee or keeper such facts regarding himself as are required to be incorporated in the sworn report herein provided for. Such report and affidavit shall be filed personally by the landlord, proprietor, lessee or keeper with the superintendent at his office.

Any such landlord, proprietor, lessee or keeper or any lodger who shall violate this section shall be deemed guilty of a crime of the fourth degree.

13. R.S.19:32-12 is amended to read as follows:

**Interference with sealing of ballot boxes, bags; third degree crime.**

19:32-12. Any person preventing, hindering or interfering with the said superintendent or his chief deputy or assistants in sealing such ballot box or boxes or bag or bags shall be guilty of a crime of the third degree.

14. R.S.19:32-13 is amended to read as follows:



**Destroying, removing, defacing seal; third degree crime.**

19:32-13. Any person who destroys, defaces or removes, or attempts to destroy, deface or remove, such a seal shall be guilty of a crime of the third degree.

15. Section 5 of P.L.1947, c.167 (C.19:32-30) is amended to read as follows:

**C.19:32-30 Investigations by superintendents, assistants; neglect to furnish information or exhibit records, disorderly person.**

5. Such superintendents and their assistants, in order to enforce the laws of this State regarding the conduct of elections, shall investigate all complaints relating to the registration of voters, and for that purpose the superintendents and their assistants shall have full power and authority to visit and inspect any house, dwelling, building, inn, lodging house or hotel and interrogate any inmate, house-dweller, keeper, caretaker, owner, proprietor or landlord thereof or therein as to any person or persons residing or claiming to reside therein or thereat; to inspect and copy any books, records, papers or documents relating to or affecting the elections, either general, special, primary or municipal, or the registration of voters in the custody and control of district boards, county boards, or the clerks or other officers of municipalities; to require every lodging-house keeper, landlord or proprietor to exhibit his register of lodgers therein at any time to the superintendent, his subordinates or any other person so designated by such superintendent.

Any person who neglects or refuses to furnish any information required or authorized by this Title, or to exhibit the records, papers, or documents herein authorized to be inspected, or which are required to be exhibited, shall be guilty of a disorderly persons offense.

16. Section 6 of P.L.1947, c.167 (C.19:32-31) is amended to read as follows:

**C.19:32-31 Subpoenas; refusal to obey; false statements; crime.**

6. The superintendent shall have power to issue subpoenas for the purpose of investigating any complaint of violation of the election laws of the State, such subpoenas to be issued in the name of the superintendent and for the purpose of aiding him in enforcing the provisions of the election laws. He may in proper cases issue subpoenas duces tecum. A subpoena issued by the superintendent may be served by any peace officer or any other person designated by him for that purpose.

A person who shall omit, neglect or refuse to obey a subpoena attested in the name of the superintendent and made returnable by him or who shall

refuse to testify under oath before such superintendent shall be guilty of a crime of the fourth degree.

A person who shall make any false statement under oath before the superintendent shall be guilty of a crime of the fourth degree.

17. Section 8 of P.L.1947, c.167 (C.19:32-33) is amended to read as follows:

**C.19:32-33 Register of guests and lodgers in lodging houses, inns and hotels.**

8. When directed by the superintendent, every landlord, proprietor, lessee or keeper of a lodging house, inn or hotel shall keep a register in which shall be entered the names and residences, the date of arrival and departure of his guests, and the room, rooms or bed occupied by them. This register shall be arranged so that there shall be a space on the same line in which each male guest or male lodger shall sign his name.

Such landlord, proprietor, lessee or keeper shall make a sworn report upon a blank to be prepared and furnished by the superintendent thirty days before the election next ensuing to such superintendent, containing a detailed description of the premises so used and occupied as a lodging house, inn or hotel, including the size and character of building, and in case only part of a building is so used, a statement as to what part, and the names of the lodgers therein, and all the employees, and all other persons living therein, including the landlord, proprietor, lessee or keeper, and members of his family, who claim a voting residence at or in such lodging house, inn or hotel, together with the length of time they have been regularly lodged or lived therein, the beginning of such residence, the color, approximate age, height, weight, whereby the persons may be identified, the nationality, the occupation and place of business of such persons, and the room occupied by each person, and whether the person is a guest, landlord, proprietor, lessee or keeper, and the signature of each person. Above the space reserved for the signature of each such person shall be printed the following words, "the foregoing statements are true." In the form of affidavit, which shall be sworn to by the landlord, proprietor, lessee or keeper of such lodging house, inn or hotel, shall be included the statement that the signatures of the guests or lodgers certified to in such report were written in the presence of such landlord, proprietor, lessee or keeper, and that he personally knows them to be the persons therein described.

To the end that the sworn report herein required shall truly set forth the facts therein stated, such landlord, proprietor, lessee or keeper shall question each male person lodging or living in the lodging house, inn or hotel as to his intention of claiming such place as a voting residence, and the person shall thereupon declare his intention thereof, and if he shall claim the place

as his voting residence he shall give to such landlord, proprietor, lessee or keeper such facts regarding himself as are required to be incorporated in the sworn report herein provided for. Such report and affidavit shall be filed personally by the landlord, proprietor, lessee or keeper with the superintendent at his office.

Any such landlord, proprietor, lessee or keeper or any lodger who shall violate this section shall be deemed guilty of a crime of the fourth degree.

18. Section 10 of P.L.1947, c.167 (C.19:32-35) is amended to read as follows:

**C.19:32-35 Interference with sealing ballot boxes, bags; third degree crime.**

10. Any person preventing, hindering or interfering with the said superintendent or his chief deputy or assistants in sealing such ballot box or boxes or bag or bags shall be guilty of a crime of the third degree.

19. Section 11 of P.L.1947, c.167 (C.19:32-36) is amended to read as follows:

**C.19:32-36 Destroying, removing, defacing seals, third degree crime.**

11. Any person who destroys, defaces or removes, or attempts to destroy, deface or remove, such a seal shall be guilty of a crime of the third degree.

20. R.S.19:34-1 is amended to read as follows:

**False registration or transfer; penalties.**

19:34-1. If any member of the district board shall willfully refuse to enter in the canvassing books or upon the registers the name of any person legally entitled to vote, or shall register the name of any person contrary to the provisions of this title, such member shall be guilty of a crime of the third degree.

Any person who shall cause or procure his name to be registered in more than one election district, or shall cause or procure his name or that of any other person to be registered, knowing that he or such other person is not entitled to vote in the election district wherein such registry is made at the next election to be held therein, shall be punished for each such offense and shall be guilty of a crime of the third degree.

No district board shall execute or deliver to any voter any paper in the nature of a transfer, purporting to authorize him to vote in any other election district unless he is actually registered as now provided by law.

Any officer or employee who shall willfully fail to perform or enforce any of the provisions of this title or who shall unlawfully or fraudulently remove any registration records, or who shall willfully destroy any record

directed by this title to be kept, or any person who shall willfully or fraudulently register more than once, or register under any but his true name, or attempt to vote by impersonating another who is registered, or who willfully registers in any election district where he is not a resident at the time of registering, or who violates any of the provisions of this title, shall be guilty of a crime of the third degree.

21. Section 43 of P.L.1994, c.182 (C.19:34-1.1) is amended to read as follows:

**C.19:34-1.1 Crimes; election official defined.**

43. a. Any person, other than an election official, who:

(1) knowingly and willfully intimidates, threatens or coerces, or attempts to intimidate, threaten or coerce, any person for registering to vote, voting or attempting to register to vote or vote, urging or aiding any person to register to vote, to vote or to attempt to register or vote or exercising any right under the provisions of P.L.1994, c.182 (C.19:31-6.11 et al.); or

(2) knowingly and willfully deprives, defrauds or attempts to deprive or defraud the residents of this State of a fair and impartially conducted election by the procurement or submission of voter registration applications that are known by the person to be materially false, fictitious or fraudulent under the provisions of Title 19 of the Revised Statutes or the procurement, casting or tabulation of ballots that are known by the person to be materially false, fictitious or fraudulent under the provisions of Title 19 of the Revised Statutes, is guilty of a crime of the second degree.

b. Any election official who:

(1) knowingly and willfully intimidates, threatens or coerces, or attempts to intimidate, threaten or coerce, any person for registering to vote, voting or attempting to register to vote or vote, urging or aiding any person to register to vote, to vote or to attempt to register or vote, or exercising any right under the provisions of P.L.1994, c.182 (C.19:31-6.11 et al.); or

(2) knowingly and willfully deprives, defrauds or attempts to deprive or defraud the residents of this State of a fair and impartially conducted election by the procurement or submission of voter registration applications that are known by the election official to be materially false, fictitious or fraudulent under the provisions of Title 19 of the Revised Statutes or the procurement, casting or tabulation of ballots that are known by the election official to be materially false, fictitious or fraudulent under the provisions of Title 19 of the Revised Statutes, is guilty of a crime of the second degree and, in addition to any other penalties provided under the law, shall be permanently barred from serving as an election official.

c. As used in this section, "election official" shall include, but not be limited to, any superintendent or deputy superintendent of elections, commissioner of registration, member of a county board of elections, county clerk, municipal clerk, member of a district board of elections, member of a board of county canvassers and member of a board of State canvassers.

22. R.S.19:34-2 is amended to read as follows:

**Offenses concerning nomination certificates or petitions.**

19:34-2. No person shall falsely make, falsely make oath to, or fraudulently deface or fraudulently destroy any certificate of nomination or petition, or any part thereof, or file, or receive for filing, any certificate of nomination or petition, knowing the same or any part thereof to be falsely made, or suppress any certificate of nomination or petition which has been duly filed, or any part thereof. A person violating any of the provisions of this section shall be guilty of a crime of the third degree.

Any person who, being a member of one political party, shall sign his name to any petition indorsing any person as a candidate for office of another political party, shall be guilty of a crime of the fourth degree.

23. R.S.19:34-3 is amended to read as follows:

**Ballots; offenses concerning printing, distribution, possession and forgery thereof.**

19:34-3. If any printer employed by any county or municipal clerk to print official ballots, or any person engaged in printing the same, shall appropriate to himself or give or deliver or knowingly permit to be taken any of such ballots by any other person than such county or municipal clerk or his duly authorized agent, or shall print or cause to be printed any official ballot in any other form than that prescribed by the county or municipal clerk, or with any other names thereon, or with the names spelled or the names or printing thereon arranged in any other way than that authorized and directed by this title, the person so offending shall be guilty of a crime of the third degree.

If any person not authorized by the proper officers shall print or make any official or sample ballot provided for in this title, or on or prior to election day shall willfully have in his possession an official ballot without being authorized by this title to have charge or possession thereof, the person so offending shall be guilty of a crime of the third degree.

If any person shall forge or falsely make any ballot or the official indorsement thereof, the person so offending shall be guilty of a crime of the third degree.

24. R.S.19:34-4 is amended to read as follows:

**Voting by person convicted of disenfranchising crime.**

19:34-4. If a person convicted of a crime which disfranchises him shall vote at any election, unless he shall have been pardoned or restored by law to the right of suffrage, he shall be guilty of a crime of the fourth degree.

25. R.S. 19:34-5 is amended to read as follows:

**Interference with conduct of election.**

19:34-5. No person shall, during an election, with intent to hinder or delay same, or to hinder or delay any voter in the preparation of his ballot, remove or destroy any of the ballots or pencils placed in the booths or compartments for the purpose of enabling the voter to prepare his ballot.

Any person willfully violating any of the provisions of this section shall be guilty of a disorderly persons offense.

26. R.S. 19:34-6 is amended to read as follows:

**Prohibited actions in polling place on election day; exception for simulated voting.**

19:34-6. a. If a person shall on election day tamper, deface or interfere with any polling booth or obstruct the entrance to any polling place, or obstruct or interfere with any voter, or loiter in or near the polling place, or, with the purpose to obstruct or interfere with any voter or to unduly delay other voters from voting, spend an inordinate amount of time in the polling booth, or do any electioneering within any polling place or within one hundred feet thereof, he shall be guilty of a crime of the third degree.

b. This section shall not be construed to prohibit a minor from entering a polling place on the day of an election to vote in a simulated election at that polling place, or persons from supervising or working at a polling place in a simulated election in which minors vote, provided that the county board of elections has determined that the polling place can accommodate simulated election activities without interfering with the orderly conduct of the official voting process.

27. R.S. 19:34-7 is amended to read as follows:

**Violation of ballot regulations.**

19:34-7. No person shall within the polling room mark his ballot in a place other than in the polling booth or show his ballot, nor shall anyone request such person to show his ballot during the preparation thereof, nor shall any other person inspect such ballot during the preparation thereof or after it is prepared for voting in such a way as to reveal the contents, nor shall any person within the polling place or within a hundred feet thereof, loiter, electioneer, or solicit any voter.

No voter, at any election where official ballots are used, shall knowingly vote or offer to vote any ballot except an official ballot as by this Title required.

No person shall on any pretext carry any official ballot from the polling room on any election day except such persons as may by this Title be authorized to do so.

Any person violating any of the provisions of this section shall be guilty of a crime of the fourth degree.

28. R.S.19:34-9 is amended to read as follows:

**Prompting voter.**

19:34-9. Any person who shall prompt a voter in answering any questions provided by this title shall be guilty of a disorderly persons offense.

29. R.S.19:34-10 is amended to read as follows:

**Identifying or distinguishing marks on ballots.**

19:34-10. If any person shall write, paste or otherwise place upon any official ballot any mark, sign or device of any kind as a distinguishing mark whereby to indicate to any member of any district board or other person how any voter has voted at any election, or if any person shall induce or attempt to induce any voter to write, paste or otherwise place on his ballot any mark, sign or device of any kind, as a distinguishing mark by which to indicate to any member of any district board or other person how such voter has voted, or shall enter into or attempt to form any agreement or conspiracy with any other person to induce or attempt to induce voters or any voter to so place any distinguishing mark, sign or device on his ballot, whether or not such act be committed or attempted to be committed, such person so offending shall be guilty of a crime of the fourth degree.

30. R.S.19:34-11 is amended to read as follows:

**Fraudulent voting; interference with election or canvass; third degree crime.**

19:34-11. Every person not entitled to vote who fraudulently votes, and every person who votes more than once at any one election; or knowingly hands in two or more ballots folded together; or changes any ballot after it has been deposited in the ballot box; or adds, or attempts to add, any ballot to those legally polled at any election, either by fraudulently introducing the same into the ballot box before or after the ballots therein have been counted; or adds to or mixes with, or attempts to add to or mix with, the ballots lawfully polled, other ballots while the same are being counted or canvassed, or at any other time, with intent to change the result of such election; or

carries away or destroys, or attempts to carry away or destroy, any poll list, or ballots, or ballot box, for the purpose of breaking up or invalidating the election; or willfully detains, mutilates or destroys any election returns; or in any manner so interferes with the officers holding the election, or conducting the canvass, or with the voters lawfully exercising their rights of voting at the election, as to prevent the election or canvass from being fairly had and lawfully conducted, shall be guilty of a crime of the third degree.

31. R.S.19:34-12 is amended to read as follows:

**Attempt to case illegal vote; third degree crime.**

19:34-12. Every person not entitled to vote who fraudulently attempts to vote, or who being entitled to vote attempts to vote more than once at any election, or who personates or attempts to personate a person legally entitled to vote, shall be guilty of a crime of the third degree.

32. R.S.19:34-13 is amended to read as follows:

**Attempts by election officers to discover how voter voted; third degree crime.**

19:34-13. Every inspector, judge or clerk of an election, who, previous to putting the ballot of an elector in the ballot box, attempts to find out any name on such ballot, or who opens or suffers the folded ballot of any elector which has been handed in to be opened or examined previous to putting the same in the ballot box, or who makes or places any mark or device on any folded ballot with the view to ascertain the name of any person for whom the elector has voted, shall be guilty of a crime of the third degree.

33. R.S.19:34-14 is amended to read as follows:

**Member of district board revealing knowledge of how voter voted.**

19:34-14. If a member of any district board has knowledge how any person has voted and shall reveal such knowledge to any other person, or shall fraudulently or corruptly disclose what other candidates were voted for on any ballot bearing a name not printed thereon, or fraudulently or corruptly gives any information concerning the appearance of any ballot voted, he shall be guilty of a crime of the third degree.

34. R.S.19:34-15 is amended to read as follows:

**Electioneering within or about polling place; disorderly persons offense.**

19:34-15. If a person shall distribute or display any circular or printed matter or offer any suggestion or solicit any support for any candidate, party or public question within the polling place or room or within a distance of one hundred feet of the outside entrance to such polling place or room, he shall be guilty of a disorderly persons offense.



35. R.S.19:34-16 is amended to read as follows:

**Removal, destruction, mutilation of registry, voters' lists.**

19:34-16. A person who shall remove, destroy or mutilate any registry list or copy thereof, or who before an election closes shall remove, destroy or mutilate any list of voters posted in accordance with this title, shall be guilty of a crime of the third degree.

36. R.S.19:34-17 is amended to read as follows:

**Unlawfully taking ballot box or removing contents; destroying ballots; willfully suppressing records.**

19:34-17. If a person shall rob or plunder any ballot box, or unlawfully and by stealth or violence take the same or remove therefrom any ballot or other paper, or exchange, alter or destroy any ballot or other paper contained therein, or if any person shall willfully and corruptly suppress, withhold, mutilate, destroy, alter or change any return, statement or certificate or any copy thereof, which shall have been made in pursuance of this title, and delivered to him to be filed, or which shall have been intrusted or delivered to him to be delivered or transmitted to any other person in pursuance of this title, every such person, his aiders, procurers and abettors, shall be guilty of a crime of the third degree.

This section shall not apply to the destruction of ballots or the performance of other acts by officials when such acts are performed as prescribed in this title.

37. R.S.19:34-18 is amended to read as follows:

**Interfering with return of ballot boxes.**

19:34-18. A person who shall willfully obstruct or interfere with the clerk or clerks on the way from the polls to the office of the city clerk shall be guilty of a crime of the third degree.

38. R.S.19:34-19 is amended to read as follows:

**Insignia at polls.**

19:34-19. No person shall display, sell, give or provide any political badge, button or other insignia to be worn at or within one hundred feet of the polls or within the polling place or room, on any primary, general or special election day or on any commission government election day, except the badge furnished by the county board as herein provided.

A person violating any of the provisions of this section shall be guilty of a disorderly persons offense.

39. R.S.19:34-20 is amended to read as follows:

**Soliciting or procuring or assisting unlawful registration and other violations of election law.**

19:34-20. Whoever shall solicit the registering of his name on the registry list of any election district or precinct, knowing that he is not a legal voter in such district or precinct; or shall willfully counsel, procure, aid, advise, assist or abet in the registering of the name of any other person on the registry list of any election district or precinct, knowing such other person is not entitled to vote therein; or at any election, knowing that he is not a qualified voter, votes thereat; or at any election votes or attempts to vote more than once on his own name; or at any election votes or attempts to vote in more than one election district or precinct; or at any election votes or attempts to vote upon any other name than his own; or knowingly casts or attempts to cast more than one ballot at one time by balloting; or at any election counsels, procures, aids, advises, assists or abets any person, knowing that he is not a qualified voter, to vote thereat; or at any election counsels, procures, aids, advises, assists or abets any person in voting in more than one election district or precinct; or at any election counsels, procures, aids, advises, assists or abets any person to vote or to attempt to vote upon any name other than his own, or knowingly cast or attempt to cast more than one ballot at one time of voting; or at any election shall in any way willfully mark or deface his ballot, or shall willfully counsel, procure, aid, advise, assist or abet any person in the marking or defacing of a ballot; or at any election shall in any way counsel, procure, aid, advise, assist or abet any official or person in any act which is contrary to the provisions of this title; or at any election shall in any way willfully hinder or prevent a voter from casting his legal vote, knowing such person to have a right to vote; or shall willfully tamper with, injure, mutilate, destroy or render unfit for use, any ballot box; shall be guilty of a crime of the third degree.

40. R.S.19:34-21 is amended to read as follows:

**Voting in wrong party ballot box.**

19:34-21. A person who being a member of one political party shall vote in the ballot box used for the primary election of another political party shall in each case be guilty of a crime of the fourth degree.

41. R.S.19:34-22 is amended to read as follows:

**False voting at primary.**

19:34-22. If a person not entitled to vote at any primary election as herein provided shall vote or offer to vote at such primary meeting or caucus knowing or having reason to believe himself not entitled to so vote, or if any person shall counsel or procure anyone to so vote, knowing or having reason

to believe such voter not entitled to do so, or if any person having voted at any primary meeting held by any political party or organization to nominate candidates or to elect delegates to nominate candidates, to be voted for at any election, shall vote or offer to vote at the primary meeting held by any other political party or organization held to nominate candidates or to elect delegates to nominate candidates, to be voted for at the same election, such person shall be guilty of a crime of the fourth degree.

42. R.S.19:34-23 is amended to read as follows:

**Primary election officials acting before taking oath; willfully disregarding or violating rules.**

19:34-23. If any judge, inspector, clerk or other officer of a primary election shall act in such capacity before taking and subscribing to the oath or affirmation required by this title, or shall willfully disregard or violate the provisions of any rule duly made by the party of which he is a member and for whom he is acting for the government of the primary elections of the party, or if any judge or inspector of any primary election shall knowingly reject the vote of any person entitled to vote under the rules of such party or shall knowingly receive the vote of any person not qualified, or if any judge, inspector, clerk or any other officer of a primary election shall commit any willful fraud in the discharge of his duties by destroying or marking any ballot in any way before such ballot is delivered to the voter or by defacing ballots, adding marks to the poll by false counting, making false returns or by any act or thing whatsoever, he shall be guilty of a crime of the third degree.

43. R.S.19:34-25 is amended to read as follows:

**Bribery.**

19:34-25. a. If a person shall, directly or indirectly, by himself or by any other person in his behalf, give, lend or agree to give or lend, or shall offer, promise or promise to procure, or endeavor to procure, any money or other valuable consideration or thing to or for any voter, or to or for any person, in order to induce any voter to vote or refrain from registering for any election, or shall corruptly do or commit any of the acts in this section mentioned because of any such voter having voted or refrained from voting at an election, or registered or refrained from registering at an election, he shall be guilty of a crime of the third degree.

Bribery of member of election board; acceptance. b. Whosoever shall, directly or indirectly, make or give any money or other thing of value to any member of the district board because of his membership on such board, or when it shall appear that such money or other thing of value is made or given to such member because of his membership on the board, except as hereinbe-

fore provided as his legal compensation for service on the board, shall be guilty of a crime of the third degree.

Any member of a district board who shall, by himself, or by any other person in his behalf, receive any money or other thing of value because of his membership on such board, or when it shall appear that such money or other thing of value is accepted or received by such member because of his membership on the board, except as hereinbefore provided as his legal compensation for service on the board, shall be guilty of a crime of the third degree.

Promising office or employment. c. A person who shall directly or indirectly, by himself or by any other person in his behalf, give or procure, or agree to give or procure or offer or promise to procure, or endeavor to procure any office, place or employment to or for any voter, or to or for any person on behalf of such voter, or to or for any other person, in order to induce such voter to vote or refrain from voting, or to register or refrain from registering, or shall corruptly do any act as above because of any voter having voted or refrained from voting, or having registered or refrained from registering for any election, shall be guilty of a crime of the third degree.

Acceptance of bribe by voter. d. Any voter who shall directly or indirectly, by himself or by any other person on his behalf, receive, agree or contract for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election, or for registering or agreeing to register, or for refraining or for agreeing to refrain from registering for any election, shall be guilty of a crime of the third degree.

Bribery of delegates. e. If a person shall, directly or indirectly, give, offer or promise to give any sum or sums of money or any valuable thing in action, victuals, drink or preferment or other considerations, by way of fee, reward, gift or gratuity, or other valuable present or reward to obtain, procure or influence the opinion, behavior, vote or abstaining from voting for the election of any delegate to any convention of any political party, to nominate any candidate for member of the legislature, for member of congress, for electors for president and vice president of the United States, for governor, or for any candidate for any office in any county or municipality; or if any person being a delegate to any political convention to nominate candidates for any of the offices named in this title shall directly or indirectly, ask for, accept, receive or take any sum or sums of money, or other valuable consideration by way of fee, reward, gift or gratuity, or other valuable consideration for the giving or refusing to give his vote at any such convention, the person so offering, asking, or receiving shall be guilty of a crime of the third degree.

Bribery at election. f. Whoever shall, directly or indirectly, give, furnish, supply or promise, or cause to be given, furnished, supplied, offered or promised, to any person or persons, any money, service, preferment or valuable thing with the intent that such money or valuable thing or any other money, service, preferment or valuable thing shall be given, offered, promised or used, by any person or persons, by way of fee, reward, gift or gratuity, for giving or refusing to give any vote of any citizen, at any election of any public officer, state, county or municipal, to be held therein, or of any member of congress, of electors for president and vice president of the United States, or at any election of any delegate or delegates to any political convention to be held for the nomination of any of the officers above, or by way of gift, gratuity or reward, for giving or withholding the vote of any delegate at any such convention, shall be guilty of a crime of the third degree.

Inducing voters. g. A person who shall, directly or indirectly, by himself or by any other person in his behalf, give, lend, or agree to give or lend, or procure, or agree to procure or offer or promise to procure, or endeavor to procure, any money or other valuable consideration or thing, or any office, place or employment to or for any voter, or to or for any person, in order to induce such voter to vote or refrain from registering or voting at any election, or shall corruptly do or commit any of the acts in this section mentioned, because of any voter having voted or refrained from voting or having registered or refrained from registering for any election, shall be guilty of a crime of the third degree.

Contributions for use in bribing. h. A person who shall give, advance or pay, or cause to be given, advanced or paid, any money or other valuable thing to any person, or to the use of any person, with the intent that such money or other valuable thing, or any part thereof, shall be expended, or used for bribery of voters, or for any other unlawful purpose at any election, or who shall knowingly pay, or cause to be paid money to any person wholly or in part expended in bribery of a voter at any election, shall be guilty of a crime of the third degree.

Receiving rewards. i. A person who shall, directly or indirectly, by himself, or by any other person on his behalf, receive, agree or contract for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election, or for registering or agreeing to register, or for refraining or for agreeing to refrain from registering for any election, shall be guilty of a crime of the third degree.

Gift, or promise of, for certain purposes. j. No person shall give or agree to give for the purpose of promoting or procuring or for the purpose of opposing or preventing the election of a candidate for public office, or for the purpose of promoting or procuring or for the purpose of opposing or

preventing the nomination of any person as a candidate for public office, any money or any valuable thing to be used for any of the following purposes:

1. To provide or give or to pay, wholly or in part, the expense of giving or providing any meat, drink, entertainment or provision to or for any person for the purpose of influencing that person or any other person to give or refrain from giving his vote at any election, or because of any such person or any other person having voted or refrained from voting.

2. To provide for the payment of rent for or for the purpose of providing and fitting up any clubroom for social or recreative purposes, or providing for uniforms for any organized club.

3. To provide for the payment for the insertion in any newspaper or magazine of any article tending to influence any person to give or refrain from giving his vote to any candidate or candidates at any election; or to provide for payment for the distribution of any newspaper or magazine wherein any such article is printed; or to provide for payment of the printing or of the distribution of any circular, handbill, card, pamphlet or statement tending to influence any person to give or refrain from giving his vote to any candidate at any election; but this prohibition shall not be construed to prohibit the printing and distribution of paid advertisements, which advertisements shall be indicated by the words "This advertisement has been paid for by \_\_\_\_\_" (inserting the true name and address of the person or persons paying for the same); nor shall it be construed to prohibit the printing and distribution of circulars, handbills, cards, pamphlets or statements which shall have printed on the face thereof the true name and address of the person or persons paying for the printing and distribution thereof, which fact shall be indicated by the words "The cost of the printing and distribution of this circular (or as the case may be) has been paid by \_\_\_\_\_" (inserting the true name and address of the person or persons paying for the same).

Accepting gifts. k. No person shall accept any money or other valuable thing, the payment of which is prohibited by paragraph "j" of this section.

Penalty. l. Any person who shall violate any of the provisions of paragraphs "j" and "k" of this section shall be guilty of a crime of the third degree, and shall for the first offense be disfranchised for a period of five years from the date of conviction, and for any subsequent offense shall be perpetually disfranchised, and in addition thereto the court in which such conviction is obtained, may in case of a subsequent conviction, impose upon the person so convicted the punishment now prescribed by law for a crime of the second degree.

44. R.S.19:34-26 is amended to read as follows:

**Perjury; subornation of perjury.**

19:34-26. If a person shall be guilty of willful and corrupt false swearing or affirming, or by any means shall willfully and corruptly suborn or procure a person to swear or affirm falsely, in taking any oath, affirmation or deposition prescribed or authorized by this title, he shall be deemed guilty of a crime of the third degree, and be deemed to be an incompetent witness thereafter for any purpose within this State, until such time as he shall have been pardoned.

45. R.S.19:34-27 is amended to read as follows:

**Improperly influencing or intimidating employees.**

19:34-27. An employer of any workman, or any agent, superintendent or overseer of any company or corporation employing workmen, or any person who shall directly or indirectly, by himself or by any other person in his behalf or by his direction, make use of or threaten to make use of any force, violence or restraint, or inflict or threaten to inflict by himself or by any other person any injury, damage, harm or loss against any person in his employ, in order to induce or compel such employee to vote or refrain from voting for any particular candidate at any election, or because of such employee having voted or refrained from voting for any particular candidate at any election, or who shall, by any duress, constraint or improper influence or by any fraudulent or improper device, contrivance or scheme, impede, hinder or prevent the free exercise of the franchise of any voter at any election, or shall thereby compel, induce or prevail upon any voter to vote for or against any particular candidate at any election, shall be guilty of a crime of the third degree.

46. 19:34-35 is amended to read as follows:

**Other contributions and expenditures.**

19:34-35. Any person who shall expend, aid or assist in the expenditure of any such money for a purpose not authorized by this title, or for a purpose not named in the statement accompanying such contribution, shall be guilty of a crime of the third degree.

47. R.S.19:34-47 is amended to read as follows:

**Second offense; punishment.**

19:34-47. A person who, having once been convicted of a violation of any of the provisions of this title, shall again be convicted of a violation of any of its provisions, whether such conviction be for the same offense or not, shall on such second conviction, be sentenced to a mandatory minimum term

of imprisonment, without eligibility for parole, of one year for a crime of the fourth degree, of two years for a crime of the third degree and of five years for a crime of the second degree, unless the provisions of any other law provide for a higher mandatory minimum term.

48. R.S.19:34-48 is amended to read as follows:

**Neglect of duties.**

19:34-48. Every person charged with the performance of any duty under the provisions of any law of this State relating to elections who willfully neglects or refuses to perform it, or who, in his official capacity, knowingly and fraudulently acts in contravention or violation of any of the provisions of such laws, shall be guilty of a crime of the third degree.

49. R.S.19:34-49 is amended to read as follows:

**Abetting violations of title.**

19:34-49. Any candidate who procures, aids, assists, counsels, advises or knowingly permits any person to violate this title shall be guilty of a crime of the third degree.

50. R.S.19:34-53 is amended to read as follows:

**Failure to supply information.**

19:34-53. Any person who neglects or refuses to furnish any information required or authorized by this title or to exhibit the records, papers or documents herein authorized to be inspected, or which are required to be exhibited, shall be guilty of a crime of the fourth degree.

51. R.S.19:34-54 is amended to read as follows:

**Failure to obey subpoena or refusal to testify.**

19:34-54. Any person who shall omit, neglect or refuse to obey a subpoena attested in the name of the county clerk, municipal clerk, or county board and made returnable by such clerk or board, or refuses to testify under oath before such clerk or board, shall be guilty of a crime of the fourth degree.

52. R.S.19:34-55 is amended to read as follows:

**False statements under oath.**

19:34-55. Any person who makes any false statement under oath before the county clerk, municipal clerk or county board shall be guilty of a crime of the fourth degree.



53. R.S.19:53-1 is amended to read as follows:

**Unauthorized possession of equipment, tampering, etc., crime.**

19:53-1. Any unauthorized person found in possession of any such voting machine in use or to be used in any election, or keys thereof, shall be guilty of a crime of the fourth degree. Any person willfully tampering or attempting to tamper with, disarrange, deface or impair in any manner whatsoever, or destroy any such voting machine while the same is in use at any election, or who shall, after such machine is locked in order to preserve the registration or record of any election made by the same, tamper or attempt to tamper with any such voting machine, shall be guilty of a crime of the third degree.

54. Section 15 of P.L.1973, c.82 (C.19:53A-15) is amended to read as follows:

**C.19:53A-15 Tampering with or willfully injuring record or equipment or interference with conduct of election; penalty; application of laws.**

15. a. Any person who before, during or after an election tampers with or willfully injures any voting device, ballot cards, or other records or equipment used in the election, or interferes or attempts to interfere with the correct operation of such device or equipment or the secrecy of voting, is guilty of a crime of the third degree.

b. The penal laws and election laws relating to misconduct at elections apply to elections conducted with voting devices and automatic tabulating equipment.

55. Section 15 of P.L.1992, c.3 (C.19:53B-6) is amended to read as follows:

**C.19:53B-6 Emergency ballots marked secretly; violation.**

15. Every voter to whom an emergency ballot is given shall retire into the polling booth or to the designated voting area, as the case may be. Not more than one voter shall be permitted to enter or be in the same booth or voting area at one time. The voter shall prepare the emergency ballot in the booth or the voting area screened from the observation of others.

Any person or voter who shall violate the provisions of this section shall be guilty of a disorderly persons offense.

56. Section 7 of P.L.1999, c.232 (C.19:53C-1) is amended to read as follows:

**C.19:53C-1 Preparation of provisional ballots; written notices.**

7. a. (1) The county clerk or the municipal clerk, in the case of a municipal election, shall arrange for the preparation of a provisional ballot packet for each election district. It shall include the appropriate number of provisional ballots, the appropriate number of envelopes with an affirmation statement, the appropriate number of written notices to be distributed to voters who vote by provisional ballot and one provisional ballot inventory form affixed to the provisional ballot bag. The clerk shall arrange for the preparation of and placement in each provisional ballot bag of a provisional ballot packet and an envelope containing a numbered seal. The envelope shall contain, on its face, the instructions for the use of the seal, the number and the election district location of the provisional ballot bag, and the identification numbers of the seal placed in the envelope. Each provisional ballot bag shall be sealed with a numbered security seal before being forwarded to the appropriate election district.

(2) Each provisional ballot bag and the inventory of the contents of each such bag shall be delivered to the designated polling place no later than the opening of the polls on the day of an election.

b. The county clerk or the municipal clerk, in the case of a municipal election, shall arrange for the preparation of the envelope, affirmation statement, and written notice that is to accompany each provisional ballot. The envelope shall be of sufficient size to accommodate the provisional ballot, and the affirmation statement shall be affixed thereto in a manner that enables it to be detached once completed and verified by the county commissioner of registration. The statement shall require the voter to provide the voter's name, and to indicate whether the voter is registered to vote in a county but has moved within that county since registering to vote; or is registered to vote in the election district in which that polling place is located but the voter's registration information is missing or otherwise deficient. The statement shall further require the voter to provide the voter's most recent prior voter registration address and address on the day of the election and date of birth. The statement shall include the statement: "I swear or affirm, that the foregoing statements made by me are true and correct and that I understand that any fraudulent voting may subject me to a fine of up to \$15,000, imprisonment up to five years or both, pursuant to R.S.19:34-11." It shall be followed immediately by spaces for the voter's signature and printed name, and in the case of a name change, the voter's printed old and new name and a signature for each name, the date the statement was completed, political party affiliation, if used in a primary election, and the name of the person providing assistance to the voter, if applicable. Each statement shall also note the number of the election district, or ward, and name of the

municipality at which the statement will be used. The Attorney General shall prepare for inclusion in the affirmation statement language for the voter to submit the information required in the registration form described in section 16 of P.L.1974, c.30 (C.19:31-6.4) in order to enable the county commissioner of registration to process the statement as a voter registration application, which shall be valid for future elections if the individual who submitted the provisional ballot is determined not to be a registered voter. The Attorney General shall also prepare and shall provide language for any written instructions necessary to assure proper completion of the statement.

The written notice shall contain information to be distributed to each voter who votes by provisional ballot. The notice shall state that, if the voter is a mail-in registrant voting for the first time in his or her current county of residence following registration and was given a provisional ballot because he or she did not provide required personal identification information, the voter shall be given until the close of business on the second day after the election to provide identification to the applicable county commissioner of registration, and the notice shall contain a telephone number at which the commissioner may be contacted. The notice shall further state that failure to provide the required personal identification information within that time period shall result in the rejection of the ballot. The notice shall state that pursuant to section 4 of P.L.2004, c.88 (C.19:61-4), any individual who casts a provisional ballot will be able to ascertain under a system established by the State whether the ballot was accepted for counting, and if the vote was not counted, the reason for the rejection of the ballot. The notice shall include instructions on how to access such information.

c. For the primary for the general election, the provisional ballots shall be printed in ink on paper of a color that matches the color of the voting authority, which shall indicate the party primary of the voter. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in P.L.1999, c.232 (C.19:53C-1 et seq.). Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the primary election.

The clerk of the county or municipality shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots for each political party, a corresponding number of envelopes with affirmation statements, and a corresponding number of written notices. Additional provisional ballots, envelopes, and notices shall be available for delivery to that election district on the day of the election, if necessary.

d. For the general election the provisional ballots shall be printed in ink. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in this act. Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the general election.

The clerk of the county or municipality shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots, a corresponding number of envelopes with affirmation statements, and a corresponding number of written notices. Additional provisional ballots, envelopes, and notices shall be available for delivery to that election district on the day of the election, if necessary.

e. For a school election the provisional ballots shall be printed in ink. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in this act. Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the school election.

The clerk of the county shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots, a corresponding number of envelopes with affirmation statements, and a corresponding number of written notices. Additional provisional ballots, envelopes, and notices shall be available for delivery to that election district on the day of the election, if necessary.

f. Following the effective date of P.L.2004, c.88 (C.19:61-1 et al.), a provisional ballot that requires the voter to punch out a hole in the ballot as a means of recording the voter's vote shall not be used in any election in this State.

g. For the presidential primary election, the provisional ballots shall be printed in ink on paper of a color that matches the color of the voting authority, which shall indicate the party of the voter. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in P.L.1999, c.232 (C.19:53C-1 et al.). Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other

ballots to be used in the election district for the primary election for the general election.

The clerk of the county or municipality shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots for each political party and a corresponding number of envelopes with affirmation statements. Additional provisional ballots and envelopes shall be available for delivery to that election district on the day of the election, if necessary.

57. Section 11 of P.L.1999, c.232 (C.19:53C-5) is amended to read as follows:

**C.19:53C-5 Voters given provisional ballot, retire into designated voting area.**

11. Every voter to whom a provisional ballot and envelope with an affirmation statement is given shall retire into the designated voting area. Not more than one voter shall be permitted to enter or be in the same booth or voting area at one time, unless the voter is entitled to assistance, as provided for by law.

Any person or voter who violates the provisions of this section is guilty of a disorderly persons offense.

58. Section 37 of P.L.1953, c.211 (C.19:57-37) is amended to read as follows:

**C.19:57-37 Violations of absentee voting law.**

37. Any person who knowingly violates any of the provisions of this act, or who, not being entitled to vote thereunder, fraudulently votes or attempts to vote thereunder or enables or attempts to enable another person, not entitled to vote thereunder, to vote fraudulently thereunder or who prevents or attempts to prevent by fraud the voting of any person legally entitled to vote under this act, or who shall knowingly certify falsely in any paper required under this act, or who, at any time, tampers with any ballot or document used in an election or interferes with the secrecy of the voting of any person shall be guilty of a crime of the third degree, and upon conviction thereof shall be subject, in addition to such other penalties as are authorized by law, to disenfranchisement unless and until pardoned or restored by law to the right of suffrage.

Any person who aids and abets another in violating any of the provisions of this section shall be guilty of a crime of the third degree and upon conviction thereof shall be subject, in addition to such other penalties as are authorized by law, to disenfranchisement unless and until pardoned or restored by law to the right of suffrage.

59. Section 33 of P.L.1964, c.134 (C.19:58-33) is amended to read as follows:

**C.19:58-33 Violations of Presidential Ballot Law, penalties.**

33. Any person who knowingly violates any of the provisions of this act, or who, not being entitled to vote under this act, fraudulently votes, or attempts to vote thereunder or enables, or attempts to enable another person, not entitled to vote thereunder, to vote thereunder, or who prevents or attempts to prevent by fraud the voting of any person legally entitled to vote under this act, or who knowingly certifies falsely in any paper required to be executed under this act, shall be guilty of a crime of the third degree and upon conviction thereof shall be subject, in addition to such other penalties as are authorized by law, to disenfranchisement unless and until pardoned or restored by law to the right of suffrage.

60. R.S.40:75-49 is amended to read as follows:

**Certain acts prohibited; penalties.**

40:75-49. Any person not an elector who shall willfully and knowingly sign any petition provided for in this article and any person advising, aiding or abetting any such person not an elector to sign any petition provided for in this article shall be guilty of a disorderly persons offense.

Any person who shall violate any of the provisions of this article shall be guilty of a crime of the fourth degree.

61. This act shall take effect immediately but shall remain inoperative for 90 days.

Approved July 12, 2005.

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CHAPTER 155

AN ACT restoring the Department of the Public Advocate as a principal department in the Executive Branch of State government, supplementing Title 52 of the Revised Statutes and amending and repealing various parts of the statutory law.

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

ARTICLE 1. GENERAL PROVISIONS

**C.52:27EE-1 Short title.**

## 1. Short title.

This act shall be known and may be cited as the "Public Advocate Restoration Act of 2005."

**C.52:27EE-2 Findings, declarations relative to restoring the Department of the Public Advocate.**

## 2. Legislative findings and declarations.

The Legislature finds and declares that:

a. There is a great need for consumer protection and advocacy on behalf of the indigent, the elderly, children, and other persons unable to protect themselves as individuals or a class.

b. Consolidating the diffuse functions of ombudspersons, ratepayer advocate, and other functions within a single Department of the Public Advocate will produce cost savings and more effective protection of the public interest and empower the Public Advocate to coordinate an efficient and timely process for evaluation and resolution of problems and disputes that affect consumers and other interested parties.

c. The abolition of the Public Advocate and the transfer of some of its functions to various departments has resulted in diffuse, ineffective representation of the rights of those unable to effectively advocate for themselves.

d. It is essential that the State of New Jersey marshal existing resources scattered throughout State government and create economies of scale that will aid in the effective delivery of public services and the appropriate allocation of public resources.

e. The Legislature must protect the public and restore confidence in government through effective advocacy, provided by the Department of the Public Advocate.

f. Litigation is a costly and oftentimes ineffective means of resolving disputes, and State government must provide leadership and foster an environment for alternative dispute resolution. The public will benefit greatly from a Public Advocate devoted to a cost-effective means to avoid expensive litigation and an amicable way to resolve disputes.

g. Children have special advocacy needs that require familiarity and expertise regarding the issues that affect them and the Office of the Child Advocate allocated within the Department of the Public Advocate can effectively fulfill those needs.

h. The elderly represent an ever-increasing portion of the population that requires special attention, and a Division of Elder Advocacy can effectively meet those needs.

i. There must be a transfer of funding to fund the operations of the Department of the Public Advocate and the salary of its appointed commissioner known as the "Public Advocate".

**C.52:27EE-3 Department established.**

## 3. Department established.

There is hereby established in the Executive Branch of the State Government a principal department which shall be known as the Department of the Public Advocate.

**C.52:27EE-4 Commissioner; appointment; term; salary.**

## 4. Commissioner; appointment; term; salary.

The administrator and chief executive officer of the Department of the Public Advocate shall be a commissioner, who shall be known as the Public Advocate and who shall be an attorney-at-law of this State and a person qualified by training and experience to perform the duties of the office. The Public Advocate shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve during the Governor's term of office and until the appointment and qualification of the Public Advocate's successor.

The Governor shall have the power to remove the Public Advocate for cause.

The Public Advocate shall receive such salary as shall be provided by law.

The Public Advocate may, in the discretion of the Governor, concurrently hold another position established in or allocated to the Department of the Public Advocate, notwithstanding any requirement of law that the Public Advocate devote his or her entire time to the duties of one position or the other. In such case, the Public Advocate shall receive only the salary provided for the Public Advocate, and not the salary for such other position.

**C.52:27EE-5 Powers and duties of Public Advocate.**

## 5. Powers and duties of Public Advocate.

The Public Advocate as administrator and chief executive officer of the department shall:

- a. administer the work of the department;
- b. appoint and remove such officers, investigators, stenographic and clerical assistants and other personnel as may be required for the conduct of the department, subject to the provisions of Title 11A of the New Jersey Statutes, Civil Service, and other applicable statutes, except as provided otherwise herein;

- c. adopt, issue and promulgate, in the name of the department, such rules and regulations as may be necessary, consistent with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.);



d. formulate and adopt rules and regulations for the efficient conduct of the work and general administration of the department, its officers and employees;

e. institute or cause to be instituted such legal proceedings or processes consistent with the rules governing the courts of New Jersey and the practice of law therein as may be necessary to properly enforce and give effect to any of his or her powers or duties;

f. have the authority to issue subpoenas to compel the attendance and testimony of witnesses or the production of books, papers and other documents, and administer oaths to witnesses in any matter under the investigation of the office. If any person to whom such subpoena is issued fails to appear or, having appeared, refuses to give testimony, or fails to produce the books, papers or other documents required, the public advocate may apply to the Superior Court, which may order the person to appear and give testimony or produce the books, papers or other documents, as applicable;

g. prepare schedules of rates to be paid for services rendered other than by the staff, taking into account the nature of the services, the time involved, the skill and experience required and other pertinent factors;

h. make such reports of the department's operation as the Governor or the Legislature shall from time to time request, or as may be required by law. In addition, the Public Advocate shall report to the Governor and the Legislature annually with respect to such matters relating to the work of the Public Advocate and at such times as he or she may deem in the public interest. This report shall describe the matters and activities involving the Department of the Public Advocate, its divisions and offices, including the status and description of significant cases that have been litigated, mediated, or otherwise administered by the Public Advocate. This report shall include an analysis on the costs and benefits of the litigation brought by the Public Advocate, and include any recommendations for administrative or legislative action that he or she deems necessary or appropriate;

i. perform, exercise and discharge the functions, powers and duties of the department through such divisions or offices as may be established by this act or otherwise by law;

j. organize and coordinate the work of the department in such divisions or offices, not inconsistent with the provisions of this act, and in such other organizational units as he or she may determine to be necessary for efficient and effective operation;

k. integrate within the department, so far as practicable, all staff services of the department and of the several divisions and other offices therein;

l. maintain suitable headquarters for the department and such other quarters as he or she shall deem necessary to the proper functioning of the department;

m. except as otherwise provided by law, appoint division directors, office directors, and ombudspersons who are qualified by training and experience to direct, under the supervision of the Public Advocate, the several divisions and offices established pursuant to this act. Such division directors, office directors, and ombudspersons shall serve at the pleasure of the Public Advocate who shall fix their compensation within the limits of available appropriations;

n. adopt policies and procedures to manage any litigation so that the Public Advocate may reasonably ensure that all litigation matters are effectively managed by the relevant division overseeing such actions;

o. solicit and accept grants of funds from the federal government and from private foundations, and allocate or restrict the use of such funds as may be required by the grantor;

p. be the request officer for the department within the meaning of such term as defined in P.L.1944, c.112 (C.52:27B-1 et seq.);

q. hire independent counsel on a case-by-case basis to provide competent representation in light of the nature of the case, the services to be performed, the experience of the particular attorney and other relevant factors, notwithstanding the provisions of section 11 of P.L.1944, c.20 (C.52:17A-11) to the contrary;

r. consult with the child advocate prior to the exercise of the Public Advocate's duties, or those of a division, office or ombudsperson, by commencing an investigation, legal proceeding or other matter, or taking an action, that may be co-extensive with the duties of the child advocate. The purpose of the consultation shall be to provide the child advocate with an opportunity to assist or collaborate with the Public Advocate on such investigation, legal proceeding, matter or action if the extent of the assistance or collaboration is within the powers and duties of the child advocate as those powers and duties are provided in this act. This requirement to consult the child advocate or the failure to do so in a timely manner shall not preclude or serve to restrict the Public Advocate in the performance of his duties, or those of a division, office or ombudsperson, at the Public Advocate's discretion; and

s. perform such other functions as may be prescribed in this act or by any other law.

**C.52:27EE-6 Appointment of Assistant Public Advocate.**

**6. Appointment of Assistant Public Advocate.**

The Public Advocate may appoint an Assistant Public Advocate to serve at the pleasure of the Public Advocate. Such appointment shall be in writing and filed with the Secretary of State. The Assistant Public Advocate shall have and shall exercise the powers and perform the functions and duties of

the Public Advocate during the absence or disability of the Public Advocate. The Assistant Public Advocate shall also have and exercise such of the powers and perform such of the functions and duties of the Public Advocate as he or she shall be authorized and directed by the Public Advocate. Any such authorization and direction shall be in writing, signed by the Public Advocate and filed with the Secretary of State, and shall include a designation of the period during which it shall be and remain in force. No such authorization and direction shall be deemed to preclude the Public Advocate from himself or herself exercising the powers and the performance of the duties included in the authorization and direction. In the event that the Public Advocate shall die, resign or be removed from office, or become disqualified to execute the duties of the office, or a vacancy shall occur in the office of the Public Advocate for any cause whatsoever, the person then holding the office of Assistant Public Advocate shall continue to hold such office and shall have and shall exercise the powers and perform the functions and duties of the Public Advocate until the successor of the Public Advocate shall be appointed and shall qualify.

The Assistant Public Advocate shall receive such salary as shall be provided by law.

**C.52:27EE-7 Deputy public advocates and other assistants.**

7. Deputy public advocates and other assistants.

The Public Advocate shall appoint deputy public advocates and other expert assistants in such number as he or she shall require to assist him or her in the performance of the duties of the office. Deputies shall be attorneys-at-law of this State. Deputies and other expert assistants shall serve at the pleasure of the Public Advocate and shall receive such salaries as the Public Advocate shall from time to time designate.

**C.52:27EE-8 Professional responsibilities.**

8. Professional responsibilities.

The primary duty of all staff members and of others engaged by the department on a temporary or case basis shall be to the individual client, with like effect and to the same purpose as though privately engaged by the client and without regard to the use of public funds to provide the service. This responsibility shall not preclude the designation or assignment of different individuals to perform various parts of the service from time to time, the duty in such cases to be the same as would exist in the case of a privately engaged law firm.

**C.52:27EE-9 Attorney-client and work product privileges.**

9. Attorney-client and work product privileges.

a. All communications between the individual client and any attorney in or engaged by the Department of the Public Advocate shall be fully protected by the attorney-client privilege to the same extent and degree as though counsel has been engaged privately, and the work product of such attorneys shall be fully protected by the work product privilege to the same extent and degree as though counsel has been engaged privately. These privileges shall in no way preclude the use by the department of material in its files, otherwise privileged, for the preparation and disclosure of statistical, case study and other sociological data, provided always that in any such use there shall be no disclosure of the identity or the means for discovering the identity of particular clients.

b. Any record held by the department which includes information about the identity, care or treatment of any person seeking or receiving services from the department, or the identity of any person seeking services from the department on behalf of another person, shall not be a government record as defined in section 1 of P.L.1995, c.23 (C.47:1A-1.1) and shall not be available for public inspection, copying, or the purchase of copies.

c. Any person acting reasonably and in good faith who seeks assistance from the department on behalf of another person shall be immune from civil or criminal liability that might otherwise be incurred or imposed and shall have the same immunity with respect to testimony given in any judicial proceeding resulting from that request for assistance.

**C.52:27EE-10 Standard of performance.**

10. Standard of performance.

In providing legal services to clients pursuant to this act, every attorney, whether a member of the staff or engaged by the department on a temporary or case basis, shall adhere to the standards of performance established from time to time by the Supreme Court of New Jersey in the execution of its duty to supervise the practice of law.

**C.52:27EE-11 Organization of department.**

11. Organization of department.

a. There are hereby established seven divisions and one office within the Department of the Public Advocate.

The divisions within the department shall be the: Division of Administration; Division of Citizen Relations; Division of Mental Health Advocacy; Division of Advocacy for the Developmentally Disabled; Division of Rate Counsel; Division of Public Interest Advocacy; and Division of Elder Advocacy.

The office within the department shall be the Office of Public Advocate.

b. The Office of the Child Advocate shall be an office allocated within the Department of the Public Advocate, but shall be independent of supervi-

sion and control by the department and its officers and divisions, as provided in this act.

**C.52:27EE-12 Definitions relative to restoring the Department of the Public Advocate.**

12. Definitions.

As used in this act:

"administrative action" means and includes any action, omission, decision, recommendation, practice or procedure of an agency, but does not include the preparation, presentation or introduction of legislation;

"agency" means and includes the State of New Jersey and its principal departments, and any division, bureau, board, commission, agency, office, authority, or institution of the Executive Branch of the State government, or any other agency, including bi-state agencies, or any instrumentality created by the State, including counties, municipalities, or political subdivisions thereof, or any officer, employee, or member thereof acting or purporting to act in the exercise of his or her official duties, except the Governor and the Governor's personal staff and any portion of the Legislative Branch or Judicial Branch of State government;

"compensatory damages" means damages intended to make good the loss of an injured party, and no more. The term includes general and special damages, and does not include nominal, exemplary, or punitive damages;

"consumer insurance rate increases" means prior approval rate increases for: personal lines property casualty coverages; Medicare supplemental coverages; or a rating system change pursuant to section 14 of P.L.1997, c.151 (C.17:29A-46.1 et seq.);

"correctional facility" means a jail, prison, lockup, penitentiary, reformatory, training school, or other similar facility within the State of New Jersey;

"department" means the Department of the Public Advocate established herein, unless the context clearly indicates otherwise;

"elderly" means a person age 60 years or older;

"facility" whenever referred to in sections 61 through 65 of this act, means any facility or institution, whether public or private, offering health or health related services for the institutionalized elderly, and which is subject to regulation, visitation, inspection, or supervision by any government agency. Facilities include, but are not limited to, nursing homes, skilled nursing homes, intermediate care facilities, extended care facilities, convalescent homes, rehabilitation centers, residential health care facilities, special hospitals, veterans' hospitals, chronic disease hospitals, psychiatric hospitals, mental hospitals, mental retardation centers or facilities, day care facilities for the elderly, and medical day care centers;

"funded entity" means any party to and beneficiary of contracts with the State or its political subdivisions, including any business, corporation,

association, partnership, sole proprietorship, firm, trust, organization, unincorporated organization, individual, enterprise, or other legal entity receiving public funds;

“indigent mental hospital admittee” means a person who has been admitted to and is a patient in a mental hospital, an institution for the care and treatment of the mentally ill, or a similar facility, whether public or private, State, county or local, or who is the subject of an action for admission as provided by P.L.1987, c.116 (C.30:4-27.1 et seq.) and who does not have the financial ability to secure competent representation and to provide all other necessary expenses of representation;

“institutionalized elderly” means any person 60 years of age or older, who is a patient, resident or client of any facility, as described herein;

“nominal damages” means damages that are designed to compensate a plaintiff and are less than \$500;

“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” means and includes the State, and any county, municipality, district, public authority, public agency, and any other political subdivision or public body in the State;

“public interest” means an interest or right arising from the Constitution, decisions of court, common law or other laws of the United States or of this State inhering in the citizens of this State or in a broad class of such citizens;

“punitive damages” means and includes exemplary damages and means damages awarded against a party in a civil action because of aggravating circumstances in order to penalize and to provide additional deterrence against a defendant to discourage similar conduct in the future. Punitive damages do not include compensatory damages or nominal damages.

## ARTICLE 2. OFFICE OF PUBLIC ADVOCATE

**C.52:27EE-13 Office of Public Advocate; established.**

13. Office of Public Advocate; established.

The Public Advocate may establish an Office of Public Advocate and appoint to such office those persons necessary to the supervision and efficient operations of the department.

## ARTICLE 3. DIVISION OF ADMINISTRATION

**C.52:27EE-14 Division of Administration; established.**

14. Division of Administration; established.

There is hereby established in the Department of the Public Advocate the Division of Administration to be under the supervision of the Director of the Division of Administration.

**C.52:27EE-15 Division of Administration; duties.**

15. Division of Administration; duties.

It shall be the duty of the Division of Administration, at the direction of the Public Advocate, to prepare a budget for the department, fulfill personnel requirements, provide public information concerning department activities, and conduct such research as the Public Advocate determines to be relevant and necessary to the department's functions.

#### ARTICLE 4. DIVISION OF CITIZEN RELATIONS

**C.52:27EE-16 Division of Citizen Relations; established.**

16. Division of Citizen Relations; established.

There is hereby established in the Department of the Public Advocate the Division of Citizen Relations to be under the supervision of the Director of the Division of Citizen Relations.

**C.52:27EE-17 Division of Citizen Relations; powers and duties.**

17. Division of Citizen Relations; powers and duties.

The Division of Citizen Relations shall, under the direction and supervision of the Director of the Division of Citizen Relations, in addition to other powers and duties vested in it by this act, or any other law:

a. receive and forward to appropriate agencies of the State for determination complaints from any citizen relating to the administrative action or inaction of agencies;

b. investigate any complaint from any citizen relating to the administrative action or inaction of any agency, whether or not such action or inaction is final, where the complaint indicates that the action or inaction may have been:

(1) unreasonable, unfair, oppressive, or potentially discriminatory, although in accordance with law;

(2) unaccompanied by an adequate explanation; or

(3) performed in an inefficient manner; and

c. maintain records indicating the final disposition of any complaint forwarded by the division to an agency.

**C.52:27EE-18 Division of Citizen Relations; notice to complainant and agency.**

18. Division of Citizen Relations; notice to complainant and agency.

The Division of Citizen Relations shall determine whether a complaint is or is not an appropriate subject for investigation under this act, and shall inform the complainant of that decision, stating its reasons therefor. If the

division decides to investigate a complaint, it shall also notify the affected agency of its decision.

**C.52:27EE-19 Division of Citizen Relations; procedure after investigation.**

19. Division of Citizen Relations; procedure after investigation.

If, after investigation, the Division of Citizen Relations finds that:

- a. a matter should be further considered by the agency,
- b. an administrative action or inaction should be modified or canceled,
- c. a statute or regulation on which an administrative action or inaction

is based should be altered,

d. reasons or more complete reasons should be given for an administrative action or inaction, or

e. any other action should be taken by the agency, it shall report its findings and recommendations to the Public Advocate who may request the agency to notify him or her, within a specified time, of the action taken on such recommendations. The division is also authorized to conduct public hearings on such an issue if it determines that such hearings are necessary. The Public Advocate may refer the findings and recommendations of the Division of Citizen Relations to the Division of Public Interest Advocacy or, if appropriate, to the Division of Rate Counsel.

**C.52:27EE-20 Division of Citizen Relations; notice to the complainant.**

20. Division of Citizen Relations; notice to the complainant.

After a reasonable time has elapsed, the Division of Citizen Relations shall notify the complainant of the action taken by the Division of Citizen Relations and by the agency which was the subject of the complaint.

**C.52:27EE-21 Division of Citizen Relations; Dispute Settlement Office; established.**

21. Division of Citizen Relations; Dispute Settlement Office; established.

There is hereby established in the Division of Citizen Relations the Dispute Settlement Office.

**C.52:27EE-22 Dispute Settlement Office; services.**

22. Dispute Settlement Office; services.

a. The Dispute Settlement Office may provide, in the discretion of the Public Advocate, mediation and other third party neutral services in the resolution of disputes which involve the public interest and may enter into agreements or contracts to carry out any of the purposes or functions of this section. The office may assist public or private parties in resolving disputes. The office is authorized to:

(1) facilitate the resolution of disputes through the provision of mediation and other neutral dispute resolution services;



- (2) establish standards for the selection, assignment, and conduct of persons acting on behalf of the office in the resolution of disputes;
- (3) conduct educational programs and provide other services designed to reduce the occurrence, magnitude, or cost of disputes;
- (4) design, develop, or operate dispute resolution programs, or assist in improving or extending existing dispute resolution programs;
- (5) work with the business ombudsman or advocate in the New Jersey Commerce and Economic Growth Commission and take such other action as will promote and facilitate dispute resolution in the State; and
- (6) coordinate and cooperate with the Office of Administrative Law so as to avoid duplication of effort and to facilitate alternate resolution of disputes that would otherwise require administrative hearings.

b. The Public Advocate may establish reasonable fees to be charged to public or private parties for the provision of the educational, consultation, dispute resolution, or other services authorized herein and may apply for and accept on behalf of the State any federal, local, or private grants, bequests, gifts, or contributions to aid in the financing of any of the programs or activities of the office. The Public Advocate in the name of the State shall do all that is necessary and proper to receive or to collect all moneys due to the State, including such fees, grants, bequests, gifts, or contributions, by or reimbursement for services rendered pursuant to this section.

**C.52:27EE-23 Dispute Settlement Office; transfer of functions.**

23. Dispute Settlement Office; transfer of functions.

All functions, powers and duties which had been vested in the Office of Dispute Settlement in the Division of Citizen Complaints and Dispute Settlement in the Department of the Public Advocate prior to the effective date of P.L.1994, c.58 (C.52:27E-50 et al.) and which were transferred by P.L.1994, c.58 (C.52:27E-50 et al.) to the Office of the Public Defender, and are now vested in the Office of the Public Defender, are hereby transferred to and assumed by the Dispute Settlement Office of the Division of Citizen Relations in the Department of the Public Advocate.

Whenever any law, rule, regulation, order, reorganization plan, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Office of Dispute Settlement in the Office of the Public Defender concerning functions, powers and duties which had been vested in the Office of Dispute Settlement in the Division of Citizen Complaints and Dispute Settlement in the Department of the Public Advocate prior to the effective date of P.L.1994, c.58 (C.52:27E-50 et al.) and are now vested in the Dispute Settlement Office of the Division of Citizen Relations in the Department of the Public Advocate, the same shall mean and refer to the

Dispute Settlement Office in the Division of Citizens Relations in the Department of the Public Advocate.

**C.52:27EE-24 Corrections Ombudsperson; established.**

24. Corrections Ombudsperson; established.

There is hereby established in the Division of Citizen Relations in the Department of the Public Advocate a Corrections Ombudsperson.

**C.52:27EE-25 Corrections Ombudsperson; appointment.**

25. Corrections Ombudsperson; appointment.

The Corrections Ombudsperson shall be appointed by the Public Advocate and shall serve at the pleasure of the Public Advocate during the Public Advocate's term of office.

**C.52:27EE-26 Corrections Ombudsperson; transfer of functions.**

26. Corrections Ombudsperson; transfer of functions.

a. All functions, powers, and duties now vested in the Ombudsman in the Department of Corrections, as referenced in N.J.A.C.10A:1-1.1 et seq., are hereby transferred to and assumed by the Corrections Ombudsperson in the Division of Citizen Relations in the Department of the Public Advocate.

b. Whenever, in any law, rule, regulation, order, reorganization plan, contract, document, judicial or administrative proceeding, or otherwise, reference is made to the Ombudsman in the Department of Corrections concerning functions, powers, and duties which had been vested in the Ombudsman, the same shall mean and refer to the Corrections Ombudsperson in the Division of Citizen Relations in the Department of the Public Advocate.

**C.52:27EE-27 Corrections Ombudsperson; jurisdiction.**

27. Corrections Ombudsperson; jurisdiction.

Any person, over the age of 18 years, who is convicted of a crime under the laws of the State of New Jersey and sentenced to a correctional facility for more than 364 days is a "State-sentenced" inmate and considered to be among the individuals who may properly seek redress from the Corrections Ombudsperson concerning the conditions of their confinement.

**C.52:27EE-28 Corrections Ombudsperson; duties.**

28. Corrections Ombudsperson; duties.

The Corrections Ombudsperson shall establish and implement procedures for eliciting, receiving, processing, responding, and resolving complaints from inmates, their families, other interested citizens, public officials, and government agencies concerning conditions in the correctional facilities noted in section 27 of this act.

## ARTICLE 5. DIVISION OF MENTAL HEALTH ADVOCACY

**C.52:27EE-29 Division of Mental Health Advocacy; established.**

## 29. Division of Mental Health Advocacy; established.

a. There is hereby established in the Department of the Public Advocate a Division of Mental Health Advocacy to be under the supervision of the Director of the Division of Mental Health Advocacy.

b. The division is hereby designated as the State's mental health protection and advocacy agency. The intent of this article is that the division shall have all the powers necessary to carry out its responsibilities as required to qualify for federal funding as the State protection and advocacy agency. Until such designation is effectuated, the division may take such action as it deems appropriate for the purpose of coordinating with the private entity designated as the State's mental health protection and advocacy agency on the date of enactment of this act.

**C.52:27EE-30 Division of Mental Health Advocacy; objective; duties.**

## 30. Division of Mental Health Advocacy; objective; duties.

a. The Division of Mental Health Advocacy shall promote, advocate, and ensure the adequacy of the care received, and the quality of life experienced, by persons with mental illness, including patients, residents, and clients within the mental health facilities and programs operated, funded, or licensed by the State. In determining what elements are essential to ensure adequate care and quality of life, the division shall consider the unique medical, social, and economic needs and problems of persons with mental illness as patients, residents, and clients of facilities and as citizens and community members.

b. The director shall establish and implement procedures to elicit, receive, process, respond, and resolve complaints from patients, their families, other interested citizens, public officials, and government agencies concerning conditions in the State's mental health facilities.

**C.52:27EE-31 Division of Mental Health Advocacy; class actions.**

## 31. Division of Mental Health Advocacy; class actions.

The Director of the Division of Mental Health Advocacy may represent, with the approval of the Public Advocate, the interests of indigent mental hospital admittees in such disputes and litigation as will, in the discretion of the Public Advocate, best advance the interests of indigent mental hospital admittees as a class on an issue of general application to them, and may act as representative of indigent mental hospital admittees with any principal department or other instrumentality of State, county or local government.

**C.52:27EE-32 Division of Mental Health Advocacy; legal representation; medical consultation.**

32. Division of Mental Health Advocacy; legal representation; medical consultation.

The Division of Mental Health Advocacy may provide such legal representation and medical consultation as the director deems appropriate for any indigent mental hospital admittee in any proceeding concerning the admittee's admission to, and retention in, or release from confinement in such a hospital, institution or facility.

**C.52:27EE-33 Division of Mental Health Advocacy; eligibility for services.**

33. Division of Mental Health Advocacy; eligibility for services.

Eligibility for mental health advocacy services shall be determined on the basis of the need of the client. Need shall be measured according to the financial ability of the client to engage and compensate competent private counsel and to provide all other necessary expenses of representation. Such ability shall be recognized to be a variable depending on the nature, extent and liquidity of assets and on the disposable net income of the client as compared with the nature of the case, the effort and skill required to gather pertinent information, render advice, conduct trial or render other legal services, and probable expenses to be incurred. In the event that a determination of eligibility cannot be made before the time when the first services are to be rendered, or if an initial determination is found to be erroneous, the division shall undertake the same provisionally, and if it is determined subsequently that the client is ineligible, the division shall so inform the client, and the client shall thereupon, with the approval of the court, be obliged to engage his or her own counsel and to reimburse the division for the cost of the services rendered to that time.

**C.52:27EE-34 Division of Mental Health Advocacy; financial status of client; investigation.**

34. Division of Mental Health Advocacy; financial status of client; investigation.

The Division of Mental Health Advocacy shall make such investigation of the financial status of each mental health client as the circumstances warrant. The division, pursuant to rules and regulations promulgated by the department for this purpose, may obtain information from any public record, office of the State or of any subdivision or agency thereof on request and without payment of the fees ordinarily required by law.

**C.52:27EE-35 Division of Mental Health Advocacy; staff.**

35. Division of Mental Health Advocacy; staff.

a. The Director of the Division of Mental Health Advocacy may employ, with the approval of the Public Advocate, such assistants on a full-time basis as are necessary to protect the rights of persons with mental

illness. When exceptional circumstances arise, the director may retain, with the approval of the Public Advocate, on a temporary basis such other expert assistants as are necessary pursuant to a reasonable fee schedule established in advance by the Public Advocate.

b. Cases shall be assigned to staff attorneys or attorneys hired by case on a basis calculated to provide competent representation in light of the nature of the case, the services to be performed, the experience of the particular attorney and other relevant factors.

**C.52:27EE-36 Division of Mental Health Advocacy; status of staff.**

36. Division of Mental Health Advocacy; status of staff.

Independent contractors or other individuals, agencies, or entities not established in or employed by the Department of the Public Advocate retained to provide protection and advocacy services to indigent mental hospital admittees, or designated to provide mental health protection and advocacy services, are not public entities or public employees for purposes of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

**C.52:27EE-37 Division of Mental Health Advocacy; transfer of functions.**

37. Division of Mental Health Advocacy; transfer of functions.

All functions, powers, and duties which had been vested in the Division of Mental Health Advocacy in the Department of the Public Advocate prior to the effective date of P.L.1994, c.58 (C.52:27E-50 et al.) and which are exercised by the private entity New Jersey Protection and Advocacy, Inc. or its successor, pursuant to designation by the Governor as the State's mental health protection and advocacy agency, or which were transferred by P.L.1994, c.58 (C.52:27E-50 et al.) to the Office of the Public Defender, and are now exercised by or vested in, as the case may be, the private entity or the Office of the Public Defender, including those related to any indigent mental hospital admittee's admission to, retention in, or release from confinement in a hospital, institution or facility, are hereby transferred to and assumed by the Division of Mental Health Advocacy in the Department of the Public Advocate, except that the private entity shall exercise the functions, powers and duties as the State's mental health protection and advocacy agency until the designation of the division as the State's mental health protection and advocacy agency is effectuated.

Whenever, in any law, rule, regulation, order, reorganization plan, contract, document, judicial or administrative proceeding, or otherwise, reference is made to the private entity New Jersey Protection and Advocacy, Inc. or its successor, designated by the Governor as the State's mental health protection and advocacy agency, or the Office of the Public Defender, concerning functions, powers, and duties which had been vested in the Division of Mental Health Advocacy in the Department of the Public Advo-

cate prior to the effective date of P.L.1994, c.58 (C.52:27E-50 et al.) and are now vested in the private entity or the Office of the Public Defender, the same shall mean and refer to the Division of Mental Health Advocacy in the Department of the Public Advocate, except that with regard to the private entity the reference shall be effective when the designation of the division as the State's mental health protection and advocacy agency is effectuated.

#### ARTICLE 6. DIVISION OF ADVOCACY FOR THE DEVELOPMENTALLY DISABLED

**C.52:27EE-38 Division of Advocacy for the Developmentally Disabled; established; appointment.**

38. Division of Advocacy for the Developmentally Disabled; established; appointment.

a. There is hereby established in the Department of the Public Advocate the Division of Advocacy for the Developmentally Disabled to be under the supervision of the Director of the Division of Advocacy for the Developmentally Disabled, appointed by the Public Advocate.

b. The division is hereby designated as the State's protection and advocacy agency for persons with developmental disabilities. The intent of this article is that the division shall have all the powers necessary to carry out its responsibilities as required to qualify for federal funding as the State protection and advocacy agency. Until such designation is effectuated, the division may take such action as it deems appropriate for the purpose of coordinating with the private entity designated the State's protection and advocacy agency for persons with developmental disabilities on the date of enactment of this act.

**C.52:27EE-39 Division of Advocacy for the Developmentally Disabled; objective; duties.**

39. Division of Advocacy for the Developmentally Disabled; objective; duties.

a. The Division of Advocacy for the Developmentally Disabled shall promote, advocate, and ensure the adequacy of the care received, and the quality of life experienced, by persons with developmental disabilities, including patients, residents, and clients within the developmental disabilities facilities and programs operated, funded, or licensed by the State. In determining what elements are essential to ensure adequate care and quality of life, the division shall consider the unique medical, social, and economic needs and problems of persons with developmental disabilities as patients, residents, and clients of facilities and as citizens and community members.

b. The director shall establish and implement procedures to elicit, receive, process, respond, and resolve complaints from patients, their families, other interested citizens, public officials, and government agencies concerning conditions in the State's developmental disabilities facilities.

**C.52:27EE-40 Division of Advocacy for the Developmentally Disabled; services.**

## 40. Division of Advocacy for the Developmentally Disabled; services.

The Division of Advocacy for the Developmentally Disabled may receive and investigate complaints and provide such legal representation and other advocacy services on an individual or class basis as the Public Advocate deems appropriate to protect and advocate the rights of developmentally disabled persons. The division may also, within the limits of available funding, provide services to other handicapped persons or classes of persons found by the Public Advocate to have needs similar to developmentally disabled people.

**C.52:27EE-41 Division of Advocacy for the Developmentally Disabled; eligibility for services.**

## 41. Division of Advocacy for the Developmentally Disabled; eligibility for services.

Eligibility for services for the developmentally disabled shall be determined on the basis of the need of the client and in a manner consistent with the conditions of any grant obtained by the Public Advocate to assist in implementing this act.

**C.52:27EE-42 Division of Advocacy for the Developmentally Disabled; staff.**

## 42. Division of Advocacy for the Developmentally Disabled; staff.

The Director of the Division of Advocacy for the Developmentally Disabled may employ, with the approval of the Public Advocate, such assistants on a full-time basis as are necessary to protect the rights of developmentally disabled persons. When exceptional circumstances arise, the director may retain, with the approval of the Public Advocate, on a temporary basis such other expert assistants as are necessary pursuant to a reasonable fee schedule established in advance by the Public Advocate.

Cases shall be assigned to staff attorneys or attorneys hired by case on a basis calculated to provide competent representation in light of the nature of the case, the services to be performed, the experience of the particular attorney and other relevant factors.

**C.52:27EE-43 Division of Advocacy for the Developmentally Disabled; status of staff.**

## 43. Division of Advocacy for the Developmentally Disabled; status of staff.

Independent contractors or other individuals, agencies, or entities not established in or employed by the Department of the Public Advocate retained or designated to provide protection and advocacy services to persons with a developmental disability as the term is defined in section 3 of the "Developmentally Disabled Rights Act," P.L.1977, c.82 (C.30:6D-3), are not public entities or public employees for purposes of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

**C.52:27EE-44 Division of Advocacy for the Developmentally Disabled; definition.**

## 44. Division of Advocacy for the Developmentally Disabled; definition.

For purposes of this act, a developmentally disabled person is a person with a developmental disability as that term is defined in section 3 of the "Developmentally Disabled Rights Act," P.L.1977, c.82 (C.30:6D-3).

**C.52:27EE-45 Division of Advocacy for the Developmentally Disabled; transfer of functions.**

## 45. Division of Advocacy for the Developmentally Disabled; transfer of functions.

All functions, powers, and duties which had been vested in the Division of Advocacy for the Developmentally Disabled in the Department of the Public Advocate prior to the effective date of P.L.1994, c.58 (C.52:27E-50 et al.) and which are exercised by the private entity New Jersey Protection and Advocacy, Inc. or its successor, pursuant to designation by the Governor as the State's protection and advocacy agency for persons with developmental disabilities, or which were transferred by P.L.1994, c.58 (C.52:27E-50 et al.) to the Office of the Public Defender, and are now exercised by or vested in, as the case may be, the private entity or the Office of the Public Defender, are hereby transferred to and assumed by the Division of Advocacy for the Developmentally Disabled in the Department of the Public Advocate, except that the private entity shall continue to exercise the functions, powers and duties as the State's protection and advocacy agency for persons with developmental disabilities until the designation of the division as the State's protection and advocacy agency for persons with developmental disabilities is effectuated.

Whenever, in any law, rule, regulation, order, reorganization plan, contract, document, judicial or administrative proceeding, or otherwise, reference is made to the private entity New Jersey Protection and Advocacy, Inc. or its successor, designated by the Governor as the State's protection and advocacy agency for persons with developmental disabilities, or the Office of the Public Defender, concerning functions, powers, and duties which had been vested in the Division of Advocacy for the Developmentally Disabled in the Department of the Public Advocate prior to the effective date of P.L.1994, c.58 (C.52:27E-50 et al.) and are now vested in the private entity or the Office of the Public Defender, the same shall mean and refer to the Division of Advocacy for the Developmentally Disabled in the Department of the Public Advocate, except that with regard to the private entity the reference shall be effective when the designation of the division as the State's protection and advocacy agency for persons with developmental disabilities is effectuated.

**ARTICLE 7. DIVISION OF RATE COUNSEL**



**C.52:27EE-46 Division of Rate Counsel; established.**

## 46. Division of Rate Counsel; established.

There is hereby established in the Department of the Public Advocate the Division of Rate Counsel to be under the supervision of the Director of the Division of Rate Counsel.

**C.52:27EE-47 Director of the Division of Rate Counsel; staff.**

## 47. Director of the Division of Rate Counsel; staff.

a. The Director of the Division of Rate Counsel shall be an attorney-at-law of this State, appointed by the Public Advocate.

b. When exceptional circumstances arise, the Director of the Division of Rate Counsel, with the approval of the Public Advocate, may on a temporary basis retain such expert assistants as are necessary to protect the public interest, pursuant to a reasonable fee schedule established in advance by the Public Advocate.

c. Cases shall be assigned to staff attorneys or to attorneys hired on a case by case basis calculated to provide competent representation in the light of the nature of the case, the services to be performed, the experience of the particular attorney, and other relevant factors.

**C.52:27EE-48 Division of Rate Counsel; jurisdiction.**

## 48. Division of Rate Counsel; jurisdiction.

The Division of the Rate Counsel shall have the authority to conduct investigations, initiate studies, conduct research, present comments and testimony before governmental bodies, issue reports, and produce and disseminate consumer guides on any matters that fall within the Rate Counsel's jurisdiction. The Rate Counsel shall also have the authority to represent the public interest as set forth below.

a. Utilities. The Division of Rate Counsel may represent and protect the public interest as defined in section 12 of this act in proceedings before and appeals from any State department, commission, authority, council, agency, or board charged with the regulation or control of any business, industry, or utility regarding a requirement that the business, industry, or utility provide a service or regarding the fixing of a rate, toll, fare, or charge for a product or service. The Division of Rate Counsel may initiate any such proceedings when the director determines that a discontinuance or change in a required service or a rate, toll, fare, or charge for a product or service is in the public interest.

b. Insurance; limited jurisdiction. The Department of the Public Advocate shall represent and protect the public interest with respect to insurance matters through the Division of Rate Counsel, which may represent and protect the public interest as defined in section 12 of this act in

significant proceedings that pertain solely to prior approval rate increases for personal lines property casualty coverages or Medicare supplemental coverages. The Division of Rate Counsel shall have no jurisdiction or authority to participate or intervene in (1) expedited prior approval rate filings made by an insurer or affiliated group of insurers pursuant to section 34 of P.L.1997, c.151 (C.17:29A-46.6) or section 3 of P.L.2001, c.409 (C.17:36-5.35), or (2) prior approval rate filings of seven percent or less, or (3) rule or form filings for any other form of insurance.

In determining, in his or her discretion, whether a proceeding is significant, the Director of the Division of Rate Counsel shall consider the following factors:

- (1) the overall dollar impact of the requested increase, considering the filer's market share and the magnitude of the requested rate change;
- (2) whether the increase, if granted, will increase the filer's rates significantly above market norms;
- (3) whether the filer is advancing a significantly different alternate ratemaking methodology to the standard methodology established pursuant to section 8 of P.L.1988, c.119 (C.17:29A-36.2);
- (4) whether the insurer is experiencing financial difficulties at its present rate level, as evidenced by the filing of rehabilitation proceedings, recent downgrading by insurance rating services, or significant losses reported on the filer's public financial statement.

Upon the effective date of this act, the Director of the Division of Rate Counsel in the Department of the Public Advocate shall, in addition to the powers set forth in this act, have the express authority to intervene in public hearings pursuant to section 66 of P.L.1998, c.21 (C.17:29A-46.8).

**C.52:27EE-49 Division of Rate Counsel; intent.**

**49. Division of Rate Counsel; intent.**

It is the intent of the Legislature that the resources of the Division of Rate Counsel be devoted to the maximum extent possible to ensuring adequate representation of the interests of those consumers whose interests would otherwise be inadequately represented in matters within the jurisdiction of the Division of Rate Counsel.

When the interests of consumers differ, the Director of the Division of Rate Counsel shall give priority to representing the interests of consumers whose interests the Director of the Division of Rate Counsel finds to be inadequately represented.

This section does not require the Division of Rate Counsel to represent the interests of a consumer or group of consumers if the Director of the Division of Rate Counsel determines that such representation is adverse to the overall interests of the using and consuming public.

**C.52:27EE-50 Division of Rate Counsel; required notices to the division.****50. Division of Rate Counsel; required notices to the division.**

The Division of Rate Counsel shall receive a copy from the filer of any prior approval rate filing seeking consumer insurance rate increases, including any amendments or supplements thereto. A copy of such rate filing shall be received by the Division of Rate Counsel concurrent with any rate filing with the Commissioner of Banking and Insurance; except, however, the filer is not required to provide a copy of such rate filing with the Division of Rate Counsel if: (a) the filing is an expedited prior approval rate filing made pursuant to either section 34 of P.L.1997, c.151 (C.17:29A-46.6) or section 3 of P.L.2001, c.409 (C.17:36-5.35); or (b) the filing is made pursuant to any statutory change in coverage provided under a policy of private passenger automobile insurance; or (c) the filing is a prior approval rate filing of seven percent or less.

**C.52:27EE-51 Division of Rate Counsel; public notices of certain consumer insurance rate increases.****51. Division of Rate Counsel; public notices of certain consumer insurance rate increases.**

The Division of Rate Counsel and the Department of Banking and Insurance may publish on their respective official websites, to the extent practicable, as the case may be: (a) notice of all filings for consumer insurance rate increases; (b) all requests for hearing dates for such increases; and (c) the date or dates a hearing is to be held. The Division of Rate Counsel and the Department of Banking and Insurance, pursuant to regulations established by the Division of Rate Counsel, shall establish operational links such that each respective website may be accessed from the other. Publication on the applicable website shall take place within three business days of the applicable notice of filing, request for hearing, and date or dates of hearings.

If an insurer or rating organization files for a personal lines prior approval rate increase, excluding rating system changes made pursuant to P.L.1997, c.151 (C.17:29A-46.1 et seq.), the insurer or ratings organization shall, in conjunction with such filing, notify the public of the proposed rate change; except, however, the filer is not required to notify the public of the proposed rate change if the rate increase pertains to: (a) an expedited prior approval rate filing made pursuant to either section 34 of P.L.1997, c.151 (C.17:29A-46.6) or section 3 of P.L.2001, c.409 (C.17:36-5.35); or (b) a rate filing made pursuant to any statutory change in coverage provided under a policy of private passenger automobile insurance; or (c) a prior approval rate filing of seven percent or less.

Such notice shall be communicated through regular or electronic mail to the named policy holders who use the products and services subject to the rate increase, within seven business days of the applicable filing and shall conform to a form prescribed by the Department of Banking and Insurance pursuant to regulations established in conjunction with the Rate Counsel.

**C.52:27EE-52 Division of Rate Counsel; payment of expenses of division; annual utility assessment.**

52. Division of Rate Counsel; payment of expenses of division; annual utility assessment.

a. Annual utility assessment. The Division of Rate Counsel shall annually make an assessment against each public utility consistent with, but separate from, the Board of Public Utilities' assessments under the provisions of P.L.1968, c.173 (C.48:2-59 et seq.). All assessments due and owing to the Division of Rate Counsel as of the effective date of this act shall be deemed due and owing to the Division of Rate Counsel in the Department of the Public Advocate as of the effective date of this act.

b. Calculation of annual utility assessment. The annual assessment shall be equal to a percentage of the gross operating revenue of the public utilities under the jurisdiction of the Board of Public Utilities derived from intrastate operations during the preceding calendar year at a rate determined annually by the Director of the Division of Rate Counsel in the manner set forth in section 2 of P.L.1968, c.173 (C.48:2-60), except that the total amount assessed to any public utility shall not exceed  $\frac{1}{4}$  of 1 percent of the gross operating revenue subject to assessment hereunder. The minimum annual assessment under this section shall not be less than \$500.

c. Levy and payment of annual assessment. The annual assessment set forth in subsections a. and b. above shall be levied by the Division of the Rate Counsel no later than August 15, and shall be paid within 30 days of mailing notice thereof and a statement of the amount by first class mail to any public utility, except that for Fiscal Year 2006 this assessment shall be levied no later than August 1, 2005.

**C.52:27EE-53 Division of Rate Counsel; payment of expenses of division; annual insurance assessment.**

53. Division of Rate Counsel; payment of expenses of division; annual insurance assessment.

a. Annual insurance assessment. The Director of the Division of Budget and Accounting in the Department of the Treasury shall, on or before August 15 in each year, ascertain and certify to the Commissioner of Banking and Insurance by category the total amount of expenses incurred by the State in connection with the administration of the special functions of the Division of Rate Counsel in the Department of the Public Advocate relative

to the expenses of the Division of Rate Counsel in connection with the administration of insurance rate cases during the preceding fiscal year. The Department of Banking and Insurance shall make a separate special assessment on lines of insurance subject to the jurisdiction of the Rate Counsel pursuant to subsection b. of section 48 of this act, on an annual basis, in accordance with the formula set forth in P.L.1995 c.156 (C.17:1C-19 et seq.).

b. Calculation of annual insurance assessment. The annual assessment shall be no more than a specified aggregate amount adjusted annually for inflation, which shall be calculated and applied separately from the maximum total assessment set forth in section 13 of P.L.1995, c.156 (C.17:1C-31). The amount collected for expenses pursuant subsection a. of this section, shall not exceed the amount appropriated by the Legislature for those expenses.

**C.52:27EE-54 Division of Rate Counsel; transfer of powers and duties.**

54. Division of Rate Counsel; transfer of powers and duties.

All functions, powers, and duties which had been vested in the Division of Rate Counsel in the Department of the Public Advocate prior to the effective date of P.L.1994, c.58 (C.52:27E-50 et al.) and which were transferred by P.L.1994, c.58 (C.52:27E-50 et al.) to the Department of Insurance and to the Division of the Ratepayer Advocate established by Reorganization Plan 94-001, are hereby transferred to and assumed by the Division of Rate Counsel in the Department of the Public Advocate.

Whenever, in any law, rule, regulation, order, reorganization plan, contract, document, judicial or administrative proceeding, or otherwise, reference is made to the Department of Banking and Insurance, or to the Division of the Ratepayer Advocate concerning functions, powers and duties which had been vested in the Division of Rate Counsel in the Department of the Public Advocate prior to the effective date of P.L.1994, c.58 (C.52:27E-50 et al.), the same shall mean and refer to the Division of Rate Counsel in the Department of the Public Advocate.

**C.52:27EE-55 Division of Rate Counsel; right to intervene in federal proceedings.**

55. Division of Rate Counsel; right to intervene in federal proceedings.

The Division of Rate Counsel shall have the right to represent the public interest in any federal proceeding, including but not limited to proceedings before the Federal Communications Commission, the Federal Energy Regulatory Commission, and the Federal Trade Commission.

## ARTICLE 8. DIVISION OF PUBLIC INTEREST ADVOCACY

**C.52:27EE-56 Division of Public Interest Advocacy; established.**

56. Division of Public Interest Advocacy; established.

There is hereby established in the Department of the Public Advocate the Division of Public Interest Advocacy to be under the supervision of the Director of the Division of Public Interest Advocacy, who shall be an attorney-at-law of this State, appointed by the Public Advocate.

**C.52:27EE-57 Division of Public Interest Advocacy; jurisdiction.**

57. Division of Public Interest Advocacy; jurisdiction.

The Division of Public Interest Advocacy may represent the public interest in such administrative and court proceedings, other than those under the jurisdiction of the Division of Rate Counsel pursuant to this act, as the Public Advocate deems shall best serve the public interest.

**C.52:27EE-58 Division of Public Interest Advocacy; decision to represent particular public interest.**

58. Division of Public Interest Advocacy; decision to represent particular public interest.

The Public Advocate shall have sole discretion to represent or refrain from representing the public interest in any proceeding. The Public Advocate shall consider in exercising his or her discretion the importance and the extent of the public interest involved and whether that interest would be adequately represented without the action of the department. If the Public Advocate determines that there are inconsistent public interests involved in a particular matter, the Public Advocate may choose to represent one such interest based on the considerations in this section, to represent no interest in that matter, or to represent one such interest through the Division of Public Interest Advocacy and another or others through other divisions of the department or through outside counsel engaged on a case by case basis. The Public Advocate has the authority to use his or her discretion to refer potential litigation or other matters to the Dispute Settlement Office in the Division of Citizen Relations for mediation and resolution.

**C.52:27EE-59 Division of Public Interest Advocacy; power.**

59. Division of Public Interest Advocacy; power.

The Division of Public Interest Advocacy may represent and protect the public interest by:

a. intervening in or instituting proceedings before any department, commission, agency, or board leading to an administrative adjudication or administrative rule as defined in section 2 of P.L.1968, c.410 (C.52:14B-2), or intervening in any matter involving the grant or denial of a permit issued by an agency; and

b. instituting litigation on behalf of a broad public interest when authorized to do so by the Public Advocate. Such litigation or representation may include, but is not limited to, litigation on behalf of, or representation of,

consumers, the indigent, the elderly, senior citizens, people with disabilities, persons with mental illness and developmental disabilities, or any other group or interest deemed appropriate by the Public Advocate.

**C.52:27EE-60 Division of Public Interest Advocacy; additional powers.**

60. Division of Public Interest Advocacy; additional powers.

a. The Division of Public Interest Advocacy may receive and investigate complaints and provide such legal representation and other advocacy services as the Public Advocate deems appropriate to protect and advocate the rights of any group or interest deemed appropriate by the Public Advocate, except, however, the provisions of this act shall not be construed to authorize the Division of Public Interest Advocacy, or any other division within the Department of the Public Advocate, to represent any individual in any matters involving incarceration, except as expressly set forth as the duties of the Corrections Ombudsperson in the Division of Citizen Relations.

b. The Division of Public Interest Advocacy may, in its discretion, commence negotiation, mediation, or alternative dispute resolution prior to, or in lieu of, the initiation of any litigation.

#### ARTICLE 9. DIVISION OF ELDER ADVOCACY

**C.52:27EE-61 Division of Elder Advocacy; established.**

61. Division of Elder Advocacy; established.

There is hereby established in the Department of the Public Advocate the Division of Elder Advocacy to be under the supervision of the Director of the Division of Elder Advocacy, appointed by the Public Advocate.

**C.52:27EE-62 Division of Elder Advocacy; jurisdiction.**

62. Division of Elder Advocacy; jurisdiction.

The Division of Elder Advocacy may represent the public interest in such administrative and court proceedings as the Public Advocate deems shall best serve the interests of elderly adults.

**C.52:27EE-63 Division of Elder Advocacy; powers and duties.**

63. Division of Elder Advocacy; powers and duties.

The Division of Elder Advocacy may protect the interests of the elderly by:

a. intervening in or instituting proceedings involving the interests of the elderly before any department, commission, agency, or board of the State leading to an administrative adjudication or administrative rule as defined in section 2 of P.L.1968, c.410 (C.52:14B-2);

b. instituting litigation on behalf of the elderly when authorized to do so by the Public Advocate; and

c. commencing negotiation, mediation, or alternative dispute resolution prior to, or in lieu of, the initiation of any litigation.

**C.52:27EE-64 Division of Elder Advocacy; additional powers and duties.**

64. Division of Elder Advocacy; additional powers and duties.

a. The Division of Elder Advocacy shall report to the Governor and the Legislature on recommendations that will further the State's ability to secure, preserve, and promote the health, safety, and welfare of New Jersey's elderly.

b. The Division of Elder Advocacy shall have the authority to hold a public hearing on the subject of any investigation or study. The division shall hear testimony from agency and program representatives, the public in general, and such others as may be deemed appropriate.

c. The Division of Elder Advocacy shall have access to the records and facilities of every agency, funded entity, or other recipient of public funds to the extent that any such records and facilities are related to the expenditure of public funds, provided that the division complies with all privacy and confidentiality protections applicable to those records and facilities, notwithstanding any contrary provision of law. Notwithstanding the foregoing, the Division of Elder Advocacy shall have access to any facility or institution, whether public or private, offering health or health-related services for the institutionalized elderly which is subject to regulation, visitation, inspection or supervision by any government agency, provided such access is permitted by State or federal law. All agencies shall cooperate with the Division of Elder Advocacy and, when requested, shall provide specific information in the form requested.

**C.52:27EE-65 Ombudsperson for the Institutionalized Elderly; transfer to Department of the Public Advocate.**

65. Ombudsperson for the Institutionalized Elderly; transfer to Department of the Public Advocate.

a. There is hereby established in the Division of Elder Advocacy in the Department of the Public Advocate an Ombudsperson for the Institutionalized Elderly.

b. The Ombudsperson for the Institutionalized Elderly shall be appointed by the Public Advocate.

c. All functions, powers, and duties now vested in the Office of the Ombudsman for the Institutionalized Elderly pursuant to P.L.1977, c.239 (C.52:27G-1 et seq.) are hereby transferred to and assumed by the Ombudsperson for the Institutionalized Elderly in the Department of the Public Advocate.

Whenever, in any law, rule, regulation, order, reorganization plan, contract, document, judicial or administrative proceeding, or otherwise, reference is made to the Office of the Ombudsman for the Institutionalized



Elderly in, but not of, the Department of Community Affairs, or the Office of the Ombudsman for the Institutionalized Elderly in, but not of, the Department of Health and Senior Services, or Nursing Home Ombudsman in Department of Community Affairs, the same shall mean and refer to the Ombudsperson for the Institutionalized Elderly in the Department of the Public Advocate.

#### ARTICLE 10. OFFICE OF THE CHILD ADVOCATE

**C.52:27EE-66 Office of the Child Advocate; established.**

66. Office of the Child Advocate; established.

There is established the Office of the Child Advocate in the Executive Branch of the State Government. For purposes of complying with Article V, Section IV, paragraph 1 of the New Jersey Constitution, the office is allocated within the Department of the Public Advocate, but notwithstanding the allocation, the office shall be independent of any supervision or control by the department, or a division, office or officer thereof, in the performance of its duties.

**C.52:27EE-67 Office of the Child Advocate; qualifications; appointment; term.**

67. Office of the Child Advocate; qualifications; appointment; term.

a. The administrator and chief executive officer of the office shall be the Child Advocate, who shall be an attorney admitted to practice law in New Jersey and be qualified by training and experience to perform the duties of the office.

b. The child advocate shall be appointed by the Governor and shall serve for a term of five years and until the appointment and qualification of his successor. The Governor shall have the power to remove the child advocate for cause. The child advocate shall devote his or her entire professional time to the duties of this position and receive such salary as shall be provided by law. A vacancy occurring in the position of child advocate shall be filled in the same manner as the original appointment, except that if the child advocate dies, resigns, becomes ineligible to serve for any reason or is removed from office, the Governor shall appoint an acting child advocate who shall serve until the appointment and qualification of the child advocate's successor.

**C.52:27EE-68 Office of the Child Advocate; purpose; consultation.**

68. Office of the Child Advocate; purpose; consultation.

a. The child advocate shall seek to ensure the provision of effective, appropriate and timely services for children at risk of abuse and neglect in the State, and that children under State supervision due to abuse or neglect are served adequately and appropriately by the State.

b. The Office of the Child Advocate shall be deemed a child protective agency for the purposes of section 1 of P.L.1977, c.102 (C.9:6-8.10a).

c. The child advocate shall consult with the Public Advocate prior to exercising his duties by commencing an investigation, legal proceeding, inspection, evaluation or other matter that may be co-extensive with the duties of the Public Advocate or of a division of the Department of the Public Advocate. The purpose of the consultation shall be to provide the Public Advocate with an opportunity to assist or collaborate with the child advocate on such investigation, legal proceeding, inspection, evaluation or other matter if the extent of the assistance or collaboration is within the powers and duties of the Public Advocate or of a division as those powers and duties are provided in this act. This requirement to consult the Public Advocate or the failure to do so in a timely manner shall not preclude or serve to restrict the child advocate in the performance of his duties at his discretion.

**C.52:27EE-69 Office of the Child Advocate; duties.**

**69. Office of the Child Advocate; duties.**

a. The child advocate shall:

(1) administer the work of the Office of the Child Advocate;

(2) appoint and remove such officers, investigators, stenographic and clerical assistants and other personnel, in the career or unclassified service, as may be required for the conduct of the office, subject to the provisions of Title 11A of the New Jersey Statutes (Civil Service), and other applicable statutes, except as provided otherwise herein;

(3) formulate and adopt rules and regulations for the efficient conduct of the work and general administration of the office, its officers and employees, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); and

(4) institute or cause to be instituted such legal proceedings or processes consistent with the Rules Governing the Courts of New Jersey as may be necessary to properly enforce and give effect to any of the child advocate's powers or duties.

b. Consistent with the provisions of federal and State law,

(1) the child advocate shall have access to, and the right to inspect and copy, any records, including pupil records in accordance with the provisions of N.J.S.18A:36-19, necessary to carry out the responsibilities under this act; and

(2) the child advocate shall have reasonable access to, and the right to copy any records from, the Division of Youth and Family Services' Service Information System, or its successor, necessary to carry out its responsibilities under this act, and only with regard to individuals who are or may be the

subject of an investigation by the child advocate, or to assess the status of an individual complaint or inquiry to determine whether further action by the child advocate is appropriate; except that, access provided to the successor system, including the Statewide Automated Child Welfare Information System, shall be limited to information available through the Service Information System, unless otherwise agreed to by the child advocate and the Department of Human Services.

c. The child advocate may issue subpoenas to compel the attendance and testimony of witnesses or the production of books, papers and other documents, and administer oaths to witnesses in any matter under the investigation of the office.

If any person to whom such subpoena is issued fails to appear or, having appeared, refuses to give testimony, or fails to produce the books, papers or other documents required, the child advocate may apply to the Superior Court, which may order the person to appear and give testimony or produce the books, papers or other documents, as applicable.

d. The child advocate shall disseminate information to the public on the objectives of the office, the services the office provides and the methods by which the office may be contacted.

e. The child advocate shall aid the Governor in proposing methods of achieving increased coordination and collaboration among State agencies to ensure maximum effectiveness and efficiency in the provision of services to children.

**C.52:27EE-70 Office of the Child Advocate; powers.**

**70. Office of the Child Advocate; powers.**

The child advocate may:

a. investigate, review, monitor or evaluate any State agency response to, or disposition of, an allegation of child abuse or neglect in this State;

b. inspect and review the operations, policies and procedures of:

(1) juvenile detention centers operated by the counties and all juvenile justice facilities operated by or under contract with the Juvenile Justice Commission, including, but not limited to, secure correctional facilities and residential and day treatment programs;

(2) resource family homes, group homes, residential treatment facilities, shelters for the care of abused or neglected children, shelters for the care of juveniles considered as juvenile-family crisis cases, shelters for the care of homeless youth, or independent living arrangements operated, licensed, or approved for payment, by the Department of Human Services, Department of Community Affairs or Department of Health and Senior Services; and

(3) any other public or private setting in which a child has been placed by a State or county agency or department;

c. review, evaluate, report on and make recommendations concerning the procedures established by any State agency providing services to children who are at risk of abuse or neglect, children in State or institutional custody, or children who receive child protective or permanency services;

d. review, monitor and report on the performance of State-funded private entities charged with the care and supervision of children due to abuse or neglect by conducting research audits or other studies of case records, policies, procedures and protocols, as deemed necessary by the child advocate to assess the performance of the entities;

e. receive, investigate and make referrals to other agencies or take other appropriate actions with respect to a complaint received by the office regarding the actions of a State, county or municipal agency or a State-funded private entity providing services to children who are at risk of abuse or neglect;

f. hold a public hearing on the subject of an investigation or study underway by the office, and receive testimony from agency and program representatives, the public and other interested parties, as the child advocate deems appropriate;

g. establish and maintain a 24-hour toll-free telephone hotline to receive and respond to calls from citizens referring problems to the child advocate, both individual and systemic, in how the State, through its agencies or contract services, protects children;

h. in exercising the authority provided in subsection a. of this section, the child advocate may conduct unannounced site visits to any institution or facility to which children are committed, placed or otherwise disposed if the child advocate, prior to conducting an unannounced site visit, has initiated a project or investigation into the response or disposition of an allegation of abuse or neglect and there is a reasonable basis to believe that an unannounced site visit is necessary to carry out the child advocate's responsibilities under this act, provided, however, that any unannounced site visit shall be conducted at a reasonable time and in a reasonable manner;

i. in exercising the authority provided under subsections a. through e. of this section, the child advocate shall consult with any appropriate State, county or municipal agency or a State-funded private entity providing services to children, and may request from any such entity, and the entity is hereby authorized and directed to provide, such cooperation and assistance as will enable the child advocate to properly perform its responsibilities under this act; and

j. notwithstanding the provisions of section 11 of P.L.1944, c.20 (C.52:17A-11) to the contrary, hire independent counsel on a case-by-case basis to provide competent representation in light of the nature of the case,

the services to be performed, the experience of the particular attorney and other relevant factors.

**C.52:27EE-71 Office of the Child Advocate; findings; recommendations.**

71. Office of the Child Advocate; findings; recommendations.

a. If the child advocate identifies a systemic problem in how the State, through its agencies or contract services, protects children, the child advocate shall meet with the State agency or agencies with jurisdiction to provide a reasonable opportunity to discuss the problem and identify possible responses the agency may consider. Taking into account any information provided during the meeting and discussion, the child advocate shall provide its findings and recommendations to the agency affected by the findings and recommendations, and, except as provided in subsections b. and c. of section 76 of this act, make those findings and recommendations available to the public.

b. Within 30 days from the receipt of the child advocate's findings and recommendations, the agency shall develop a corrective action response that addresses the findings and recommendations of the child advocate and specifies what actions, if any, the agency will take in response to the systemic problem identified by the child advocate, which response may be developed in conjunction with the child advocate.

c. The agency shall submit its corrective action response to the head of the relevant department or departments with jurisdiction over the agency and simultaneously provide a copy to the child advocate.

d. The child advocate shall monitor an agency's implementation of its corrective action response. An agency implementing a corrective action response shall provide the child advocate with periodic reports on the status of the actions taken by the agency pursuant to its corrective action response. The child advocate shall monitor the agency's implementation of its corrective action response for a period of one year, during which time the agency shall provide the child advocate with periodic reports, except that the child advocate may determine that the monitoring and periodic reports are required for a period of less than one year. The agency's obligation to provide periodic reports on the implementation of its corrective action response may exceed a period of one year if the child advocate and the agency jointly agree that an extended reporting period is appropriate.

e. If an agency fails to promptly and adequately implement a corrective action response, the child advocate shall take such action as the child advocate deems necessary.

f. An agency shall make public the corrective action responses and periodic status reports required by this section, except that the agency may

provide to the child advocate an additional response or report containing confidential information.

**C.52:27EE-72 Office of the Child Advocate; additional powers.**

**72. Office of the Child Advocate; additional powers.**

a. In addition to the powers granted in section 70 of this act, the child advocate may:

(1) intervene in or institute litigation, including appearing in the capacity of an amicus curiae, as appropriate, or

(2) intervene in or institute administrative proceedings before any department, commission, agency or State board, to assert the broad public interest of the State in the welfare of children and to protect and promote the rights of children.

In taking such actions, the child advocate shall consider whether a child or family may be in need of assistance from the child advocate or whether there is a systemic issue in the State's provision of services to children that should be addressed. The child advocate shall make a good faith effort to resolve issues or problems, and shall have the authority to commence negotiations, mediation or alternative dispute resolution in its advocacy efforts prior to, or in lieu of, the initiation of any action brought pursuant to this section.

b. The child advocate shall have discretion to decide whether to intervene in any particular matter or to represent or refrain from representing the public interest in a proceeding. The child advocate shall consider, in exercising his discretion, the resources available, the importance and extent of the public interest involved, and whether that interest would be adequately represented without the action of the office.

**C.52:27EE-73 Office of the Child Advocate; communication.**

**73. Office of the Child Advocate; communication.**

a. The child advocate shall seek the approval of a parent, guardian or law guardian, as applicable, or obtain the approval of a court of competent jurisdiction so as to communicate directly with a child who is the subject of a complaint or allegation of child abuse or neglect, if necessary to conduct an investigation authorized under the provisions of this act. The communications with the child shall be conducted under such terms and conditions that protect the best interests of the child.

b. If court approval is sought, the court, in reviewing an application for approval, shall consider: (1) the best interests of the child, so as to minimize any detrimental effects on the child that may occur as a result of the communication; and (2) the investigative needs of the child advocate and law enforcement authorities, when applicable. Upon consideration of the factors

in this subsection, the court may order any alternative methods for obtaining the required information.

**C.52:27EE-74 Office of the Child Advocate; protection; resource.**

74. Office of the Child Advocate; protection; resource.

The child advocate shall seek to ensure the protection of children who are in an institution or resource family care by reviewing, evaluating and monitoring the operation and activities of the Institutional Abuse Investigation Unit in the Department of Human Services.

a. In order to enable the child advocate to carry out the child advocate's responsibilities under this section, the Institutional Abuse Investigation Unit shall:

(1) promptly notify the child advocate of any allegations of abuse or neglect made against an institution or resource family home serving children in this State;

(2) promptly provide the child advocate with a copy of the unit's response to the complaint and the actions taken by the unit to address the complaint;

(3) provide the child advocate with monthly updates of the status of actions proposed by the unit regarding an existing complaint that has not been resolved; and

(4) provide the child advocate with such other information as the child advocate may deem necessary to carry out the child advocate's responsibilities to review, evaluate and monitor the operation and activities of the unit.

b. As used in this section, "institution" means a public or private facility, in this State or out-of-State, that provides children with out-of-home care, supervision or maintenance. Institution includes, but is not limited to: a correctional facility, detention facility, treatment facility, child care center, group home, public and nonpublic elementary or secondary school and school bus or other similar vehicle used to transport students to and from school, residential school, shelter, psychiatric hospital and developmental center.

**C.52:27EE-75 Office of the Child Advocate; reports.**

75. Office of the Child Advocate; reports.

The child advocate shall report annually to the Governor, the Public Advocate, the Commissioner of Human Services, and the Legislature on: the activities of the office; priorities for children's services that have been identified by the child advocate; and recommendations for improvement or needed changes concerning the provision of services to children who are at risk of abuse or neglect, and are in State or institutional custody or receive child protective or permanency services by State agencies and State-funded private entities.

The annual report shall be made available to the public.

**C.52:27EE-76 Office of the Child Advocate; disclosure; confidentiality.**

76. Office of the Child Advocate; disclosure; confidentiality.

a. The child advocate shall make public its findings of investigation reports or other studies undertaken by the office, including its investigatory findings to complaints received pursuant to section 70 of this act, and shall forward any publicly reported findings to the Governor, the Legislature, the Public Advocate, the Commissioner of Human Services, the affected public agencies and the Governor's Cabinet for Children.

b. The child advocate shall not disclose:

(1) any information that would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of a person who filed a complaint or which may compromise the integrity of a State or county department or agency investigation, civil or criminal investigation or judicial or administrative proceeding; and

(2) the name of or any other information identifying the person who filed a complaint with, or otherwise provided information to, the office without the written consent of that person.

The information subject to the provisions of this subsection shall not be considered a public record pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.).

c. The child advocate shall not disclose any information that may be deemed confidential by federal or State law, except when necessary to allow the Department of the Public Advocate, Department of Human Services, Attorney General, Juvenile Justice Commission and other State or county department or agency to perform its duties and obligations under the law.

**C.52:27EE-77 Office of the Child Advocate; transfer of functions.**

77. Office of the Child Advocate; transfer of functions.

All functions, powers, and duties now vested in the Office of the Child Advocate pursuant to P.L.2003, c.187 (C.52:17D-1 et seq.) are transferred to and assumed by the Office of the Child Advocate allocated in, but not of, the Department of the Public Advocate.

Whenever, in any law, rule, regulation, order, plan, contract, document, judicial or administrative proceeding, or otherwise, reference is made to the Office of the Child Advocate in, but not of, the Department of Law and Public Safety, the same shall mean and refer to the Office of the Child Advocate allocated in, but not of, the Department of the Public Advocate.

## ARTICLE 11. ACTIONS, TRANSFERS, REPEALS



**C.52:27EE-78 Actions; name of party; prior communication to public entity.**

78. Actions; name of party; prior communication to public entity.

a. Any action brought by the Public Advocate or any persons authorized herein to institute or participate in actions before the courts or agencies of this State shall be brought in the name of the person serving as the Public Advocate or in the name of an affected individual or group, but shall not be brought in the name of the State or the people thereof.

b. Prior to initiating litigation, the Public Advocate shall communicate, in writing, with a public entity against which the Public Advocate anticipates filing adversarial action. The Public Advocate shall state unequivocally in its written transmittal to the public entity that the Public Advocate anticipates filing litigation to resolve the matter in controversy. The purpose of this requirement is to clearly provide the potential litigants with a final opportunity to resolve the matters in controversy outside the court system.

**C.52:27EE-79 Suits or causes of action against Legislature or officers thereof.**

79. Suits or causes of action against Legislature or officers thereof.

The provisions of this act in and of themselves shall not be construed so as to create any new causes of action, or to authorize any suit against the Legislature or either House or the officers thereof.

**C.52:27EE-80 No award of punitive or exemplary damages against public entities or employees.**

80. No award of punitive or exemplary damages against public entities or employees.

No punitive or exemplary damages shall be awarded against a public entity or public employee in any action brought by the Public Advocate.

**C.52:27EE-81 Applicability of State Agency Transfer Act.**

81. Applicability of State Agency Transfer Act.

This act shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

**C.52:27EE-82 Preservation of rights and terms.**

82. Preservation of rights and terms.

This act shall not:

a. affect the tenure, compensation, and pension rights, if any, of the lawful holder thereof, in any position not specifically abolished herein, upon the effective date of this act; or

b. alter the term of any member of any board, commission, or public body, not specifically abolished or repealed herein, lawfully in office on the effective date of this act, or require the reappointment thereof.

**C.52:27EE-83 Supersedure and repeal of inconsistent acts.****83. Supersedure and repeal of inconsistent acts.**

All acts and parts of acts inconsistent with any of the provisions of this act are, to the extent of such inconsistency, superseded and repealed.

**C.52:27EE-84 Assertion of claim against spill compensation fund for class by Public Advocate.****84. Assertion of claim against spill compensation fund for class by Public Advocate.**

The Department of the Public Advocate may act to assert claims as alleged against the Spill Compensation Fund established pursuant to the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.).

**C.52:27EE-85 Severability.****85. Severability.**

If any section, subsection, paragraph, sentence, or other part of this act is adjudged unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence, or other part of this act directly involved in the controversy in which the judgment shall have been rendered.

86. Section 3 of P.L.1977, c.239 (C.52:27G-3) is amended to read as follows:

**C.52:27G-3 Ombudsperson for the Institutionalized Elderly.**

3. There is established in the Department of the Public Advocate the Ombudsperson for the Institutionalized Elderly.

87. Section 4 of P.L.1977, c.239 (C.52:27G-4) is amended to read as follows:

**C.52:27G-4 Ombudsperson, qualifications.**

4. The administrator and chief executive officer of the office shall be the Ombudsperson, who shall be a person qualified by training and experience to perform the duties of the office.

88. Section 1 of P.L.1986, c.205 (C.30:1A-4) is amended to read as follows:

**C.30:1A-4 New Jersey Boarding Home Advisory Council.**

1. a. There is established in, but not of, the Department of Human Services the New Jersey Boarding Home Advisory Council. The council shall consist of 14 members, to be appointed by the Commissioner of Human

Services in consultation with the Commissioners of Community Affairs and Health and Senior Services, the Public Advocate, and the Public Guardian for Elderly Adults, as follows: two persons who own or operate a boarding house as defined in P.L.1979, c.496 (C.55:13B-1 et al.); two persons who own or operate a residential health care facility as defined in section 1 of P.L.1953, c.212 (C.30:11A-1) or licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.); two persons who currently reside in a boarding house or a residential health care facility; one person who is a member of the organization which represents operators of boarding houses or residential health care facilities, or both; one person who represents the health care professions; one person who represents a county office on aging; one person who represents a municipal building code department; one person who represents an organization or agency which advocates for mentally ill persons in this State; one person who represents an organization or agency which advocates for physically disabled persons in this State; and two other members who shall be chosen from among persons whose work, knowledge or interest relates to boarding houses or residential health care facilities and the residents thereof, including but not limited to municipal and county elected officials, county prosecutors, social workers, and persons knowledgeable about fire prevention standards and measures needed to assure safety from structural, mechanical, plumbing and electrical deficiencies in boarding houses and residential health care facilities. In addition, the Chairman of the General Assembly Standing Reference Committee on Health and Human Services and the Chairman of the Senate Standing Reference Committee on Health, Human Services and Senior Citizens or their designees shall serve as ex officio members of the council.

b. The terms of office of each appointed member shall be three years, but of the members first appointed, two shall be appointed for a term of one year, five for terms of two years, and seven for terms of three years. All vacancies shall be filled for the balance of the unexpired term in the same manner as the original appointment. The members of the council shall not receive any compensation for their services, but shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties as members of the council.

89. Section 3 of P.L.1976, c.120 (C.30:13-3) is amended to read as follows:

**C.30:13-3 Responsibilities of nursing homes.**

3. Every nursing home shall have the responsibility for:
  - a. Maintaining a complete record of all funds, personal property and possessions of a nursing home resident from any source whatsoever, which

have been deposited for safekeeping with the nursing home for use by the resident. This record shall contain a listing of all deposits and withdrawals transacted, and these shall be substantiated by receipts given to the resident or his guardian. A nursing home shall provide to each resident or his guardian a quarterly statement which shall account for all of such resident's property on deposit at the beginning of the accounting period, all deposits and withdrawals transacted during the period, and the property on deposit at the end of the period. The resident or his guardian shall be allowed daily access to his property on deposit during specific periods established by the nursing home for such transactions at a reasonable hour. A nursing home may, at its own discretion, place a limitation as to dollar value and size of any personal property accepted for safekeeping.

b. Providing for the spiritual needs and wants of residents by notifying, at a resident's request, a clergyman of the resident's choice and allowing unlimited visits by such clergyman. Arrangements shall be made, at the resident's expense, for attendance at religious services of his choice when requested. No religious beliefs or practices, or any attendance at religious services, shall be imposed upon any resident.

c. Admitting only that number of residents for which it reasonably believes it can safely and adequately provide nursing care. Any applicant for admission to a nursing home who is denied such admission shall be given the reason for such denial in writing.

d. Ensuring that an applicant for admission or a resident is treated without discrimination as to age, race, religion, sex or national origin. However, the participation of a resident in recreational activities, meals or other social functions may be restricted or prohibited if recommended by a resident's attending physician in writing and consented to by the resident.

e. Ensuring that no resident shall be subjected to physical restraints except upon written orders of an attending physician for a specific period of time when necessary to protect such resident from injury to himself or others. Restraints shall not be employed for purposes of punishment or the convenience of any nursing home staff personnel. The confinement of a resident in a locked room shall be prohibited.

f. Ensuring that drugs and other medications shall not be employed for purposes of punishment, for convenience of any nursing home staff personnel or in such quantities so as to interfere with a resident's rehabilitation or his normal living activities.

g. Permitting citizens, with the consent of the resident being visited, legal services programs, employees of the Department of the Public Advocate, and employees of the private entity, if any, designated by the Governor as the State's mental health protection and advocacy agency, whose purposes include rendering assistance without charge to nursing home residents, full

and free access to the nursing home in order to visit with and make personal, social and legal services available to all residents and to assist and advise residents in the assertion of their rights with respect to the nursing home, involved governmental agencies and the judicial system.

(1) Such access shall be permitted by the nursing home at a reasonable hour.

(2) Such access shall not substantially disrupt the provision of nursing and other care to residents in the nursing home.

(3) All persons entering a nursing home pursuant to this section shall promptly notify the person in charge of their presence. They shall, upon request, produce identification to substantiate their identity. No such person shall enter the immediate living area of any resident without first identifying himself and then receiving permission from the resident to enter. The rights of other residents present in the room shall be respected. A resident shall have the right to terminate a visit by a person having access to his living area pursuant to this section at any time. Any communication whatsoever between a resident and such person shall be confidential in nature, unless the resident authorizes the release of such communication in writing.

h. Ensuring compliance with all applicable State and federal statutes and rules and regulations.

i. Ensuring that every resident, prior to or at the time of admission and during his stay, shall receive a written statement of the services provided by the nursing home, including those required to be offered by the nursing home on an as-needed basis, and of related charges, including any charges for services not covered under Title XVIII and Title XIX of the Social Security Act, as amended, or not covered by the nursing home's basic per diem rate. This statement shall further include the payment, fee, deposit and refund policy of the nursing home.

j. Ensuring that a prospective resident or the resident's family or guardian receives a copy of the contract or agreement between the nursing home and the resident prior to or upon the resident's admission.

90. Section 4 of P.L.1992. c.111 (C.30:4C-69) is amended to read as follows:

**C.30:4C-69 Development of interdepartmental plan.**

4. The Commissioner of Human Services shall develop an interdepartmental plan for the implementation of an individualized, appropriate child and family driven care system for children with special emotional needs and for the reduction of inappropriate use of out-of-home placements of these children. The plan shall first address children ready to be returned from institutions such as the Arthur Brisbane Child Treatment Center and other

in-State and out-of-State residential facilities, and those at imminent risk of extended out-of-home placement. The commissioner shall consult with appropriate representatives from the State departments of Education, Corrections, Health and Senior Services, Community Affairs and the Public Advocate, the Child Advocate, the private entity, if any, designated by the Governor as the State's mental health protection and advocacy agency, the Statewide Children's Coordinating Council in the Department of Human Services, the Administrative Office of the Courts, and Statewide family advocacy groups, in the development of the plan.

91. Section 14 of P.L.1944, c.27 (C.17:29A-14) is amended to read as follows:

**C.17:29A-14 Filing of rate changes; hearing.**

14. a. With regard to all property and casualty lines, a filer may, from time to time, alter, supplement, or amend its rates, rating systems, or any part thereof, by filing with the commissioner copies of such alterations, supplements, or amendments, together with a statement of the reason or reasons for such alteration, supplement, or amendment, in a manner and with such information as may be required by the commissioner. If such alteration, supplement, or amendment shall have the effect of increasing or decreasing rates, the commissioner shall determine whether the rates as altered thereby are reasonable, adequate, and not unfairly discriminatory. If the commissioner shall determine that the rates as so altered are not unreasonably high, or inadequate, or unfairly discriminatory, he shall make an order approving them. If he shall find that the rates as altered are unreasonable, inadequate, or unfairly discriminatory, he shall issue an order disapproving such alteration, supplement or amendment.

b. (Deleted by amendment, P.L.1984, c.1.)

c. If an insurer or rating organization files a proposed alteration, supplement or amendment to its private passenger automobile insurance rating system, or any part thereof, the commissioner shall transmit the filing to the appropriate office in the Division of Insurance, which office shall issue a preliminary determination within 90 days of receipt of a rate filing, except that the commissioner may, for good cause, extend the time for a preliminary determination by not more than 30 days. The preliminary determination shall set forth the basis for accepting, rejecting or modifying the rates as filed. A copy of the preliminary determination shall be provided to the filer and other interested parties. Unless the filer or other interested party, including the Public Advocate, requests a hearing, the commissioner may adopt the preliminary determination as final within 30 days of the preliminary determination. If a hearing is requested, it shall proceed on an expedited basis in

accordance with the provisions of this section. If a preliminary determination is not made within the time provided, a filing shall be transmitted to the Office of Administrative Law for a hearing and the commissioner shall adopt the determination of the administrative law judge as a final decision on the filing.

For filings other than private passenger automobile, if an insurer or rating organization files a proposed alteration, supplement or amendment to its rating system, or any part thereof, which would result in a change in rates, the commissioner may, or upon the request of the filer or the appropriate office in the Division of Insurance shall, certify the matter for a hearing. The hearing shall, at the commissioner's discretion, be conducted by himself, by a person appointed by the commissioner pursuant to section 26 of P.L.1944, c.27 (C.17:29A-26), or by the Office of Administrative Law, created by P.L.1978, c.67 (C.52:14F-1 et seq.), as a contested case. The following requirements shall apply to the hearing:

(1) The hearing shall commence within 30 days of the date of the request or decision that a hearing is to be held. The hearing shall be held on consecutive working days, except that the commissioner may, for good cause, waive the consecutive working day requirement. If the hearing is conducted by an administrative law judge, the administrative law judge shall submit his findings and recommendations to the commissioner within 30 days of the close of the hearing. The commissioner may, for good cause, extend the time within which the administrative law judge shall submit his findings and recommendations by not more than 30 days. A decision shall be rendered by the commissioner not later than 60 days, or, if he has granted a 30-day extension, not later than 90 days, from the close of the hearing. A filing shall be deemed to be approved unless rejected or modified by the commissioner within the time period provided herein.

(2) The commissioner, or the Director of the Office of Administrative Law, as appropriate, shall notify all interested parties, including the Public Advocate on behalf of insurance consumers, of the date set for commencement of the hearing, on the date of the filing of the request for a hearing, or within 10 days of the decision that a hearing is to be held.

(3) The insurer or rating organization making a filing on which a hearing is held shall bear the costs of the hearing.

(4) The commissioner may promulgate rules and regulations (a) to establish standards for the submission of proposed filings, amendments, additions, deletions and alterations to the rating system of filers, which may include forms to be submitted by each filer; and (b) making such other provisions as he deems necessary for effective implementation of this act.

d. (Deleted by amendment, P.L.1984, c.1.)

e. (Deleted by amendment, P.L.2003, c.89.)

f. The notice provisions set forth in section 51 of the Public Advocate Restoration Act of 2005, P.L.2005, c.155 (C.52:27EE-51), shall apply to this section.

92. Section 66 of P.L.1998, c.21 (C.17:29A-46.8) is amended to read as follows:

**C.17:29A-46.8 Definitions; standards for interventions in rate filings; offenses.**

66. a. For the purposes of this section:

"Qualified person" means a person qualified by the Commissioner of Banking and Insurance to intervene in public hearings pursuant to this section, who shall be deemed a "public servant" within the meaning of N.J.S.2C:30-2;

"Rate filing" means a filing for a rate increase by an automobile insurer writing private passenger automobile insurance in this State, other than an expedited prior approval rate filing made pursuant to section 34 of P.L.1997, c.151 (C.17:29A-46.6) and other than a rate filing made pursuant to any statutory change in coverage provided under a policy of private passenger automobile insurance.

b. The Commissioner of Banking and Insurance shall establish standards for qualifying persons to intervene in rate filings pursuant to this section. The standards shall include, but shall not necessarily be limited to, requiring that any person intervening in a rate filing demonstrate: (1) expertise in the insurance laws of this State; (2) an understanding of the actuarial principles employed in establishing rates and rating systems; (3) sufficient access to a qualified actuary and sufficient expertise to conduct a technical examination of a rate filing; (4) sufficient resources to intervene in the rate filing process as provided herein; and (5) that the person represents the interest of consumers and accepts a duty of fidelity to do so.

c. The commissioner shall require such documentation as he determines is necessary to qualify a person to intervene in a rate filing, and may charge a fee for registration with the department as an intervenor, which fee shall be payable annually.

d. The commissioner may remove the registration of an intervenor if he determines that (1) the intervenor no longer meets the qualifications, or (2) if the intervenor is convicted of a crime or loses a professional license for misconduct.

e. If an insurer or rating organization files for a rate increase for private passenger automobile insurance, the commissioner shall notify the public of the proposed rate change in a newspaper or newspapers of general circulation throughout the State. A qualified person may request, and shall receive, a copy of the rate filing and any amendments and supplements thereto and



shall pay the expenses in connection therewith. The qualified person may request that the commissioner certify the rate filing for a hearing pursuant to section 14 of P.L.1944, c.27 (C.17:29A-14).

f. The commissioner shall establish by regulation the terms and conditions under which the proceedings under this section shall be conducted, including, but not limited to the supporting material which shall accompany the intervention.

g. Upon determining that the intervenor has demonstrated that the qualified person has made a substantial contribution to the adoption of any order or decision by the commissioner or a court in connection with a rate filing made pursuant to this section, the commissioner shall award reasonable advocacy and witness fees and expenses.

h. A person commits a crime of the third degree if he solicits, accepts or agrees to accept any benefits as consideration for knowingly violating or agreeing to violate a duty of fidelity to which he is subject pursuant to this section. In addition to any disposition authorized by law, the Commissioner of Banking and Insurance shall forever bar from registration as an intervenor any person convicted under this subsection.

i. A person commits a crime of the third degree if he confers, or offers or agrees to confer, any benefit the acceptance of which would be criminal under this section. In addition to any disposition authorized by law, the Commissioner of Banking and Insurance shall deny the rate filing of any person convicted under this subsection and the person shall be barred from filing for any rate increase for a period of one year.

j. Nothing herein shall be construed to preclude a prosecution or conviction for a violation of any other law.

k. This section shall expire 180 days after the effective date of the Public Advocate Restoration Act of 2005, P.L.2005, c.155 (C.52:27EE-1 et al.).

93. Section 1 of P.L.1974, c.55 (C.52:14-15.107) is amended to read as follows:

**C.52:14-15.107 Department officers; annual salaries.**

1. Notwithstanding the provisions of the annual appropriations act and section 7 of P.L.1974, c.55 (C.52:14-15.110), the Governor shall fix and establish the annual salary, not to exceed \$133,330 in calendar year 2000, \$137,165 in calendar year 2001 and \$141,000 in calendar year 2002 and thereafter, for each of the following officers:

Title
Agriculture Department Secretary of Agriculture

Community Affairs Department  
Commissioner of Community Affairs  
Corrections Department  
Commissioner of Corrections  
Education Department  
Commissioner of Education  
Environmental Protection Department  
Commissioner of Environmental Protection  
Health and Senior Services Department  
Commissioner of Health and Senior  
Services  
Human Services Department  
Commissioner of Human Services  
Banking and Insurance Department  
Commissioner of Banking and Insurance  
Labor and Workforce Development Department  
Commissioner of Labor and Workforce Development  
Law and Public Safety Department  
Attorney General  
Military and Veterans' Affairs Department  
Adjutant General  
Personnel Department  
Commissioner of Personnel  
State Department  
Secretary of State  
Transportation Department  
Commissioner of Transportation  
Treasury Department  
State Treasurer  
Members, Board of Public Utilities  
Public Advocate Department  
Public Advocate

Notwithstanding the provisions of this section to the contrary, the Chief Executive Officer and Secretary of the New Jersey Commerce and Economic Growth Commission shall receive such salary as shall be fixed by the Governor pursuant to subsection b. of section 8 of P.L.1998, c.44 (C.52:27C-68).

94. Section 1 of P.L.1991, J.R.2 (C.52:9DD-1) is amended to read as follows:

**C.52:9DD-1 Commission on Racism, Racial Violence and Religious Violence.**

1. There is created a 21-member Commission on Racism, Racial Violence and Religious Violence to be appointed as follows: two shall be members of the Senate appointed by the President thereof, who shall not be of the same political party; two shall be members of the General Assembly appointed by the Speaker thereof, who shall not be of the same political party; the Attorney General or his designee; the Public Advocate or his designee; and 15 public members to be appointed by the Governor. The public members shall be representative of the ethnic, racial and religious diversity of the State's population and shall include representatives from the following groups: the National Association for the Advancement of Colored People, the Puerto Rican Congress, the Anti-Defamation League of B'nai B'rith, the New Jersey Black Issues Convention, the New Jersey Chapter of the National Rainbow Coalition, and the American Civil Liberties Union.

95. Section 2 of P.L.1985, c.363 (C.52:9Y-2) is amended to read as follows:

**C.52:9Y-2 "New Jersey Commission on Legal and Ethical Problems in the Delivery of Health Care."**

2. There is created a permanent commission to be known as the "New Jersey Commission on Legal and Ethical Problems in the Delivery of Health Care." The commission shall consist of 29 members to be appointed as follows: the Commissioner of the Department of Community Affairs, the Commissioner of the Department of Health and Senior Services, the Commissioner of the Department of Human Services, the Public Advocate, the Public Defender, the Ombudsperson for the Institutionalized Elderly or their designees; a representative of the private entity, if any, designated by the Governor as the State's mental health protection and advocacy agency; two members of the Senate, to be appointed by the President of the Senate, not more than one of whom shall be of the same political party; two members of the General Assembly, to be appointed by the Speaker of the General Assembly, not more than one of whom shall be of the same political party; nine public members, two to be appointed by the President of the Senate, two to be appointed by the Speaker of the General Assembly and five to be appointed by the Governor, who are distinguished in one or more of the fields of medicine, health care and health administration, law, ethics, theology, the natural sciences, the social sciences, the humanities, and public affairs.

In addition to the nine public members described above, there shall be on the commission five other public members who shall not be from health-related disciplines nor from the immediate families of persons in

health-related disciplines. Of these five members, three shall be appointed by the Governor, one by the President of the Senate, and one by the Speaker of the General Assembly. In appointing these members an effort shall be made to insure that diverse viewpoints are represented on the commission.

Also on the commission shall be a representative of the New Jersey Hospital Association, a representative of the New Jersey State Nurses' Association, a representative of the New Jersey Association of Health Care Facilities and a representative of the New Jersey Association of Nonprofit Homes for the Aging, Inc. These representatives shall be selected by their organizations.

Members of the commission shall serve for three-year terms or until a successor is appointed. However, the term of every member initially appointed shall expire on December 31, 1988.

Vacancies in the membership of the commission shall be filled in the same manner as original appointments were made, and the term of any person reappointed or appointed to fill a vacancy shall only run for the balance of the three-year term that had commenced when the reappointment was made or the vacancy occurred. Members shall serve without compensation but shall be reimbursed for the reasonable travel and other out-of-pocket expenses incurred in the performance of their duties.

96. Section 12 of P.L.1980, c.125 (C.56:12-12) is amended to read as follows:

**C.56:12-12 Injunctions; attorney fees and court costs.**

12. The Office of the Attorney General, the Division of Consumer Affairs, the Department of the Public Advocate, the Commissioner of Banking and Insurance, in regard to contracts of insurance provided for in subsection c. of section 1 of this act (C.56:12-1), or any interested person may seek injunctive relief. The court may authorize reasonable attorney's fees, not to exceed \$2,500.00, and court costs in such a proceeding.

97. Section 1 of P.L.1981, c.347 (C.58:11-59) is amended to read as follows:

**C.58:11-59 Failure to comply by small water, sewer companies.**

1. a. Whenever a small water company or a small sewer company, or both, are found to have failed to comply with any unstayed order of the Department of Environmental Protection concerning the availability of water, the potability of water, or the provision of water at adequate volume and pressure, or any unstayed order finding a small water company or a small sewer company or both a significant noncomplier or requiring the abatement of a serious violation, as those terms are defined pursuant to

section 3 of P.L.1977, c.74 (C.58:10A-3), which the department is authorized to enforce pursuant to Title 58 of the Revised Statutes, the department and the Board of Public Utilities, and the Department of the Public Advocate, may, after 30 days' notice to capable proximate public or private water or sewer companies, municipal utilities authorities established pursuant to P.L.1957, c.183 (C.40:14B-1 et seq.), municipalities or any other suitable public or private entities wherein the small water company, small sewer company, or both, provide service, conduct a joint public hearing to announce: the actions that may be taken and the expenditures that may be required, including acquisition costs, to make all improvements necessary to assure the availability of water, the potability of water and the provision thereof at adequate volume and pressure, and the compliance with all applicable federal and State water pollution control requirements for a small sewer company, including, but not necessarily limited to, the acquisition of the small water company or small sewer company, or both, by the most suitable public or private entity.

At the hearing the department and the board shall state the costs that are expected to be borne by the current users of the small water company, small sewer company, or both. The department shall propose an administrative consent order setting forth an agreed upon time schedule by which the acquiring entity would be required to make improvements required to resolve existing violations of federal and State safe drinking water and water pollution control statutes and regulations. The administrative consent order shall stipulate that the acquiring entity shall not be liable for any fines or penalties for continuing violations arising from the deficiencies, obsolescence or disrepair of the facilities at the time of the acquisition, provided that:

(1) the stipulation shall be conditioned upon compliance by the acquiring entity with the time frames established for improving the facilities and eliminating the existing violations; and

(2) the stipulation shall not include any violation to the extent caused by operational error, lack of preventive maintenance or careless or improper operation by the acquiring entity.

Under no circumstances shall the acquiring entity be liable for violations occurring prior to the acquisition.

At the conclusion of a hearing conducted pursuant to this section the record of the hearing shall be kept open for 30 days to allow for the submission of additional comments.

b. As used in sections 1 through 4 of P.L.1981, c.347 (C.58:11-59 through 58:11-62):

"Small water company" means any company, purveyor or entity, other than a governmental agency, that provides water for human consumption and which regularly serves less than 1,000 customer connections; and

"Small sewer company" means any company, business, or entity, other than a governmental agency, which is a public utility as defined pursuant to R.S.48:2-13, that collects, stores, conveys, or treats primarily domestic wastewater, and that regularly serves less than 1,000 customer connections.

98. Section 5 of P.L.1985, c.37 (C.58:26-5) is amended to read as follows:

**C.58:26-5 Notice of intention.**

5. A contracting unit which intends to enter into a contract with a private vendor for the provision of water supply services pursuant to the provisions of this act shall notify, at least 60 days prior to issuing a request for qualifications from interested vendors pursuant to section 6 of this act, the division, the department and the Board of Public Utilities and the Department of the Public Advocate of its intention, and shall publish notice of its intention in at least one newspaper of general circulation in the jurisdiction which would be served under the terms of the proposed contract.

99. Section 11 of P.L.1985, c.37 (C.58:26-11) is amended to read as follows:

**C.58:26-11 Proposed contract with vendors.**

11. Upon designating the selected vendor or vendors pursuant to section 10 of this act, a contracting unit shall negotiate with the selected vendor or vendors a proposed contract, which shall include the accepted proposal and the provisions required pursuant to section 15 of this act. Upon negotiating a proposed contract, the contracting unit shall make the proposed contract available to the public at its main offices, and shall transmit a copy of the proposed contract to the division, the department, the Board of Public Utilities and the Department of the Public Advocate.

100. Section 12 of P.L.1985, c.37 (C.58:26-12) is amended to read as follows:

**C.58:26-12 Public hearing.**

12. a. A contracting unit shall conduct a public hearing or hearings on the charges, rates, or fees, or the formula for determining these charges, rates, or fees, and the other provisions contained in a proposed contract negotiated pursuant to section 11 of this act. The contracting unit shall provide at least 90 days' public notice of this public hearing to the Department of the Public Advocate, prospective consumers and other interested parties. This notice shall be published in at least one newspaper of general circulation in the jurisdiction to be served under the terms of the proposed

contract. Within 45 days after giving notice of the public hearing, the contracting unit shall hold a meeting with prospective consumers and other interested parties to explain the terms and conditions of the proposed contract, and to receive written questions which will be part of the record of the public hearing. At the public hearing, the selected vendor or vendors shall be present, and the contracting unit shall have the burden to answer the questions received at the meeting, and to show that the proposed contract complies with the provisions of section 15 of this act, and that it constitutes the best means of securing the required water supply services among available alternatives. The contracting unit shall provide that a verbatim record be kept of the public hearing, and that a written transcript of this record be printed and made available to the public within 30 days of the close of the public hearing. After the public hearing the contracting unit and the vendor may agree to make changes to the proposed contract, and shall transmit the proposed contract, a copy of the printed transcript of the public hearing, and a statement summarizing the major issues raised at the public hearing and the response of the contracting unit to these issues, to the division, the department, the Board of Public Utilities, and the Department of the Public Advocate, and to all persons who attended the public hearing.

b. If the Division of Rate Counsel in the Department of the Public Advocate represents the public interest at a public hearing or hearings conducted pursuant to this section, the Division of Rate Counsel shall be entitled to assess the vendor for costs incurred in this representation in the manner provided in section 20 of P.L.1974, c.27 (C.52:27E-19). The basis of the assessment shall be the prospective first year's revenue realized by the vendor from the provision of the water supply services pursuant to the terms of the proposed contract.

c. If a contract awarded pursuant to the provisions of this act is renegotiated, the contracting unit shall conduct a public hearing on the renegotiated contract pursuant to the provisions of this section.

101. Section 5 of P.L.1985, c.72 (C.58:27-5) is amended to read as follows:

**C.58:27-5 Notice of intent.**

5. A contracting unit which intends to enter into a contract with a private vendor for the provision of wastewater treatment services pursuant to the provisions of this act shall notify, at least 60 days prior to issuing a request for qualifications from interested vendors pursuant to section 6 of this act, the division, the department and the Department of the Public Advocate of its intention, and shall publish notice of its intention in at least

one newspaper of general circulation in the jurisdiction which would be served under the terms of the proposed contract.

102. Section 11 of P.L.1985, c.72 (C.58:27-11) is amended to read as follows:

**C.58:27-11 Negotiation of proposed contract.**

11. Upon designating the selected vendor or vendors pursuant to section 10 of this act, a contracting unit shall negotiate with the selected vendor or vendors a proposed contract, which shall include the accepted proposal and the provisions required pursuant to section 15 of this act. Upon negotiating a proposed contract, the contracting unit shall make the proposed contract available to the public at its main offices, and shall transmit a copy of the proposed contract to the division, the department and the Department of the Public Advocate.

103. Section 12 of P.L.1985, c.72 (C.58:27-12) is amended to read as follows:

**C.58:27-12 Public hearing.**

12. a. A contracting unit shall conduct a public hearing or hearings on the charges, rates, or fees, or the formula for determining these charges, rates, or fees, and the other provisions contained in a proposed contract negotiated pursuant to section 11 of this act. The contracting unit shall provide at least 90 days' public notice of this public hearing to the Department of the Public Advocate, prospective consumers and other interested parties. This notice shall be published in at least one newspaper of general circulation in the jurisdiction to be served under the terms of the proposed contract. Within 45 days after giving notice of the public hearing, the contracting unit shall hold a meeting with prospective consumers and other interested parties to explain the terms and conditions of the proposed contract, and to receive written questions which will be part of the record of the public hearing. At the public hearing, the selected vendor or vendors shall be present, and the contracting unit shall have the burden to answer the questions received at the meeting, and to show that the proposed contract complies with the provisions of section 15 of this act, and that it constitutes the best means of securing the required wastewater treatment services among available alternatives. The contracting unit shall provide that a verbatim record be kept of the public hearing, and that a written transcript of this record be printed and made available to the public within 45 days of the close of the public hearing. Written testimony received no more than 15 days after the public hearing shall be included in the written transcript. After the public hearing the contracting unit and the vendor may agree to make changes to



the proposed contract, and the contracting unit shall transmit the proposed contract, a copy of the printed transcript of the public hearing, and a statement summarizing the major issues raised at the public hearing and the response of the contracting unit to these issues, to the division, the department, and the Department of the Public Advocate, and shall make copies available to any other person upon request.

b. If the Division of Rate Counsel in the Department of the Public Advocate represents the public interest at a public hearing or hearings conducted pursuant to this section, the Division of Rate Counsel shall be entitled to assess the vendor for costs incurred in this representation in the manner provided in section 20 of P.L.1974, c.27 (C.52:27E-19). The basis of the assessment shall be the prospective first year's revenue realized by the vendor from the provision of the wastewater treatment services pursuant to the terms of the proposed contract.

c. If a contract awarded pursuant to the provisions of this act is renegotiated, the contracting unit shall conduct a public hearing on the renegotiated contract pursuant to the provisions of this section.

104. 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, as an emergency management volunteer or as a volunteer doing work for the Division of Parks and Forestry, the Division of Fish and Wildlife, or the New Jersey Natural Lands Trust, as authorized by the Commissioner of Environmental Protection, or for the New Jersey Historic Trust.

"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.

105. Section 70 of P.L.2000, c.72 (C.18A:7G-43) is amended to read as follows:

**C.18A:7G-43 Office of Fiscal Integrity in School Construction.**

70. There is established in the Office of the Attorney General the Office of Fiscal Integrity in School Construction. The Attorney General or his representative may investigate, examine, and inspect the activities of the authority and districts related to the financing and construction of school facilities and the implementation of the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.). The Attorney General may require the submission of duly verified reports from the authority and districts, which include such information in such form as the Attorney General may require. The Attorney General or his representative may also consult with the authority on issues and procedures related to the exercise of its duties and responsibilities under P.L.2000, c.72 (C.18A:7G-1 et al.). The Legislature shall annually appropriate such funds as may be necessary to finance the operations of the office.

106. Section 1 of P.L.1982, c.79 (C.2A:4A-60) is amended to read as follows:

**C.2A:4A-60 Disclosure of juvenile information; penalties for disclosure.**

1. Disclosure of juvenile information; penalties for disclosure.

a. Social, medical, psychological, legal and other records of the court and probation division, and records of law enforcement agencies, pertaining to juveniles charged as a delinquent or found to be part of a juvenile-family crisis, shall be strictly safeguarded from public inspection. Such records shall be made available only to:

- (1) Any court or probation division;
- (2) The Attorney General or county prosecutor;
- (3) The parents or guardian and to the attorney of the juvenile;

(4) The Department of Human Services, if providing care or custody of the juvenile;

(5) Any institution or facility to which the juvenile is currently committed or in which the juvenile is placed;

(6) Any person or agency interested in a case or in the work of the agency keeping the records, by order of the court for good cause shown, except that information concerning adjudications of delinquency, records of custodial confinement, payments owed on assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution ordered following conviction of a crime or adjudication of delinquency, and the juvenile's financial resources, shall be made available upon request to the Victims of Crime Compensation Board established pursuant to section 3 of P.L.1971, c.317 (C.52:4B-3), which shall keep such information and records confidential;

(7) The Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170);

(8) Law enforcement agencies for the purpose of reviewing applications for a permit to purchase a handgun or firearms purchaser identification card;

(9) Any potential party in a subsequent civil action for damages related to an act of delinquency committed by a juvenile, including the victim or a member of the victim's immediate family, regardless of whether the action has been filed against the juvenile; provided, however, that records available under this paragraph shall be limited to official court documents, such as complaints, pleadings and orders, and that such records may be disclosed by the recipient only in connection with asserting legal claims or obtaining indemnification on behalf of the victim or the victim's family and otherwise shall be safeguarded from disclosure to other members of the public. Any potential party in a civil action related to the juvenile offense may file a motion with the civil trial judge seeking to have the juvenile's social, medical or psychological records admitted into evidence in a civil proceeding for damages;

(10) Any potential party in a subsequent civil action for damages related to an act of delinquency committed by a juvenile, including the victim or a member of the victim's immediate family, regardless of whether the action has been filed against the juvenile; provided, however, that records available under this paragraph shall be limited to police or investigation reports concerning acts of delinquency, which shall be disclosed by a law enforcement agency only with the approval of the County Prosecutor's Office or the Division of Criminal Justice. Prior to disclosure, all personal information regarding all individuals, other than the requesting party and the arresting or investigating officer, shall be redacted. Such records may be disclosed by the recipient only in connection with asserting legal claims or obtaining

indemnification on behalf of the victim or the victim's family, and otherwise shall be safeguarded from disclosure to other members of the public; and

(11) The Office of the Child Advocate established pursuant to P.L.2005, c.155 (C.52:27EE-1 et al.). Disclosure of juvenile information received by the child advocate pursuant to this paragraph shall be in accordance with the provisions of section 76 of P.L.2005, c.155 (C.52:27EE-76).

b. Records of law enforcement agencies may be disclosed for law enforcement purposes, or for the purpose of reviewing applications for a permit to purchase a handgun or a firearms purchaser identification card to any law enforcement agency of this State, another state or the United States, and the identity of a juvenile under warrant for arrest for commission of an act that would constitute a crime if committed by an adult may be disclosed to the public when necessary to execution of the warrant.

c. At the time of charge, adjudication or disposition, information as to the identity of a juvenile charged with an offense, the offense charged, the adjudication and disposition shall, upon request, be disclosed to:

(1) The victim or a member of the victim's immediate family;

(2) Any law enforcement agency which investigated the offense, the person or agency which filed the complaint, and any law enforcement agency in the municipality where the juvenile resides; and

(3) On a confidential basis, the principal of the school where the juvenile is enrolled for use by the principal and such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or to planning programs relevant to the juvenile's educational and social development, provided that no record of such information shall be maintained except as authorized by regulation of the Department of Education; or

(4) A party in a subsequent legal proceeding involving the juvenile, upon approval by the court.

d. A law enforcement or prosecuting agency shall, at the time of a charge, adjudication or disposition, advise the principal of the school where the juvenile is enrolled of the identity of the juvenile charged, the offense charged, the adjudication and the disposition if:

(1) The offense occurred on school property or a school bus, occurred at a school-sponsored function or was committed against an employee or official of the school; or

(2) The juvenile was taken into custody as a result of information or evidence provided by school officials; or

(3) The offense, if committed by an adult, would constitute a crime, and the offense:

(a) resulted in death or serious bodily injury or involved an attempt or conspiracy to cause death or serious bodily injury; or

(b) involved the unlawful use or possession of a firearm or other weapon; or

(c) involved the unlawful manufacture, distribution or possession with intent to distribute a controlled dangerous substance or controlled substance analog; or

(d) was committed by a juvenile who acted with a purpose to intimidate an individual or group of individuals because of race, color, religion, sexual orientation or ethnicity; or

(e) would be a crime of the first or second degree.

Information provided to the principal pursuant to this subsection shall be treated as confidential but may be made available to such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or for planning programs relevant to a juvenile's educational and social development, and no record of such information shall be maintained except as authorized by regulation of the Department of Education.

e. Nothing in this section prohibits a law enforcement or prosecuting agency from providing the principal of a school with information identifying one or more juveniles who are under investigation or have been taken into custody for commission of any act that would constitute an offense if committed by an adult when the law enforcement or prosecuting agency determines that the information may be useful to the principal in maintaining order, safety or discipline in the school or in planning programs relevant to the juvenile's educational and social development. Information provided to the principal pursuant to this subsection shall be treated as confidential but may be made available to such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or for planning programs relevant to the juvenile's educational and social development. No information provided pursuant to this section shall be maintained.

f. Information as to the identity of a juvenile adjudicated delinquent, the offense, the adjudication and the disposition shall be disclosed to the public where the offense for which the juvenile has been adjudicated delinquent if committed by an adult, would constitute a crime of the first, second or third degree, or aggravated assault, destruction or damage to property to an extent of more than \$500.00, unless upon application at the time of disposition the juvenile demonstrates a substantial likelihood that specific and extraordinary harm would result from such disclosure in the specific case. Where the court finds that disclosure would be harmful to the juvenile, the reasons therefor shall be stated on the record.

g. (1) Nothing in this section shall prohibit the establishment and maintaining of a central registry of the records of law enforcement agencies

relating to juveniles for the purpose of exchange between State and local law enforcement agencies and prosecutors of this State, another state, or the United States. These records of law enforcement agencies shall be available on a 24-hour basis.

(2) Certain information and records relating to juveniles in the central registry maintained by the courts shall be available to State and local law enforcement agencies and prosecutors on a 24-hour basis.

h. Whoever, except as provided by law, knowingly discloses, publishes, receives, or makes use of or knowingly permits the unauthorized use of information concerning a particular juvenile derived from records listed in subsection a. or acquired in the course of court proceedings, probation, or police duties, shall, upon conviction thereof, be guilty of a disorderly persons offense.

i. Juvenile delinquency proceedings.

(1) Except as provided in paragraph (2) of this subsection, the court may, upon application by the juvenile or his parent or guardian, the prosecutor or any other interested party, including the victim or complainant or members of the news media, permit public attendance during any court proceeding at a delinquency case, where it determines that a substantial likelihood that specific harm to the juvenile would not result. The court shall have the authority to limit and control attendance in any manner and to the extent it deems appropriate;

(2) The court or, in cases where the county prosecutor has entered an appearance, the county prosecutor shall notify the victim or a member of the victim's immediate family of any court proceeding involving the juvenile and the court shall permit the attendance of the victim or family member at the proceeding except when, prior to completing testimony as a witness, the victim or family member is properly sequestered in accordance with the law or the Rules Governing the Courts of the State of New Jersey or when the juvenile or the juvenile's family member shows, by clear and convincing evidence, that such attendance would result in a substantial likelihood that specific harm to the juvenile would result from the attendance of the victim or a family member at a proceeding or any portion of a proceeding and that such harm substantially outweighs the interest of the victim or family member to attend that portion of the proceeding;

(3) The court shall permit a victim, or a family member of a victim to make a statement prior to ordering a disposition in any delinquency proceeding involving an offense that would constitute a crime if committed by an adult.

j. The Department of Education, in consultation with the Attorney General, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations concerning the

creation, maintenance and disclosure of pupil records including information acquired pursuant to this section.

107. Section 3 of P.L.1994, c.119 (C.9:6-8.76) is amended to read as follows:

**C.9:6-8.76 Task force membership.**

3. The task force shall consist of 25 members as follows: the Commissioners of Human Services, Education, Community Affairs, Corrections, and Health and Senior Services, the Attorney General, the Chief Justice of the Supreme Court, the Public Defender, the Child Advocate and the Superintendent of State Police, or their designees, as ex officio members; two members of the Senate and the General Assembly, respectively, no more than one of whom in each case shall be of the same political party; and the remaining public members to be appointed by the Governor.

The task force membership shall comply with the multidisciplinary requirements set forth in the "Child Abuse Prevention and Treatment Act," Pub.L.93-247 (42 U.S.C. s.5101 et seq.).

The task force shall be co-chaired, one co-chair shall be the Commissioner of Human Services and the other shall be appointed by the Governor with the advice and consent of the Senate. The second co-chair shall be selected from among the public members and shall serve at the pleasure of the Governor for a term not to exceed three years. The second co-chair shall be allowed to serve two three-year terms.

108. Section 7 of P.L.1997, c.175 (C.9:6-8.89) is amended to read as follows:

**C.9:6-8.89 Membership, terms of board members.**

7. a. The board shall consist of 14 members as follows: the Commissioner of Human Services, the Commissioner of Health and Senior Services, the Director of the Division of Youth and Family Services in the Department of Human Services, the Attorney General, the Child Advocate and the Superintendent of State Police, or their designees, the State Medical Examiner, and the Chairperson or Executive Director of the New Jersey Task Force on Child Abuse and Neglect, who shall serve ex officio; and six public members appointed by the Governor, one of whom shall be a representative of the New Jersey Prosecutors' Association, one of whom shall be a Law Guardian, one of whom shall be a pediatrician with expertise in child abuse and neglect, one of whom shall be a psychologist with expertise in child abuse and neglect, one of whom shall be a social work

educator with experience and expertise in the area of child abuse or a related field and one of whom shall have expertise in substance abuse.

b. The public members of the board shall serve for three-year terms. Of the public members first appointed, three shall serve for a period of two years, and three shall serve for a term of three years. They shall serve without compensation but shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their official duties and within the limits of funds appropriated for this purpose. Vacancies in the membership of the board shall be filled in the same manner as the original appointments were made.

c. The Governor shall appoint a public member to serve as chairperson of the board who shall be responsible for the coordination of all activities of the board and who shall provide the technical assistance needed to execute the duties of the board.

d. The board is entitled to call to its assistance and avail itself of the services of employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available for the purposes of reviewing a case pursuant to the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.). The board may also seek the advice of experts, such as persons specializing in the fields of pediatric, radiological, neurological, psychiatric, orthopedic and forensic medicine; nursing; psychology; social work; education; law enforcement; family law; substance abuse; child advocacy or other related fields, if the facts of a case warrant additional expertise.

109. Section 2 of P.L.2001, c.252 (C.30:4C-3.2) is amended to read as follows:

**C.30:4C-3.2 Membership of review panel.**

2. The Review Panel shall consist of 20 members as follows:

- a. The Commissioner of Human Services, or a designee, shall serve ex-officio.
- b. The Commissioner of Personnel, or a designee, shall serve ex-officio.
- c. The State Treasurer, or a designee, shall serve ex-officio.
- d. The Attorney General, or a designee, shall serve ex-officio.
- e. The Public Defender, or a designee, shall serve ex-officio.
- f. The Director of the Administrative Office of the Courts, or a designee, shall serve ex-officio.
- g. A representative of the Office of the Governor.
- h. The Child Advocate, or a designee, shall serve ex-officio.



i. Two members of the Senate to be appointed by the President of the Senate who shall each be of different political parties and who shall serve during the legislative session in which the appointment is made, one of whom shall be the Chairman of the Senate Health, Human Services and Senior Citizens Committee, or its successor. A member may be appointed for any number of successive terms.

j. Two members of the General Assembly to be appointed by the Speaker of the General Assembly who shall each be of different political parties and who shall serve during the legislative session in which the appointment is made, one of whom shall be the Chairman of the Assembly Family, Women and Children's Services Committee, or its successor. A member may be appointed for any number of successive terms.

k. Eight public members shall be directly appointed by the Governor as follows:

(1) three public members who are representatives from employee organizations, two of whom are representatives of the Communications Workers of America;

(2) a public member who is a representative of the Association for Children of New Jersey;

(3) a public member who is a representative of Legal Services of New Jersey;

(4) a public member who is a representative of a contracted service provider to the Division of Youth and Family Services; and

(5) two public members, one of whom is a resource family parent and one of whom is an adoptive parent.

**Repealer.**

110. The following are repealed:

Section 17 of P.L.1979, c.496 (C.30:1A-2);

Sections 1 and 2 of P.L.1989, c.330 (C.52:27D-29.30 and 52:27D-29.31);

Sections 2 through 4 of P.L.1994, c.58 (C.52:27E-51 through 52:27E-53);

Sections 11 through 20 of P.L.1994, c.58 (C.52:27E-58 through C.52:27E-67);

Sections 22 through 25 of P.L.1994, c.58 (C.52:27E-68 through 52:27E-71);

Sections 27 through 28 of P.L.1994, c.58 (C.52:27E-72 through C.52:27E-73);

Section 33 of P.L.1994, c.58 (C.52:27E-74);

Section 68 of P.L.1994, c.58 (C.52:27E-79);

Section 44 of P.L.2003, c.89 (C.17:29A-53); and

Sections 1 through 11 of P.L.2003, c.187 (C.52:17D-1 et seq.).

111. Such sums as may be required for the costs of the Department of the Public Advocate shall be transferred from existing appropriations, subject to the approval of the Director of the Division of Budget and Accounting and such further approval as required pursuant to the transfer provisions of the annual appropriations act, to the Department of the Public Advocate for the purposes of implementing this act.

112. This act shall take effect at noon on January 17, 2006

Approved July 12, 2005.

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## CHAPTER 156

AN ACT concerning health care coverage for children and their parents and revising parts of the statutory law.

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

**C.30:4J-8 Short title.**

1. This act shall be known and may be cited as the "Family Health Care Coverage Act."

**C.30:4J-9 Findings, declarations relative to family health care coverage.**

2. The Legislature finds and declares that:

a. The most serious health problem facing approximately 1.2 million New Jersey residents, including approximately 264,000 children, is lack of access to affordable health care coverage, which forces too many New Jersey families to go without needed preventive and other nonemergency care until serious illness requires expensive hospital care.

b. Research has shown that affordable and accessible health care coverage for parents can benefit their children, since parents who have a connection to ongoing health care coverage are more likely to ensure that their children get necessary immunizations and regular checkups from a primary care provider. Adults and children who lack insurance coverage forgo care until medical conditions, which were either preventable or treatable at the outset, require more extensive and expensive intervention or treatment.

c. Children with health care coverage have a significantly greater opportunity to be healthier, realize their full educational and developmental potential and become productive citizens. Providing health care coverage

for uninsured adults increases worker productivity and can reduce dependence on public assistance and other State-subsidized programs including hospital charity care.

d. The federal State Children's Health Insurance Program (SCHIP), established in 1997 as Title XXI of the federal Social Security Act, allows a state to establish a health insurance program for low-income children. In response to the enactment of SCHIP, New Jersey established the NJ KidCare program in 1997 and the NJ FamilyCare program in 2000 to provide subsidized private health insurance coverage to children whose family income does not exceed 350% of the federal poverty level (FPL) and to their parents if their income does not exceed 200% of the FPL. NJ FamilyCare also provided coverage for adults without children whose income did not exceed 100% of the FPL.

Upon the establishment of NJ FamilyCare, the two programs were combined and administered as NJ FamilyCare. Within a short time, enrollment of adults far exceeded expectations and available funding, and various changes were made to the program to contain costs, such as scaling back benefits, limiting eligibility to parents and other adults who were already enrolled in, or had applied for, the program as of June 14, 2002, and no longer accepting any new applications from parents or other adults.

e. Initially, NJ FamilyCare appreciably reduced the costs of charity care provided by hospitals, but when NJ FamilyCare coverage for parents and other adults was curtailed, charity care costs again increased.

f. In order to (1) ensure that the original purpose of NJ FamilyCare is realized, that is, low income parents as well as their children are given access to health insurance coverage, (2) increase enrollment of children, and (3) maximize federal financial participation under both the State Medicaid and NJ FamilyCare programs, it is necessary and appropriate to restore coverage for parents of children who qualify for Medicaid or NJ FamilyCare, by increasing income eligibility levels, over a three-year period, for parents under the Medicaid program to 133% of the FPL. Further, to provide for a more comprehensive health care system, it is also necessary and appropriate to restore coverage through the Medicaid program, over a three-year period, for adults without dependent children whose income is up to 100% of the FPL, subject to the availability of federal Medicaid funds.

g. Since 2002, the number of parents enrolled in NJ FamilyCare has steadily declined and the growth in coverage of children has slowed. Current application and renewal procedures create unnecessary barriers for applicants and enrollees, and have contributed to a decline in the enrollment of additional children and in the retention of enrollees. Experience in other states suggests that adopting certain enrollment simplification reforms in both the

NJ FamilyCare and Medicaid programs can significantly increase enrollment and retention of eligible children and their parents.

h. The expanded health care coverage provided by this act builds on New Jersey's longstanding commitment to assure access to quality health care that is provided in an efficient and effective manner and at a reasonable cost.

**C.30:4J-10 NJ Family Care Program.**

3. The NJ FamilyCare Program is established in the Department of Human Services.

**C.30:4J-11 Definitions relative to family health care coverage.**

4. As used in this act:

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

"Medicaid" means the New Jersey Medical Assistance and Health Services Program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

"NJ FamilyCare" or "program" means the NJ FamilyCare Program established pursuant to sections 3 through 5 of P.L.2005, 156 (C.30:4J-10 through C.30:4J-12).

"Poverty level" means the official federal poverty level based on family size, established and adjusted under Section 673(2) of Subtitle B, the "Community Services Block Grant Act," Pub.L.97-35 (42 U.S.C. s.9902(2)).

"Qualified applicant" means:

a. a child under 19 years of age: (1) whose family gross income does not exceed 350% of the poverty level; (2) who has no health insurance, as determined by the commissioner, and is ineligible for Medicaid; (3) who is a resident of this State; and (4) who is a citizen of the United States, or has been lawfully admitted for permanent residence into and remains lawfully present in the United States;

b. a parent or caretaker: (1) whose gross family income does not exceed 200% of the poverty level; (2) who is enrolled in NJ FamilyCare on the effective date of P.L.2005, c.156 (C.30:4J-8 et al.); (3) who has no health insurance, as determined by the commissioner, and is ineligible for Medicaid; (4) who is a resident of this State; and (5) who is a citizen of the United States, or has been lawfully admitted for permanent residence into and remains lawfully present in the United States; and

c. a single adult or couple without dependent children: (1) whose family gross income does not exceed 100% of the poverty level; (2) who is enrolled in NJ FamilyCare on the effective date of P.L.2005, c.156 (C.30:4J-8 et al.) and is ineligible for Medicaid; (3) who is a resident of this State; and

(4) who is a citizen of the United States, or has been lawfully admitted for permanent residence into and remains lawfully present in the United States.

**C.30:4J-12 Purpose of program.**

5. a. The purpose of the program shall be to provide subsidized health insurance coverage, and other health care benefits as determined by the commissioner, to children under 19 years of age and their parents or caretakers and to adults without dependent children, within the limits of funds appropriated or otherwise made available for the program.

The program shall require families to pay copayments and make premium contributions, based upon a sliding income scale. The program shall include the provision of well-child and other preventive services, hospitalization, physician care, laboratory and x-ray services, prescription drugs, mental health services, and other services as determined by the commissioner.

b. The commissioner shall take such actions as are necessary to implement and operate the program in accordance with the State Children's Health Insurance Program established pursuant to 42 U.S.C.s.1397aa et seq.

c. The commissioner:

(1) shall, by regulation, establish standards for determining eligibility and other program requirements, including, but not limited to, restrictions on voluntary disenrollments from existing health insurance coverage;

(2) shall require that a parent or caretaker who is a qualified applicant purchase coverage, if available, through an employer-sponsored health insurance plan which is determined to be cost-effective and is approved by the commissioner, and shall provide assistance to the qualified applicant to purchase that coverage, except that the provisions of this paragraph shall not be construed to require an employer to provide health insurance coverage for any employee or employee's spouse or dependent child;

(3) may, by regulation, establish plans of coverage and benefits to be covered under the program, except that the provisions of this section shall not apply to coverage for medications used exclusively to treat AIDS or HIV infection; and

(4) shall establish, by regulation, other requirements for the program, including, but not limited to, premium payments and copayments, and may contract with one or more appropriate entities, including managed care organizations, to assist in administering the program. The period for which eligibility for the program is determined shall be the maximum period permitted under federal law.

d. The commissioner shall establish procedures for determining eligibility, which shall include, at a minimum, the following enrollment simplification practices:

(1) A streamlined application form as established pursuant to subsection k. of this section;

(2) Require new applicants to submit no more than one recent pay stub from the applicant's employer, or, if the applicant has more than one employer, no more than one from each of the applicant's employers, to verify income. In the event the applicant cannot provide a recent pay stub, the applicant may submit another form of income verification as deemed appropriate by the commissioner. If an applicant does not submit income verification in a timely manner, before determining the applicant ineligible for the program, the commissioner shall seek to verify the applicant's income by reviewing available Department of the Treasury or Department of Labor and Workforce Development records concerning the applicant, or such other records as the commissioner determines appropriate.

The commissioner may establish such retrospective auditing or income verification procedures as he deems appropriate, such as sample auditing and matching reported income with records of the Department of the Treasury or the Department of Labor and Workforce Development or such other records as the commissioner determines appropriate.

If the commissioner elects to match reported income with confidential records of the Department of the Treasury, the commissioner shall require an applicant to provide written authorization for the Division of Taxation in the Department of the Treasury to release applicable tax information to the commissioner for the purposes of establishing income eligibility for the program. The authorization, which shall be included on the program application form, shall be developed by the commissioner, in consultation with the State Treasurer;

(3) Online enrollment and renewal, in addition to enrollment and renewal by mail. The online enrollment and renewal forms shall include electronic links to other State and federal health and social services programs;

(4) Continuous enrollment;

(5) Simplified renewal by sending an enrollee a preprinted renewal form and requiring the enrollee to sign and return the form, with any applicable changes in the information provided in the form, no later than 30 days after the date the enrollee's annual eligibility expires. The commissioner may establish such auditing or income verification procedures as he deems appropriate, as provided in paragraph (1) of this subsection; and

(6) Provision of program eligibility-identification cards that are issued no more frequently than once a year.

e. The commissioner shall take, or cause to be taken, any action necessary to secure for the State the maximum amount of federal financial participation available with respect to the program, subject to the constraints of

fiscal responsibility and within the limits of available funding in any fiscal year. In this regard, notwithstanding the definition of "qualified applicant," the commissioner may enroll in the program such children or their parents or caretakers who may otherwise be eligible for the Medicaid program in order to maximize use of federal funds that may be available pursuant to 42 U.S.C. s.1397aa et seq.

f. Subject to federal approval, a child shall be determined ineligible for the program if the child was voluntarily disenrolled from employer-sponsored group insurance coverage within six months prior to application to the program.

g. The commissioner shall provide, by regulation, for presumptive eligibility for the program in accordance with the following provisions:

(1) A child who presents himself for treatment at a general hospital, federally qualified or community health center, local health department that provides primary care, or other State licensed community-based primary care provider shall be deemed presumptively eligible for the program if a preliminary determination by hospital, health center, local health department or licensed health care provider staff indicates that the child meets program eligibility standards and is a member of a household with an income that does not exceed 350% of the poverty level;

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

(3) The parent or caretaker of a child deemed presumptively eligible pursuant to this subsection shall be required to submit a completed application for the program no later than the end of the month following the month in which presumptive eligibility is determined;

(4) A child shall be eligible to receive all services covered by the program during the period in which the child is presumptively eligible; and

(5) The commissioner may, by regulation, establish a limit on the number of times a child may be deemed presumptively eligible for NJ FamilyCare.

h. The commissioner, in consultation with the Commissioner of Education, shall administer an ongoing enrollment initiative to provide outreach to children throughout the State who may be eligible for the program.

(1) With respect to school-age children, the commissioner, in consultation with the Commissioner of Education and the Secretary of Agriculture, shall develop a form that provides information about the NJ FamilyCare and Medicaid programs and provides an opportunity for the parent or guardian who signs the school lunch application form to give consent for information to be shared with the Department of Human Services for the purpose of

determining eligibility for the programs. The form shall be attached to, included with, or incorporated into, the school lunch application form.

The commissioner, in consultation with the Commissioner of Education, shall establish procedures for schools to transmit information attached to, included with, or provided on the school lunch application form regarding the NJ FamilyCare and Medicaid programs to the Department of Human Services, in order to enable the department to determine eligibility for the programs.

(2) The commissioner or the Commissioner of Education, as applicable, shall:

(a) make available to each elementary and secondary school, licensed child care center, registered family day care home, unified child care agency, local health department that provides primary care, and community-based primary care provider, informational materials about the program, including instructions for applying online or by mail, as well as copies of the program application form.

The entity shall make the informational and application materials available, upon request, to persons interested in the program; and

(b) request each entity to distribute a notice at least annually, as developed by the commissioner, to households of children attending or receiving its services or care, informing them about the program and the availability of informational and application materials. In the case of elementary and secondary schools, the information attached to, included with, or incorporated into, the school lunch application form for school-age children pursuant to this subparagraph shall be deemed to meet the requirements of this paragraph.

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

j. The commissioner shall establish a NJ FamilyCare coverage buy-in program through which a parent or caretaker whose family income exceeds 350% of the poverty level may purchase coverage under NJ FamilyCare for a child under the age of 19, who is uninsured and was not voluntarily disenrolled from employer-sponsored group insurance coverage within six months prior to application to the program.

The commissioner shall establish the premium and cost sharing amounts required to purchase coverage, except that the premium shall not exceed the amount the program pays per month to a managed care organization under NJ FamilyCare for a child of comparable age whose family income is between 200% and 350% of the poverty level, plus a reasonable processing fee.



k. The commissioner, in consultation with the Rutgers Center for State Health Policy, shall develop a streamlined application form for the NJ FamilyCare and Medicaid programs.

**C.30:4J-13 Terms deemed to mean, refer to NJ Family Care Program.**

6. Whenever the terms "Children's Health Care Coverage Program," "NJ KidCare," "FamilyCare Health Coverage Program" or "NJ FamilyCare" occur or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.).

7. Section 3 of P.L.1999, c.171 (C.18A:40-34) is amended to read as follows:

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

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

- a. provide for the implementation by the board of education in each school district of such procedures by each public elementary and secondary school in the district as the commissioner deems necessary to effectuate the purposes of subsection h. of section 5 of P.L.2005, c.156 (C.30:4J-12); and
- b. facilitate and provide for the participation of nonpublic elementary and secondary schools in the enrollment initiative created pursuant to subsection h. of section 5 of P.L.2005, c.156 (C.30:4J-12).

8. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read as follows:

**C.30:4D-3 Definitions.**

**30:4D-3 Definitions.**

3. Definitions. As used in this act, and unless the context otherwise requires:

- a. "Applicant" means any person who has made application for purposes of becoming a "qualified applicant."
- b. "Commissioner" means the Commissioner of Human Services.
- c. "Department" means the Department of Human Services, which is herein designated as the single State agency to administer the provisions of this act.
- d. "Director" means the Director of the Division of Medical Assistance and Health Services.

e. "Division" means the Division of Medical Assistance and Health Services.

f. "Medicaid" means the New Jersey Medical Assistance and Health Services Program.

g. "Medical assistance" means payments on behalf of recipients to providers for medical care and services authorized under this act.

h. "Provider" means any person, public or private institution, agency or business concern approved by the division lawfully providing medical care, services, goods and supplies authorized under this act, holding, where applicable, a current valid license to provide such services or to dispense such goods or supplies.

i. "Qualified applicant" means a person who is a resident of this State, and either a citizen of the United States or an eligible alien, and is determined to need medical care and services as provided under this act, with respect to whom the period for which eligibility to be a recipient is determined shall be the maximum period permitted under federal law, and who:

(1) Is a dependent child or parent or caretaker relative of a dependent child who would be, except for resources, eligible for the temporary assistance for needy families program under the State Plan for Title IV-A of the federal Social Security Act as of July 16, 1996;

(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 Supplemental Security Income under Title XVI of the federal Social Security Act or, without regard to resources, would be eligible for the temporary assistance for needy families program under the State Plan for Title IV-A of the federal Social Security Act as of July 16, 1996, 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) (Deleted by amendment, P.L.2000, c.71).

(6) Is an individual under 21 years of age who, without regard to resources, would be, except for dependent child requirements, eligible for the temporary assistance for needy families program under the State Plan for Title IV-A of the federal Social Security Act as of July 16, 1996, or groups of such individuals, including but not limited to, children in resource family 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 resource family home or institution by a private adoption

agency in New Jersey or children in intermediate care facilities, including developmental centers for the developmentally disabled, or in psychiatric hospitals;

(7) Would be eligible for the Supplemental Security Income program, but is not receiving such assistance and applies for medical assistance only;

(8) Is determined to be medically needy and meets all the eligibility requirements described below:

(a) The following individuals are eligible for services, if they are determined to be medically needy:

(i) Pregnant women;

(ii) Dependent children under the age of 21;

(iii) Individuals who are 65 years of age and older; and

(iv) Individuals who are blind or disabled pursuant to either 42 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

(b) The following income standard shall be used to determine medically needy eligibility:

(i) For one person and two person households, the income standard shall be the maximum allowable under federal law, but shall not exceed 133 1/3% of the State's payment level to two person households under the temporary assistance for needy families program under the State Plan for Title IV-A of the federal Social Security Act in effect as of July 16, 1996; 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 under the temporary assistance for needy families program under the State Plan for Title IV-A of the federal Social Security Act in effect as of July 16, 1996.

(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. s.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. s.1382(2)(B);

(iii) For households of three or more persons, the resource standard in subparagraph (c)(ii) above shall be increased by \$100.00 for each additional person; and

(iv) The resource standards established in (i), (ii), and (iii) are subject to federal approval and the resource standard may be lower if required by the federal Department of Health and Human Services.

(d) Individuals whose income exceeds those established in subparagraph (b) of paragraph (8) of this subsection may become medically needy by incurring medical expenses as defined in 42 C.F.R.435.831(c) which will reduce their income to the applicable medically needy income established in subparagraph (b) of paragraph (8) of this subsection.

(e) A six-month period shall be used to determine whether an individual is medically needy.

(f) Eligibility determinations for the medically needy program shall be administered as follows:

(i) County welfare agencies and other entities designated by the commissioner are responsible for determining and certifying the eligibility of pregnant women and dependent children. The division shall reimburse county welfare agencies for 100% of the reasonable costs of administration which are not reimbursed by the federal government for the first 12 months of this program's operation. Thereafter, 75% of the administrative costs incurred by county welfare agencies which are not reimbursed by the federal government shall be reimbursed by the division;

(ii) The division is responsible for certifying the eligibility of individuals who are 65 years of age and older and individuals who are blind or disabled. The division may enter into contracts with county welfare agencies to determine certain aspects of eligibility. In such instances the division shall provide county welfare agencies with all information the division may have available on the individual.

The division shall notify all eligible recipients of the Pharmaceutical Assistance to the Aged and Disabled program, P.L.1975, c.194 (C.30:4D-20 et seq.) on an annual basis of the medically needy program and the program's general requirements. The division shall take all reasonable administrative actions to ensure that Pharmaceutical Assistance to the Aged and Disabled recipients, who notify the division that they may be eligible for the program, have their applications processed expeditiously, at times and locations convenient to the recipients; and

(iii) The division is responsible for certifying incurred medical expenses for all eligible persons who attempt to qualify for the program pursuant to subparagraph (d) of paragraph (8) of this subsection;

(9) (a) Is a child who is at least one year of age and under 19 years of age and, if older than six years of age but under 19 years of age, is uninsured; and

(b) Is a member of a family whose income does not exceed 133% of the poverty level and who meets the federal Medicaid eligibility requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C. s.1396a);

(10) Is a pregnant woman who is determined by a provider to be presumptively eligible for medical assistance based on criteria established by

the commissioner, pursuant to section 9407 of Pub.L.99-509 (42 U.S.C. s.1396a(a));

(11) Is an individual 65 years of age and older, or an individual who is blind or disabled pursuant to section 301 of Pub.L.92-603 (42 U.S.C. s.1382c), whose income does not exceed 100% of the poverty level, adjusted for family size, and whose resources do not exceed 100% of the resource standard used to determine medically needy eligibility pursuant to paragraph (8) of this subsection;

(12) Is a qualified disabled and working individual pursuant to section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income does not exceed 200% of the poverty level and whose resources do not exceed 200% of the resource standard used to determine eligibility under the Supplemental Security Income Program, P.L.1973, c.256 (C.44:7-85 et seq.);

(13) Is a pregnant woman or is a child who is under one year of age and is a member of a family whose income does not exceed 185% of the poverty level and who meets the federal Medicaid eligibility requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C. s.1396a), except that a pregnant woman who is determined to be a qualified applicant shall, notwithstanding any change in the income of the family of which she is a member, continue to be deemed a qualified applicant until the end of the 60-day period beginning on the last day of her pregnancy;

(14) (Deleted by amendment, P.L.1997, c.272).

(15) (a) Is a specified low-income Medicare beneficiary pursuant to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning January 1, 1993 do not exceed 200% of the resource standard used to determine eligibility under the Supplemental Security Income program, P.L.1973, c.256 (C.44:7-85 et seq.) and whose income beginning January 1, 1993 does not exceed 110% of the poverty level, and beginning January 1, 1995 does not exceed 120% of the poverty level.

(b) An individual who has, within 36 months, or within 60 months in the case of funds transferred into a trust, of applying to be a qualified applicant for Medicaid services in a nursing facility or a medical institution, or for home or community-based services under section 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)), disposed of resources or income for less than fair market value shall be ineligible for assistance for nursing facility services, an equivalent level of services in a medical institution, or home or community-based services under section 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)). The period of the ineligibility shall be the number of months resulting from dividing the uncompensated value of the transferred resources or income by the average monthly private payment rate for nursing facility services in the State as determined annually by the commissioner. In the case of multiple resource or income transfers,

the resulting penalty periods shall be imposed sequentially. Application of this requirement shall be governed by 42 U.S.C. s.1396p(c). In accordance with federal law, this provision is effective for all transfers of resources or income made on or after August 11, 1993. Notwithstanding the provisions of this subsection to the contrary, the State eligibility requirements concerning resource or income transfers shall not be more restrictive than those enacted pursuant to 42 U.S.C. s.1396p(c).

(c) An individual seeking nursing facility services or home or community-based services and who has a community spouse shall be required to expend those resources which are not protected for the needs of the community spouse in accordance with section 1924(c) of the federal Social Security Act (42 U.S.C. s.1396r-5(c)) on the costs of long-term care, burial arrangements, and any other expense deemed appropriate and authorized by the commissioner. An individual shall be ineligible for Medicaid services in a nursing facility or for home or community-based services under section 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)) if the individual expends funds in violation of this subparagraph. The period of ineligibility shall be the number of months resulting from dividing the uncompensated value of transferred resources and income by the average monthly private payment rate for nursing facility services in the State as determined by the commissioner. The period of ineligibility shall begin with the month that the individual would otherwise be eligible for Medicaid coverage for nursing facility services or home or community-based services.

This subparagraph shall be operative only if all necessary approvals are received from the federal government including, but not limited to, approval of necessary State plan amendments and approval of any waivers;

(16) Subject to federal approval under Title XIX of the federal Social Security Act, is a dependent child, parent or specified caretaker relative of a child who is a qualified applicant, who would be eligible, without regard to resources, for the temporary assistance for needy families program under the State Plan for Title IV-A of the federal Social Security Act as of July 16, 1996, except for the income eligibility requirements of that program, and whose family earned income,

(a) if a dependent child, does not exceed 133% of the poverty level, and

(b) if a parent or specified caretaker relative, beginning September 1, 2005 does not exceed 100% of the poverty level, beginning September 1, 2006 does not exceed 115% of the poverty level and beginning September 1, 2007 does not exceed 133% of the poverty level,

plus such earned income disregards as shall be determined according to a methodology to be established by regulation of the commissioner.

The commissioner may increase the income eligibility limits for children and parents and specified caretaker relatives, as funding permits;

(17) Is an individual from 18 through 20 years of age who is not a dependent child and would be eligible for medical assistance pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), without regard to income or resources, who, on the individual's 18th birthday was in resource family care under the care and custody of the Division of Youth and Family Services and whose maintenance was being paid in whole or in part from public funds;

(18) Is a person between the ages of 16 and 65 who is permanently disabled and working, and:

(a) whose income is at or below 250% of the poverty level, plus other established disregards;

(b) who pays the premium contribution and other cost sharing as established by the commissioner, subject to the limits and conditions of federal law; and

(c) whose assets, resources and unearned income do not exceed limitations as established by the commissioner;

(19) Is an uninsured individual under 65 years of age who:

(a) has been screened for breast or cervical cancer under the federal Centers for Disease Control and Prevention breast and cervical cancer early detection program;

(b) requires treatment for breast or cervical cancer based upon criteria established by the commissioner;

(c) has an income that does not exceed the income standard established by the commissioner pursuant to federal guidelines;

(d) meets all other Medicaid eligibility requirements; and

(e) in accordance with Pub.L.106-354, is determined by a qualified entity to be presumptively eligible for medical assistance pursuant to 42 U.S.C. s.1396a(aa), based upon criteria established by the commissioner pursuant to section 1920B of the federal Social Security Act (42 U.S.C. s.1396r-1b); or

(20) Subject to federal approval under Title XIX of the federal Social Security Act, is a single adult or couple, without dependent children, whose income in 2006 does not exceed 50% of the poverty level, in 2007 does not exceed 75% of the poverty level and in 2008 and each year thereafter does not exceed 100% of the poverty level; except that a person who is a recipient of Work First New Jersey general public assistance, pursuant to P.L.1947, c.156 (C.44:8-107 et seq.), shall not be a qualified applicant.

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, group health plan as defined in section 607(1) of the federal "Employee Retirement and Income Security Act of 1974," 29 U.S.C. s.1167(1), service benefit plan, health maintenance organization, or other prepaid health plan, or public, private or governmental entity who is or may be liable in contract, tort, or otherwise by law or equity to pay all or part of the medical cost of injury, disease or disability of an applicant for or recipient of medical assistance payable under this act.

n. "Governmental peer grouping system" means a separate class of skilled nursing and intermediate care facilities administered by the State or county governments, established for the purpose of screening their reported costs and setting reimbursement rates under the Medicaid program that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated State or county skilled nursing and intermediate care facilities.

o. "Comprehensive maternity or pediatric care provider" means any person or public or private health care facility that is a provider and that is approved by the commissioner to provide comprehensive maternity care or comprehensive pediatric care as defined in subsection b. (18) and (19) of section 6 of P.L.1968, c.413 (C.30:4D-6).

p. "Poverty level" means the official poverty level based on family size established and adjusted under Section 673(2) of Subtitle B, the "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C. s.9902(2)).

q. "Eligible alien" means one of the following:

(1) an alien present in the United States prior to August 22, 1996, who is:

(a) a lawful permanent resident;

(b) a refugee pursuant to section 207 of the federal "Immigration and Nationality Act" (8 U.S.C. s.1157);

(c) an asylee pursuant to section 208 of the federal "Immigration and Nationality Act" (8 U.S.C. s.1158);

(d) an alien who has had deportation withheld pursuant to section 243(h) of the federal "Immigration and Nationality Act" (8 U.S.C. s.1253 (h));

(e) an alien who has been granted parole for less than one year by the U.S. Citizenship and Immigration Services pursuant to section 212(d)(5) of the federal "Immigration and Nationality Act" (8 U.S.C. s.1182(d)(5));



(f) an alien granted conditional entry pursuant to section 203(a)(7) of the federal "Immigration and Nationality Act" (8 U.S.C. s.1153(a)(7)) in effect prior to April 1, 1980; or

(g) an alien who is honorably discharged from or on active duty in the United States armed forces and the alien's spouse and unmarried dependent child.

(2) An alien who entered the United States on or after August 22, 1996, who is:

(a) an alien as described in paragraph (1)(b), (c), (d) or (g) of this subsection; or

(b) an alien as described in paragraph (1)(a), (e) or (f) of this subsection who entered the United States at least five years ago.

(3) A legal alien who is a victim of domestic violence in accordance with criteria specified for eligibility for public benefits as provided in Title V of the federal "Illegal Immigration Reform and Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).

**C.30:4D-3b Establishment of enrollment simplification practices.**

9. No later than January 1, 2006, the Commissioner of Human Services shall, at a minimum, establish the following enrollment simplification practices for dependent children and their parents or specified caretaker relatives who are applicants for or recipients of the Medicaid program:

a. A streamlined application form as established pursuant to subsection k. of section 5 of P.L.2005, c.156 (C.30:4J-12);

b. Require new applicants to submit no more than one recent pay stub from the applicant's employer, or, if the applicant has more than one employer, no more than one from each of the applicant's employers, to verify income. In the event the applicant cannot provide a recent pay stub, the applicant may submit another form of income verification as deemed appropriate by the commissioner. If an applicant does not submit income verification in a timely manner, before determining the applicant ineligible for the program, the commissioner shall seek to verify the applicant's income by reviewing available Department of the Treasury or Department of Labor and Workforce Development records concerning the applicant or such other records as the commissioner determines appropriate.

The commissioner may establish such retrospective auditing or income verification procedures as he deems appropriate, such as sample auditing and matching reported income with records of the Department of the Treasury or the Department of Labor and Workforce Development or such other records as the commissioner determines appropriate.

If the commissioner elects to match reported income with confidential records of the Department of the Treasury, the commissioner shall require

an applicant to provide written authorization for the Division of Taxation in the Department of the Treasury to release applicable tax information to the commissioner for the purposes of establishing income eligibility for the program. The authorization, which shall be included on the program application form, shall be developed by the commissioner, in consultation with the State Treasurer;

c. Online enrollment and renewal, in addition to enrollment and renewal by mail. The online enrollment and renewal forms shall include electronic links to other State and federal health and social services programs;

d. Continuous enrollment;

e. Simplified renewal by sending a recipient a preprinted renewal form and requiring the recipient to sign and return the form, with any applicable changes in the information provided in the form, no later than 30 days after the date the recipient's annual eligibility expires. The commissioner may establish such auditing or income verification procedures as he deems appropriate, as provided in subsection a. of this section; and

f. Provision of program eligibility-identification cards that are issued no more frequently than once a year.

10. The commissioner shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program and for NJ FamilyCare expenditures under the State Children's Health Insurance Program pursuant to 42 U.S.C.s.1397aa et seq.

**C.30:4J-14 Reports by Commissioner of Human Services; requirements.**

11. The Commissioner of Human Services shall report to the Chairman of the Senate Health, Human Services and Senior Citizens Committee and the Chairmen of the Assembly Health and Human Services and Assembly Family, Women and Children's Issues committees on the implementation of this act.

The commissioner shall issue an interim report six months after the effective date of this act and shall issue an annual report six months later and once each year thereafter.

The report shall include the number of persons who are enrolled in the Medicaid and NJ FamilyCare programs pursuant to the provisions of this act, the cost of providing coverage for these persons, the status of any Medicaid plan amendments or waivers necessary for implementation of this act, the status of implementing the enrollment simplification practices for both the NJ FamilyCare and Medicaid programs, and such other information as the

commissioner deems appropriate. The commissioner may also include any recommendations for legislation he deems necessary to further the purposes of this act.

12. Within 60 days of the date of enactment of this act, the Commissioner of Human Services shall report to the Chairman of the Senate Health, Human Services and Senior Citizens Committee and the Chairmen of the Assembly Health and Human Services and Assembly Family, Women and Children's Issues committees regarding the department's plan to implement the NJ FamilyCare buy-in for children whose income is greater than 350% of the poverty level, as provided in subsection j. of section 5 of P.L.2005, c.156 (C.30:4J-12).

13. a. Within one year of the effective date of this act, the Commissioner of Human Services shall:

(1) establish a plan to develop and implement a universal identification card that can be issued to and used by recipients of Medicaid, Work First New Jersey, NJ FamilyCare, food stamps and other public social service and health programs; and

(2) prepare a request for proposal to develop an online, interactive database that can be used by health care facilities for enrolling, or determining the status of an application for, children and their parents or caretakers and adults without dependent children who present themselves at the health care facility for services and who may be eligible for NJ FamilyCare or Medicaid. The database shall enable the health care facility to notify a county welfare agency or the appropriate office in the Department of Human Services about a program applicant so that the agency or office can follow-up on the application and complete the eligibility determination process.

b. The commissioner shall include in his reports to the Legislature required pursuant to section 11 of P.L.2005, c.156 (C.30:4J-14) the status of the commissioner's plan for a universal identification card and the request for proposals for an interactive database.

**C.44:8-159 Rebates for pharmaceutical products; requirements.**

14. a. The Commissioner of Human Services shall contract with manufacturers of pharmaceutical products to provide rebates for pharmaceutical products covered under the Work First New Jersey General Public Assistance program (WFNJ-GA), established pursuant to P.L.1947, c.156 (C.44:8-107 et seq.) on the same basis as is required under the "Pharmaceutical Assistance to the Aged and Disabled" program established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.) and "Senior Gold Prescription Discount Program" established pursuant to P.L.2001, c.96 (C.30:4D-43 et seq.)

and in section 1927(a) through (c) of the federal Social Security Act, 42 U.S.C. s.1396r-8(a)-(c).

b. The contracts entered into pursuant to this section shall take effect on the date of enactment of P.L.2005, c.156 (C.30:4J-8 et al.).

(1) A manufacturer who is participating in the WFNJ-GA program on the date of enactment of P.L.2005, c.156 shall enter into a contract, as a condition of continued participation in the program.

(2) A manufacturer who was not participating in the WFNJ-GA program on the date of enactment of P.L.2005, c.156 may enter into a contract with the commissioner and become a participating manufacturer.

(3) A manufacturer who participates in the WFNJ-GA program pursuant to this section shall provide to the commissioner such information as the commissioner may request to carry out the purposes of this section.

**C.30:4J-15 Funding for increased Medicaid eligibility.**

15. a. Funding to carry out the expansion of eligibility in the Medicaid program as provided in this act shall include monies made available to the State from pharmaceutical manufacturers who agree to provide rebates to the State in the Work First New Jersey General Assistance program pursuant to section 14 of P.L.2005, c.156 (C.44:8-159). Amounts received as rebates under rebate agreements entered into pursuant to that section are appropriated to the Department of Human Services for the support of the Medicaid expansion.

b. Any unexpended balances for the NJ FamilyCare Program shall be appropriated to carry out the purposes of this act. Any transfer of NJ FamilyCare appropriations to other accounts shall be subject to the approval of the Joint Budget Oversight Committee.

**C.30:4J-16 Rules, regulations.**

16. 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. The rules and regulations shall provide for a transition from enrollment in the NJ FamilyCare program to the Medicaid program of parents or caretaker relatives who become eligible for Medicaid in 2006 as a result of the changes in the Medicaid income eligibility levels provided for in this act.

**Repealer.**

17. P.L.1997, c.272 (C.30:4I-1 et seq.) and P.L.2000, c.71 (C.30:4J-1 et seq.) are repealed.

18. This act shall take effect on the 180th day after enactment, except that section 8 shall take effect on September 1, 2005, sections 10, 14 and 15

shall take effect immediately, and the commissioner shall take such anticipatory administrative action in advance as may be necessary to carry out the purposes of this act.

Approved July 13, 2005.

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CHAPTER 157

AN ACT providing student loan redemption for certain employees of social service agencies, and supplementing chapter 71B of Title 18A and chapter 6 of Title 54A of the New Jersey Statutes.

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

**C.18A:71B-87 Short title.**

1. This act shall be known and may be cited as the "Social Services Student Loan Redemption Program Act."

**C.18A:71B-88 Findings, declarations relative to social services student loan redemption.**

2. The Legislature finds and declares that:

a. A qualified and stable work force in public facilities and nonprofit social services agencies is essential to ensure the provision of quality services to persons in need of services, including persons with mental illness, developmental disabilities or other disabilities, persons in need of substance abuse treatment and juveniles under the custody and care of the Juvenile Justice Commission;

b. These public facilities and social services agencies are currently facing a personnel crisis, which is expected to worsen in the next two decades;

c. The entry-level and on-going salaries offered by these public facilities and social services agencies to direct care professionals are not always competitive with those offered in the private for profit sector, which limits the ability of these facilities and agencies to attract and retain qualified direct care professionals;

d. Loan redemption programs can address the economic hardship of direct care professionals performing critical work in low-paying jobs, who in many instances are forced, because of their high loan debt and low incomes, to reject or abandon employment in the public sector, which is in great need of their skills and knowledge, for employment that is more financially rewarding;

e. The departure of these skilled direct care professionals from the public and nonprofit sector is, in many cases, a loss to their own sense of

personal fulfillment, to the consumers that they serve, and to society at large; and

f. The establishment by this State of a loan redemption program for direct care professionals employed in public facilities and nonprofit agencies that contract with the Department of Human Services and the Juvenile Justice Commission is essential to address the need for the continued provision of high-quality services by these skilled and knowledgeable professionals.

**C.18A:71B-89 Definitions relative to social sciences student loan redemption.**

3. As used in this act:

"Approved course of study" means: an undergraduate program leading to a bachelor's degree offered by a four-year public or independent institution of higher education; or a graduate program leading to a master's degree, which is offered by a public or independent institution of higher education, in a human services discipline such as social work, psychology or counseling, or a health-related profession such as occupational, physical or speech therapy.

"Approved employment" means postgraduate, full-time employment as a direct care professional in a qualified facility. The term shall not include a paid student internship, paid fellowship, volunteer service or employment before graduation.

"Authority" means the Higher Education Student Assistance Authority established pursuant to N.J.S.18A:71A-3.

"Direct care professional" means a professional staff member at a qualified facility who provides one or more of the following services to eligible persons: counseling; physical, occupational, recreational or speech therapy; case management; vocational training; assistance with activities of daily living; medication management; budgeting assistance; addiction treatment services; nutrition; and other clinical services.

"Eligible student loan expenses" mean the cumulative total of the annual student loans, covering the cost of attendance while enrolled in an approved course of study. Interest paid or due on student loans that a program participant has taken out for use in paying the costs of attendance at an institution of higher education shall be considered eligible for reimbursement under the program.

"Program" means the Social Services Student Loan Redemption Program established pursuant to this act.

"Program participant" means a person who meets the requirements of the program.

"Qualified facility" means:

- a. a facility operated by the Department of Human Services that provides direct care services to persons served by the department;
- b. a county psychiatric hospital;
- c. a facility operated by the Juvenile Justice Commission;
- d. a veterans' memorial home operated by the Department of Military and Veterans' Affairs; and
- e. a nonprofit agency in the State that contracts with the Department of Human Services or the Juvenile Justice Commission to provide direct care services to persons served by the department or commission.

**C.18A:71B-90 Social Services Student Loan Redemption Program.**

4. There is established the Social Services Student Loan Redemption Program within the Higher Education Student Assistance Authority.

The purpose of the program is to address the current and projected critical shortage of direct care professionals in the State by providing an incentive for persons to engage in employment at certain public facilities, and nonprofit social services agencies under contract with the Department of Human Services or the Juvenile Justice Commission, so as to ensure that State residents who are in need of direct care services at these facilities and agencies have sufficient, qualified professional staff in order to provide the needed services.

The program shall provide loan redemption to finance the undergraduate or graduate study of program participants in exchange for full-time employment as a direct care professional at a qualified facility following completion of an approved course of study.

**C.18A:71B-91 Eligibility for participation in program.**

5. To be eligible to participate in the program, a direct care professional shall:

- a. be a resident of the State and maintain domicile in the State during participation in the program;
- b. have successfully completed an approved course of study within a one-year period prior to being hired as a full-time direct care professional at a qualified facility;
- c. have been initially hired as a full-time direct care professional at a qualified facility on or after the date of enactment of this act; and
- d. have an outstanding balance with a State or federal student loan program and not be in default on any student loan.

**C.18A:71B-92 Application for loan redemption.**

6. An eligible direct care professional may apply to the authority for a loan redemption in such a manner as the authority prescribes and shall include all information and documentation required by the authority.

a. A program participant shall enter into a written contract with the authority to participate in the program. The contract shall specify the duration of the applicant's required service and the total amount of eligible student loan expenses to be redeemed by the State in return for service.

b. The redemption of loans under the program shall not exceed \$5,000 of principal and interest of eligible student loan expenses for each full year of service satisfactorily completed by the program participant. The total loan redemption amount for a program participant, for four years of service, shall not exceed \$20,000. No amount of loan redemption shall be provided for service performed for less than a full year.

c. The period of service shall commence on or after the date of enactment of this act.

**C.18A:71B-93 Nullification of redemption contract.**

7. a. A program participant who has entered into a redemption contract with the authority may nullify that contract by submitting written notification to the authority and assuming full responsibility for repayment of the full amount of the participant's loan or that portion of the loan that has not been redeemed by the State in return for partial fulfillment of the contract.

b. In the case of a program participant's death or total or permanent disability, the authority shall nullify the service obligation of the participant, thereby terminating the participant's service obligation; or where continued enforcement of the contract may result in extreme hardship, the authority may nullify or suspend the participant's service obligation.

**C.18A:71B-94 Loan forgiveness awards.**

8. The authority shall grant loan forgiveness awards subject to the availability of funds appropriated for this purpose, of which funds, 80% shall be allocated to provide loan redemption to finance the undergraduate study of program participants and 20% shall be allocated to provide loan redemption to finance the graduate study of program participants.

**C.18A:71B-95 Annual report.**

9. The authority shall annually submit a report on the program to the Governor and the chairmen of the Senate Budget and Appropriations, Assembly Appropriations, Senate Health, Human Services and Senior Citizens, and Assembly Health and Human Services committees, or their successor committees. The report shall be submitted no later than August 1 of each year and shall include, but not be limited to, the following information for the prior fiscal year:

a. the total number of participants receiving loan redemption under the program;

b. the approved course of study of each of the participants; and



c. the total number of participants who withdrew from the program and failed to complete the program's employment requirement.

**C.18A:71B-96 Rules, regulations.**

10. The Higher Education Student Assistance Authority, in consultation with the Commissioner of Human Services and the executive director of the Juvenile Justice Commission, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall adopt rules and regulations necessary to implement the provisions of this act, including eligibility criteria for the program, procedures for determining the amount of the loan redemption award, and the types of direct care professional positions that qualify for the program.

**C.18A:71B-97 Filling of direct care professional position with persons having degrees.**

11. To better ensure the effectiveness of the program, any agency of the State, any political subdivision thereof, and any nonprofit agency in the State, that operates a qualified facility, or provides services under contract funded in whole or in part with State funds at a qualified facility shall make the greatest possible good faith effort to fill any direct care professional position at the qualified facility with a person having an undergraduate or graduate degree in a human services discipline, such as social work, psychology or counseling, or in a health-related profession such as occupational, physical, or speech therapy.

**C.54A:6-25.1 Loan redemption exempt from taxation.**

12. Gross income, for the purposes of the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall not include amounts received as a loan redemption under the "Social Services Student Loan Redemption Program," established pursuant to P.L.2005, c.157 (C.18A:71B-87 et al).

13. This act shall take effect on the 180th day after enactment, except that the Higher Education Student Assistance Authority may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved July 14, 2005.

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CHAPTER 158

AN ACT concerning pedestrian safety, amending P.L.1984, c.73 and supplementing Title 39 of the Revised Statutes.

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

**C.39:4-36.3 Findings, declarations relative to pedestrian safety.**

1. The Legislature finds and declares:
  - a. every year almost 5,000 pedestrians are killed in automobile accidents in the United States, accounting for roughly 12 percent of all persons killed in motor vehicle crashes;
  - b. in New Jersey, from 1996 to 2001, the number of pedestrian fatalities declined by an average of seven percent per year; but this promising trend ended in 2002 when the number of pedestrian deaths in the State increased 26 percent from 2001;
  - c. the 183 pedestrian fatalities in 2002 constitute 23 percent of all traffic-related deaths in the State, the highest rate since 1993; and
  - d. therefore, it is fitting and appropriate that this State assess the safety of its intersections and take steps to increase the safety of its pedestrians.

**C.39:4-36.4 Identification of problem intersections.**

2. The Commissioner of Transportation shall identify intersections controlled by a traffic control signal where making a right turn upon "Stop" or "Caution" signals presents demonstrated pedestrian safety problems. If an intersection identified by the commissioner is under State jurisdiction, the commissioner shall prohibit drivers from making right turns upon "Stop" or "Caution" signals at the intersection. If an intersection identified by the commissioner is under municipal or county authority, the commissioner shall request that the relevant authority prohibit drivers from making right turns upon "Stop" or "Caution" signals at the intersection.

**C.39:4-183.31 Posting of pedestrian crossing yield signs.**

3. The Commissioner of Transportation shall post, and shall request county and municipal authorities to post, pedestrian crossing yield signs that make reference to State law at all crosswalks at intersections that have demonstrated pedestrian safety problems and are not controlled by a traffic control signal. The signs shall conform to the "Manual on Uniform Traffic Control Devices".

4. 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, maintenance 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. s.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:

$$DF = \frac{Pc}{Ps} + \frac{Cm}{Sm}$$

where, DF equals the distribution factor

Pc equals county population

Ps equals State population

Cm equals municipal road mileage within the county

Sm 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. In addition to the above criteria used in determining priority of funding of municipal projects in each county, the commissioner shall consider whether a project is intended to remedy hazardous conditions as identified for the purposes of providing transportation pursuant to N.J.S.18A:39-1.2 for school pupils or to improve pedestrian safety.

For the purposes of this subsection, (1) "population" means the official population count as reported by the New Jersey Department of Labor and Workforce Development; 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.

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

**Words and phrases defined.**

39:1-1. As used in this subtitle, unless other meaning is clearly apparent from the language or context, or unless inconsistent with the manifest intention of the Legislature:

"Alley" means a public highway wherein the roadway does not exceed 12 feet in width.

"Authorized emergency vehicles" means vehicles of the fire department, police vehicles and such ambulances and other vehicles as are approved by the chief administrator operated in response to an emergency call.

"Automobile" includes all motor vehicles except motorcycles.

"Berm" means that portion of the highway exclusive of roadway and shoulder, bordering the shoulder but not to be used for vehicular travel.

"Business district" means that portion of a highway and the territory contiguous thereto, where within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the roadway.

"Car pool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating capacity of nine passengers or less.

"Chief Administrator" or "Administrator" means the Chief Administrator of the New Jersey Motor Vehicle Commission.

"Commercial motor vehicle" includes every type of motor-driven vehicle used for commercial purposes on the highways, such as the transportation of goods, wares and merchandise, excepting such vehicles as are run only upon rails or tracks and vehicles of the passenger car type used for touring purposes or the carrying of farm products and milk, as the case may be.

"Commission" means the New Jersey Motor Vehicle Commission established by section 4 of P.L.2003, c.13 (C.39:2A-4).

"Commissioner" means the Commissioner of Transportation of this State.

"Commuter van" means a motor vehicle having a seating capacity of not less than seven nor more than 15 adult passengers, in which seven or more persons commute on a daily basis to and from work and which vehicle may also be operated by the driver or other designated persons for their personal use.

"Crosswalk" means that part of a highway at an intersection, either marked or unmarked existing at each approach of every roadway intersection, included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the shoulder, or, if none, from the edges of the roadway; also, any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other marking on the surface.

"Dealer" includes every person actively engaged in the business of buying, selling or exchanging motor vehicles or motorcycles and who has an established place of business.

"Deputy Chief Administrator" means the deputy chief administrator of the commission.

"Driver" means the rider or driver of a horse, bicycle or motorcycle or the driver or operator of a motor vehicle, unless otherwise specified.

"Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, friction, by concussion, by percussion, or by detonator 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 or of destroying life or limb.

"Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

"Flammable liquid" means any liquid having a flash point below 200 degrees Fahrenheit, and a vapor pressure not exceeding 40 pounds.

"Gross weight" means the combined weight of a vehicle and a load thereon.

"High occupancy vehicle" or "HOV" means a vehicle which is used to transport two or more persons and shall include public transportation, car pool, van pool, and other vehicles as determined by regulation of the Department of Transportation.

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

"Horse" includes mules and all other domestic animals used as draught animals or beasts of burden.

"Inside lane" means the lane nearest the center line of the roadway.

"Intersection" means the area embraced within the prolongation of the lateral curb lines or, if none, the lateral boundary lines of two or more highways which join one another at an angle, whether or not one such highway crosses another.

"Laned roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

"Leased limousine" means any limousine subject to regulation in the State which:

a. Is offered for rental or lease, without a driver, to be operated by a limousine service as the lessee, for the purpose of carrying passengers for hire; and

b. Is leased or rented for a period of one year or more following registration.

"Leased motor vehicle" means any motor vehicle subject to registration in this State which:

- a. Is offered for rental or lease, without a driver, to be operated by the lessee, his agent or servant, for purposes other than the transportation of passengers for hire; and
- b. Is leased or rented for a period of one year or more following registration.

"Limited-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway; and includes any highway designated as a "freeway" or "parkway" by authority of law.

"Local authorities" means every county, municipal and other local board or body having authority to adopt local police regulations under the Constitution and laws of this State, including every county governing body with relation to county roads.

"Magistrate" means any municipal court and the Superior Court, and any officer having the powers of a committing magistrate and the chief administrator.

"Manufacturer" means a person engaged in the business of manufacturing or assembling motor vehicles, who will, under normal business conditions during the year, manufacture or assemble at least 10 new motor vehicles.

"Metal tire" means every tire the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

"Mid-block crosswalk" means a crosswalk located away from an intersection, distinctly indicated by lines or markings on the surface.

"Motorized bicycle" means a pedal bicycle having a helper motor characterized in that either the maximum piston displacement is less than 50 cc. or said motor is rated at no more than 1.5 brake horsepower and said bicycle is capable of a maximum speed of no more than 25 miles per hour on a flat surface.

"Motorcycle" includes motorcycles, motor bikes, bicycles with motor attached and all motor-operated vehicles of the bicycle or tricycle type, except motorized bicycles as defined in this section, whether the motive power be a part thereof or attached thereto and having a saddle or seat with driver sitting astride or upon it or a platform on which the driver stands.

"Motor-drawn vehicle" includes trailers, semitrailers, or any other type of vehicle drawn by a motor-driven vehicle.

"Motor vehicle" includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles.

"Noncommercial truck" means every motor vehicle designed primarily for transportation of property, and which is not a "commercial vehicle."

"Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with this subtitle placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

"Omnibus" includes all motor vehicles used for the transportation of passengers for hire, except commuter vans and vehicles used in ridesharing arrangements and school buses, if the same are not otherwise used in the transportation of passengers for hire.

"Operator" means a person who is in actual physical control of a vehicle or street car.

"Outside lane" means the lane nearest the curb or outer edge of the roadway.

"Owner" means a person who holds the legal title of a vehicle, or if a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee, lessee or mortgagor shall be deemed the owner for the purpose of this subtitle.

"Parking" means the standing or waiting on a street, road or highway of a vehicle not actually engaged in receiving or discharging passengers or merchandise, unless in obedience to traffic regulations or traffic signs or signals.

"Passenger automobile" means all automobiles used and designed for the transportation of passengers, other than omnibuses and school buses.

"Pedestrian" means a person afoot.

"Person" includes natural persons, firms, copartnerships, associations, and corporations.

"Pneumatic tire" means every tire in which compressed air is designed to support the load.

"Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads, such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.



"Private road or driveway" means every road or driveway not open to the use of the public for purposes of vehicular travel.

"Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except street cars.

"Recreation vehicle" means a self-propelled or towed vehicle equipped to serve as temporary living quarters for recreational, camping or travel purposes and used solely as a family or personal conveyance.

"Residence district" means that portion of a highway and the territory contiguous thereto, not comprising a business district, where within any 600 feet along such highway there are buildings in use for business or residential purposes which occupy 300 feet or more of frontage on at least one side of the highway.

"Ridesharing" means the transportation of persons in a motor vehicle, with a maximum carrying capacity of not more than 15 passengers, including the driver, where such transportation is incidental to the purpose of the driver. The term shall include such ridesharing arrangements known as car pools and van pools.

"Right-of-way" means the privilege of the immediate use of the highway.

"Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately, but not to all such roadways, collectively.

"Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians, which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

"School bus" means every motor vehicle operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or privately operated for the transportation of children to or from school for secular or religious education, which complies with the regulations of the New Jersey Motor Vehicle Commission affecting school buses, including "School Vehicle Type I" and "School Vehicle Type II" as defined below:

"School Vehicle Type I" means any vehicle designed to transport 16 or more passengers, including the driver, used to transport enrolled children, and adults only when serving as chaperones, to or from a school, school connected activity, day camp, summer day camp, summer residence camp, nursery school, child care center, preschool center or other similar places of

education. Such vehicle shall comply with the regulations of the New Jersey Motor Vehicle Commission and either the Department of Education or the Department of Human Services, whichever is the appropriate supervising agency.

"School Vehicle Type II" means any vehicle designed to transport less than 16 passengers, including the driver, used to transport enrolled children, and adults only when serving as chaperones, to or from a school, school connected activity, day camp, summer day camp, summer residence camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the regulations of the New Jersey Motor Vehicle Commission and either the Department of Education or the Department of Human Services, whichever is the appropriate supervising agency.

"School zone" means that portion of a highway which is either contiguous to territory occupied by a school building or is where school crossings are established in the vicinity of a school, upon which are maintained appropriate "school signs" in accordance with specifications adopted by the chief administrator and in accordance with law.

"School crossing" means that portion of a highway where school children are required to cross the highway in the vicinity of a school.

"Semitrailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

"Shipper" means any person who shall deliver, or cause to be delivered, any commodity, produce or article for transportation as the contents or load of a commercial motor vehicle. In the case of a sealed ocean container, "shipper" shall not be construed to include any person whose activities with respect to the shipment are limited to the solicitation or negotiation of the sale, resale, or exchange of the commodity, produce or article within that container.

"Shoulder" means that portion of the highway, exclusive of and bordering the roadway, designed for emergency use but not ordinarily to be used for vehicular travel.

"Sidewalk" means that portion of a highway intended for the use of pedestrians, between the curb line or the lateral line of a shoulder, or if none, the lateral line of the roadway and the adjacent right-of-way line.

"Sign." See "Official traffic control devices."

"Slow-moving vehicle" means a vehicle run at a speed less than the maximum speed then and there permissible.

"Solid tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

"Street" means the same as highway.

"Street car" means a car other than a railroad train, for transporting persons or property and operated upon rails principally within a municipality.

"Stop," when required, means complete cessation from movement.

"Stopping or standing," when prohibited, means any cessation of movement of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

"Suburban business or residential district" means that portion of highway and the territory contiguous thereto, where within any 1,320 feet along that highway there is land in use for business or residential purposes and that land occupies more than 660 feet of frontage on one side or collectively more than 660 feet of frontage on both sides of that roadway.

"Through highway" means every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter.

"Trackless trolley" means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

"Traffic" means pedestrians, ridden or herded animals, vehicles, street cars, and other conveyances either singly, or together, while using any highway for purposes of travel.

"Traffic control signal" means a device, whether manually, electrically, mechanically, or otherwise controlled, by which traffic is alternately directed to stop and to proceed.

"Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

"Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.

"Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

"Van pooling" means seven or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry seven to 15 adult passengers.

"Vehicle" means every device in, upon or by which a person or property is or may be transported upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks or motorized bicycles.

6. This act shall take effect immediately, except that section 3 shall take effect on the first day of the fifth month following enactment.

Approved July 19, 2005.

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CHAPTER 159

AN ACT concerning certain motorized vehicles, amending R.S.39:1-1 and supplementing Title 39 of the Revised Statutes.

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

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

**Words and phrases defined.**

39:1-1. As used in this subtitle, unless other meaning is clearly apparent from the language or context, or unless inconsistent with the manifest intention of the Legislature:

"Alley" means a public highway wherein the roadway does not exceed 12 feet in width.

"Authorized emergency vehicles" means vehicles of the fire department, police vehicles and such ambulances and other vehicles as are approved by the chief administrator when operated in response to an emergency call.

"Automobile" includes all motor vehicles except motorcycles.

"Berm" means that portion of the highway exclusive of roadway and shoulder, bordering the shoulder but not to be used for vehicular travel.

"Business district" means that portion of a highway and the territory contiguous thereto, where within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the roadway.

"Car pool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating capacity of nine passengers or less.

"Chief Administrator" or "Administrator" means the Chief Administrator of the New Jersey Motor Vehicle Commission.

"Commercial motor vehicle" includes every type of motor-driven vehicle used for commercial purposes on the highways, such as the transportation of goods, wares and merchandise, excepting such vehicles as are run only

upon rails or tracks and vehicles of the passenger car type used for touring purposes or the carrying of farm products and milk, as the case may be.

"Commission" means the New Jersey Motor Vehicle Commission established by section 4 of P.L.2003, c.13 (C.39:2A-4).

"Commissioner" means the Commissioner of Transportation of this State.

"Commuter van" means a motor vehicle having a seating capacity of not less than seven nor more than 15 adult passengers, in which seven or more persons commute on a daily basis to and from work and which vehicle may also be operated by the driver or other designated persons for their personal use.

"Crosswalk" means that part of a highway at an intersection, either marked or unmarked existing at each approach of every roadway intersection, included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the shoulder, or, if none, from the edges of the roadway; also, any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other marking on the surface.

"Dealer" includes every person actively engaged in the business of buying, selling or exchanging motor vehicles or motorcycles and who has an established place of business.

"Deputy Chief Administrator" means the deputy chief administrator of the commission.

"Driver" means the rider or driver of a horse, bicycle or motorcycle or the driver or operator of a motor vehicle, unless otherwise specified.

"Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities or packing that an ignition by fire, friction, by concussion, by percussion, or by detonator 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 or of destroying life or limb.

"Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

"Flammable liquid" means any liquid having a flash point below 200 degrees Fahrenheit, and a vapor pressure not exceeding 40 pounds.

"Gross weight" means the combined weight of a vehicle and a load thereon.

"High occupancy vehicle" or "HOV" means a vehicle which is used to transport two or more persons and shall include public transportation, car pool, van pool, and other vehicles as determined by regulation of the Department of Transportation.

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

"Horse" includes mules and all other domestic animals used as draught animals or beasts of burden.

"Inside lane" means the lane nearest the center line of the roadway.

"Intersection" means the area embraced within the prolongation of the lateral curb lines or, if none, the lateral boundary lines of two or more highways which join one another at an angle, whether or not one such highway crosses another.

"Laned roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

"Leased limousine" means any limousine subject to regulation in the State which:

a. Is offered for rental or lease, without a driver, to be operated by a limousine service as the lessee, for the purpose of carrying passengers for hire; and

b. Is leased or rented for a period of one year or more following registration.

"Leased motor vehicle" means any motor vehicle subject to registration in this State which:

a. Is offered for rental or lease, without a driver, to be operated by the lessee, his agent or servant, for purposes other than the transportation of passengers for hire; and

b. Is leased or rented for a period of one year or more following registration.

"Limited-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway; and includes any highway designated as a "freeway" or "parkway" by authority of law.

"Local authorities" means every county, municipal and other local board or body having authority to adopt local police regulations under the Constitution and laws of this State, including every county governing body with relation to county roads.

"Magistrate" means any municipal court and the Superior Court, and any officer having the powers of a committing magistrate and the chief administrator.

"Manufacturer" means a person engaged in the business of manufacturing or assembling motor vehicles, who will, under normal business conditions during the year, manufacture or assemble at least 10 new motor vehicles.

"Metal tire" means every tire the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

"Mid-block crosswalk" means a crosswalk located away from an intersection, distinctly indicated by lines or markings on the surface.

"Motorized bicycle" means a pedal bicycle having a helper motor characterized in that either the maximum piston displacement is less than 50 cc. or said motor is rated at no more than 1.5 brake horsepower or is powered by an electric drive motor and said bicycle is capable of a maximum speed of no more than 25 miles per hour on a flat surface.

"Motorcycle" includes motorcycles, motor bikes, bicycles with motor attached and all motor-operated vehicles of the bicycle or tricycle type, except motorized bicycles as defined in this section, whether the motive power be a part thereof or attached thereto and having a saddle or seat with driver sitting astride or upon it or a platform on which the driver stands.

"Motor-drawn vehicle" includes trailers, semitrailers, or any other type of vehicle drawn by a motor-driven vehicle.

"Motor vehicle" includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles.

"Motorized scooter" means a miniature motor vehicle and includes, but is not limited to, pocket bikes, super pocket bikes, scooters, mini-scooters, sport scooters, mini choppers, mini motorcycles, motorized skateboards and other vehicles with motors not manufactured in compliance with Federal Motor Vehicle Safety Standards and which have no permanent Federal Safety Certification stickers affixed to the vehicle by the original manufacturer. This term shall not include: electric personal assistive mobility devices, motorized bicycles or low-speed vehicles; or motorized wheelchairs, mobility scooters or similar mobility assisting devices used by persons with physical disabilities, or persons whose ambulatory mobility has been impaired by age or illness.

"Motorized skateboard" means a skateboard that is propelled otherwise than by muscular power.

"Motorized wheelchair" means any motor-driven wheelchair utilized to increase the independent mobility, in the activities of daily living, of an individual who has limited or no ambulation abilities, and includes mobility

scooters manufactured specifically for such purposes and designed primarily for indoor use.

"Noncommercial truck" means every motor vehicle designed primarily for transportation of property, and which is not a "commercial vehicle."

"Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with this subtitle placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

"Omnibus" includes all motor vehicles used for the transportation of passengers for hire, except commuter vans and vehicles used in ridesharing arrangements and school buses, if the same are not otherwise used in the transportation of passengers for hire.

"Operator" means a person who is in actual physical control of a vehicle or street car.

"Outside lane" means the lane nearest the curb or outer edge of the roadway.

"Owner" means a person who holds the legal title of a vehicle, or if a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee, lessee or mortgagor shall be deemed the owner for the purpose of this subtitle.

"Parking" means the standing or waiting on a street, road or highway of a vehicle not actually engaged in receiving or discharging passengers or merchandise, unless in obedience to traffic regulations or traffic signs or signals.

"Passenger automobile" means all automobiles used and designed for the transportation of passengers, other than omnibuses and school buses.

"Pedestrian" means a person afoot.

"Person" includes natural persons, firms, copartnerships, associations, and corporations.

"Pneumatic tire" means every tire in which compressed air is designed to support the load.

"Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads, such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

"Private road or driveway" means every road or driveway not open to the use of the public for purposes of vehicular travel.



"Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except street cars.

"Recreation vehicle" means a self-propelled or towed vehicle equipped to serve as temporary living quarters for recreational, camping or travel purposes and used solely as a family or personal conveyance.

"Residence district" means that portion of a highway and the territory contiguous thereto, not comprising a business district, where within any 600 feet along such highway there are buildings in use for business or residential purposes which occupy 300 feet or more of frontage on at least one side of the highway.

"Ridesharing" means the transportation of persons in a motor vehicle, with a maximum carrying capacity of not more than 15 passengers, including the driver, where such transportation is incidental to the purpose of the driver. The term shall include such ridesharing arrangements known as car pools and van pools.

"Right-of-way" means the privilege of the immediate use of the highway.

"Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately, but not to all such roadways, collectively.

"Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians, which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

"School bus" means every motor vehicle operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or privately operated for the transportation of children to or from school for secular or religious education, which complies with the regulations of the New Jersey Motor Vehicle Commission affecting school buses, including "School Vehicle Type I" and "School Vehicle Type II" as defined below:

"School Vehicle Type I" means any vehicle designed to transport 16 or more passengers, including the driver, used to transport enrolled children, and adults only when serving as chaperones, to or from a school, school connected activity, day camp, summer day camp, summer residence camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the regulations of the New Jersey Motor Vehicle Commission and either the Department of Education or the

Department of Human Services, whichever is the appropriate supervising agency.

"School Vehicle Type II" means any vehicle designed to transport less than 16 passengers, including the driver, used to transport enrolled children, and adults only when serving as chaperones, to or from a school, school connected activity, day camp, summer day camp, summer residence camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the regulations of the New Jersey Motor Vehicle Commission and either the Department of Education or the Department of Human Services, whichever is the appropriate supervising agency.

"School zone" means that portion of a highway which is either contiguous to territory occupied by a school building or is where school crossings are established in the vicinity of a school, upon which are maintained appropriate "school signs" in accordance with specifications adopted by the chief administrator and in accordance with law.

"School crossing" means that portion of a highway where school children are required to cross the highway in the vicinity of a school.

"Semitrailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

"Shipper" means any person who shall deliver, or cause to be delivered, any commodity, produce or article for transportation as the contents or load of a commercial motor vehicle. In the case of a sealed ocean container, "shipper" shall not be construed to include any person whose activities with respect to the shipment are limited to the solicitation or negotiation of the sale, resale, or exchange of the commodity, produce or article within that container.

"Shoulder" means that portion of the highway, exclusive of and bordering the roadway, designed for emergency use but not ordinarily to be used for vehicular travel.

"Sidewalk" means that portion of a highway intended for the use of pedestrians, between the curb line or the lateral line of a shoulder, or if none, the lateral line of the roadway and the adjacent right-of-way line.

"Sign." See "Official traffic control devices."

"Slow-moving vehicle" means a vehicle run at a speed less than the maximum speed then and there permissible.

"Solid tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

"Street" means the same as highway.

"Street car" means a car other than a railroad train, for transporting persons or property and operated upon rails principally within a municipality.

"Stop," when required, means complete cessation from movement.

"Stopping or standing," when prohibited, means any cessation of movement of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

"Suburban business or residential district" means that portion of highway and the territory contiguous thereto, where within any 1,320 feet along that highway there is land in use for business or residential purposes and that land occupies more than 660 feet of frontage on one side or collectively more than 660 feet of frontage on both sides of that roadway.

"Through highway" means every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter.

"Trackless trolley" means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

"Traffic" means pedestrians, ridden or herded animals, vehicles, street cars, and other conveyances either singly, or together, while using any highway for purposes of travel.

"Traffic control signal" means a device, whether manually, electrically, mechanically, or otherwise controlled, by which traffic is alternately directed to stop and to proceed.

"Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

"Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.

"Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

"Van pooling" means seven or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry seven to 15 adult passengers.

"Vehicle" means every device in, upon or by which a person or property is or may be transported upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks or motorized bicycles.

**C.39:4-14.12 Motorized scooter, prohibited from operation on public street, highway, sidewalk.**

2. a. No person shall operate a motorized scooter upon any public street, highway or sidewalk.

b. Except as otherwise provided in section 4 of P.L.2005, c.159 (C.39:4-14.14), no person shall operate a motorized scooter upon any public property or lands.

c. No person shall operate a motorized scooter on the property of another without the consent of the owner of that property or the person who has a contractual right to the use of that property.

**C.39:4-14.13 Violations, fines, seizure, community service.**

3. A person violating the provisions of section 2 of this act shall be subject:

a. For the first offense, to a fine of not less than \$100 nor more than \$200, and seizure of the motorized scooter. The seized scooter may only be retrieved from the police by the operator of the scooter or if the operator is under 18 years of age by the operator accompanied by the operator's parent or guardian.

b. For the second offense, to a fine of not less than \$200 nor more than \$500, and seizure of the motorized scooter. The seized scooter may only be retrieved from the police by the operator of the scooter or if the operator is under 18 years of age by the operator accompanied by the operator's parent or guardian, provided that the court adjudicating the matter approves the return of the scooter. In addition to the fine and seizure provided for in this subsection, the court shall order the violator to perform community service for a period of not greater than 25 hours.

c. For the third or subsequent offense, to a fine of not less than \$500 nor more than \$750, and seizure and forfeiture of the motorized scooter. In addition to the fine, and seizure and forfeiture provided in this subsection, the court shall order the violator to perform community service for a period of not greater than 50 hours.

**C.39:4-14.14 Operation of motorized scooters permitted on designated municipal, county property, requirements.**

4. The governing body of any municipality may, by ordinance, permit the operation of motorized scooters upon designated municipal property, other than the streets, highways and sidewalks under municipal jurisdiction. The governing body of any county may, by resolution, permit the operation of motorized scooters upon designated county property, other than the streets, highways and sidewalks under county jurisdiction.

Such an ordinance or resolution permitting the operation of motorized scooters upon designated municipal or county property shall include, but not be limited to, the following provisions:

- a. A designation of the municipal or county property upon which motorized scooters may be operated;
- b. The days and hours of the day during which motorized scooters may be operated upon that municipal or county property;
- c. A requirement that each motorized scooter operated upon the designated municipal or county property be registered with the municipality or county and receive a certificate of registration from the municipality or county. As a condition for such registration, the owner or operator shall produce or display appropriate proof that a policy of liability insurance is in effect for that motorized scooter. The municipality or county may impose a reasonable fee to cover the costs of registration;
- d. A requirement that no person under the age of 12 years or older if so determined by the municipality or county be permitted to operate a motorized scooter upon the designated municipal or county property;
- e. A requirement that every operator of a motorized scooter wear a properly fitted and fastened helmet which meets the standards of the American National Standards Institute (ANSI Z90.4 bicycle helmet), the Snell Memorial Foundation's 1990 Standard for Protective Headgear for Use in Bicycling, the American Society for Testing and Materials (ASTM) standard or such other standard, as appropriate;
- f. A requirement that each motorized scooter operated upon the designated municipal or county property be equipped with a brake that will enable the operator to stop the scooter in a safe and effective manner;
- g. A requirement that prior to operating a motorized scooter upon the designated municipal or county property, the prospective operator demonstrate, in a manner prescribed by a designated local authority, a capability to safely operate the scooter; and
- h. A schedule setting forth the penalties for violating the provisions of the ordinance. The schedule shall be prominently posted upon the designated municipal or county property, along with a warning that operators may also be subject to applicable provisions and penalties set forth in chapter 4 of Title 39 of the Revised Statutes.

**C.39:3-76.3a Motorcycles, conformance to federal standards, NHTSA certification.**

5. No motorcycle shall be operated on the public highways or roadways of this State unless the motorcycle was manufactured in compliance with applicable Federal Motor Safety Standards that were in effect on the day the motorcycle was manufactured and the motorcycle has a certification label, in the format prescribed by the National Highway Traffic Safety Administration, attesting to that compliance, permanently affixed by the original manufacturer.

6. This act shall take effect immediately.

Approved July 19, 2005.

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CHAPTER 160

AN ACT concerning wills and estates, amending and supplementing various sections of Title 3B of the New Jersey Statutes.

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

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

**Definitions I to Z.**

3B:1-2. "Incapacitated individual" means an individual who is impaired by reason of mental illness or mental deficiency to the extent that he lacks sufficient capacity to govern himself and manage his affairs.

The term incapacitated individual is also used to designate an individual who is impaired by reason of physical illness or disability, chronic use of drugs, chronic alcoholism or other cause (except minority) to the extent that he lacks sufficient capacity to govern himself and manage his affairs.

The terms incapacity and incapacitated individual refer to the state or condition of an incapacitated individual as hereinbefore defined.

"Issue" of an individual means a descendant as defined in N.J.S.3B:1-1.

"Joint tenants with the right of survivorship" means co-owners of property held under circumstances that entitle one or more to the whole of the property on the death of the other or others, but excludes forms of co-ownership in which the underlying ownership of each party is in proportion to that party's contribution.

"Local administration" means administration by a personal representative appointed in this State.

"Local fiduciary" means any fiduciary who has received letters in this State and excludes foreign fiduciaries who acquire the power of local fiduciary pursuant to this title.

"Minor" means an individual who is under 18 years of age.

"Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of his death.

"Parent" means any person entitled to take or who would be entitled to take if the child, natural or adopted, died without a will, by intestate succession from the child whose relationship is in question and excludes any person who is a stepparent, resource family parent or grandparent.

"Per capita." If a governing instrument requires property to be distributed "per capita," the property is divided to provide equal shares for each of the takers, without regard to their shares or the right of representation.

"Payor" means a trustee, insurer, business entity, employer, government, governmental agency or subdivision, or any other person authorized or obligated by law or a governing instrument to make payments.

"Person" means an individual or an organization.

"Per Stirpes." If a governing instrument requires property to be distributed "per stirpes," the property is divided into as many equal shares as there are: (1) surviving children of the designated ancestor; and (2) deceased children who left surviving descendants. Each surviving child is allocated one share. The share of each deceased child with surviving descendants is divided in the same manner, with subdivision repeating at each succeeding generation until the property is fully allocated among surviving descendants.

"Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status. "General personal representative" excludes special administrator.

"Representation; Per Capita at Each Generation." If an applicable statute or a governing instrument requires property to be distributed "by representation" or "per capita at each generation," the property is divided into as many equal shares as there are: (1) surviving descendants in the generation nearest to the designated ancestor which contains one or more surviving descendants; and (2) deceased descendants in the same generation who left surviving descendants, if any. Each surviving descendant in the nearest generation is allocated one share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants, as if the surviving descendants who were allocated a share and their surviving descendants had predeceased the designated ancestor.

"Resident creditor" means a person domiciled in, or doing business in this State, who is, or could be, a claimant against an estate.

"Security" includes any note, stock, treasury stock, bond, mortgage, financing statement, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under the title or lease, collateral, trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security or as a security interest or any certificate of interest or participation, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

"Stepchild" means a child of the surviving, deceased, or former spouse who is not a child of the decedent.

"Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

"Successors" means those persons, other than creditors, who are entitled to real and personal property of a decedent under his will or the laws governing intestate succession.

"Testamentary trustee" means a trustee designated by will or appointed to exercise a trust created by will.

"Testator" includes an individual and means male or female.

"Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created by judgment under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive trusts, and it excludes resulting trusts, guardianships, personal representatives, trust accounts created under the "Multiple-party Deposit Account Act," P.L.1979, c.491 (C.17:16I-1 et seq.), gifts to minors under the "New Jersey Uniform Gifts to Minors Act," P.L.1963, c.177 (C.46:38-13 et seq.), or the "New Jersey Uniform Transfers to Minors Act," R.S.46:38A-1 et seq., business trusts providing for certificates to be issued to beneficiaries, common trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

"Trustee" includes an original, additional or successor trustee, whether or not appointed or confirmed by court.

"Ward" means an individual for whom a guardian is appointed or an individual under the protection of the court.

"Will" means the last will and testament of a testator or testatrix and includes any codicil and any testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of a person or class to succeed to property of the decedent passing by intestate succession.

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

**Execution; witnessed wills; writings intended as wills.**

3B:3-2. Execution; witnessed wills; writings intended as wills.

a. Except as provided in subsection b. and in N.J.S.3B:3-3, a will shall be:

(1) in writing;



(2) signed by the testator or in the testator's name by some other individual in the testator's conscious presence and at the testator's direction; and

(3) signed by at least two individuals, each of whom signed within a reasonable time after each witnessed either the signing of the will as described in paragraph (2) or the testator's acknowledgment of that signature or acknowledgment of the will.

b. A will that does not comply with subsection a. is valid as a writing intended as a will, whether or not witnessed, if the signature and material portions of the document are in the testator's handwriting.

c. Intent that the document constitutes the testator's will can be established by extrinsic evidence, including for writings intended as wills, portions of the document that are not in the testator's handwriting.

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

**Writings intended as wills.**

3B:3-3. Writings intended as wills.

Although a document or writing added upon a document was not executed in compliance with N.J.S.3B:3-2, the document or writing is treated as if it had been executed in compliance with N.J.S.3B:3-2 if the proponent of the document or writing establishes by clear and convincing evidence that the decedent intended the document or writing to constitute: (1) the decedent's will; (2) a partial or complete revocation of the will; (3) an addition to or an alteration of the will; or (4) a partial or complete revival of his formerly revoked will or of a formerly revoked portion of the will.

4. N.J.S.3B:3-14 is amended to read as follows:

**Revocation of probate and non-probate transfers by divorce or annulment; revival by remarriage to former spouse.**

3B:3-14. Revocation of probate and non-probate transfers by divorce or annulment; revival by remarriage to former spouse.

a. Except as provided by the express terms of a governing instrument, a court order, or a contract relating to the division of the marital estate made between the divorced individuals before or after the marriage, divorce or annulment, a divorce or annulment:

(1) revokes any revocable:

(a) dispositions or appointment of property made by a divorced individual to his former spouse in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the divorced individual's former spouse;

(b) provision in a governing instrument conferring a general or special power of appointment on the divorced individual's former spouse, or on a relative of the divorced individual's former spouse; and

(c) nomination in a governing instrument of a divorced individual's former spouse or a relative of the divorced individual's former spouse to serve in any fiduciary or representative capacity; and

(2) severs the interests of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship or as tenants by the entireties, transforming the interests of the former spouses into tenancies in common.

In the event of a divorce or annulment, provisions of a governing instrument are given effect as if the former spouse and relatives of the former spouse disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment. If provisions are revoked solely by this section, they are revived by the divorced individual's remarriage to the former spouse or by the revocation, suspension or nullification of the divorce or annulment. No change of circumstances other than as described in this section and in N.J.S.3B:7-1 effects a revocation or severance.

A severance under paragraph (2) of subsection a. does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouse unless a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

b. For purposes of this section: (1) "divorce or annulment" means any divorce or annulment, or other dissolution or declaration of invalidity of a marriage including a judgment of divorce from bed and board; (2) "governing instrument" means a governing instrument executed by the divorced individual before the divorce or annulment; (3) "divorced individual" includes an individual whose marriage has been annulled; and (4) "relative of the divorced individual's former spouse" means an individual who is related to the divorced individual's former spouse by blood, adoption or affinity and who, after the divorce or annulment, is not related to the divorced individual by blood, adoption or affinity.

c. This section does not affect the rights of any person who purchases property from a former spouse for value and without notice, or receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, which the former spouse was not entitled to under this section, but the former spouse is liable for the amount of the proceeds or the value of the property to the person who is entitled to it under this section.

d. A payor or other third party making payment or transferring an item of property or other benefit according to the terms of a governing instrument affected by a divorce or annulment is not liable by reason of this section unless prior to such payment or transfer it has received at its home or principal address written notice of a claimed revocation, severance or forfeiture under this section.

5. N.J.S.3B:3-35 is amended to read as follows:

**Anti-lapse; deceased devisee; class gifts.**

3B:3-35 Anti-lapse; deceased devisee; class gifts.

If a devisee who is a grandparent, stepchild or a lineal descendant of a grandparent of the decedent is dead at the time of the execution of the governing instrument, fails to survive the decedent, or is treated as if he predeceased the decedent, any descendants of the deceased devisee who survives the decedent by 120 hours take by representation in place of the deceased devisee. One who would have been a devisee under a class gift if he had survived the decedent is treated as a devisee for purposes of this section whether his death occurred before or after the execution of the governing instrument. For purposes of this section, a "stepchild" means a child of the surviving, deceased or former spouse who is not a child of the decedent.

6. N.J.S.3B:3-41 is amended to read as follows:

**Issue and descendants to take by representation.**

3B:3-41. Issue and descendants to take by representation.

Where under any governing instrument provision is made for the benefit of issue and descendants and no contrary intention is expressed, the issue or descendants shall take by representation.

7. N.J.S.3B:5-8 is amended to read as follows:

**After born heirs.**

3B:5-8. After born heirs.

An individual in gestation at a particular time is treated as living at that time if the individual lives 120 hours or more after birth.

8. Section 58 of P.L.2004, c.132 (C.3B:7-1.1) is amended to read as follows:

**C.3B:7-1.1 Effect of intentional killing on intestate succession, wills, trusts, joint assets, life insurance and beneficiary designations.**

58. Effect of intentional killing on intestate succession, wills, trusts, joint assets, life insurance and beneficiary designations.

a. An individual who is responsible for the intentional killing of the decedent forfeits all benefits under this title with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's or child's share, exempt property and a family allowance. If the decedent died intestate, the decedent's intestate estate passes as if the killer disclaimed his share.

b. The intentional killing of the decedent:

(1) revokes any revocable (a) disposition or appointment of property made by decedent to the killer in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the killer, (b) provision in a governing instrument conferring a general or special power of appointment on the killer or a relative of the killer, and (c) nomination in a governing instrument of the killer or a relative of the killer, nominating or appointing the killer or a relative of the killer to serve in any fiduciary or representative capacity; and

(2) severs the interests of the decedent and the killer in property held by them at the time of the killing as joint tenants with the right of survivorship or as tenants by the entireties, transforming the interests of the decedent and killer into tenancies in common.

c. For purposes of this chapter: (1) "governing instrument" means a governing instrument executed by the decedent; and (2) "relative of the killer" means an individual who is related to the killer by blood, adoption or affinity and who is not related to the decedent by blood or adoption or affinity.

9. Section 68 of P.L.2004, c.132 (C.3B:9-4.2) is amended to read as follows:

**C.3B:9-4.2 Time for disclaiming.**

68. Time for disclaiming. a. The disclaimer of an interest in property may be delivered, and if required by this chapter filed, at any time after the effective date of the governing instrument, or in the case of an intestacy, at any time after the death of the intestate decedent, and must be delivered, and if required by this chapter filed, before the right to disclaim is barred by N.J.S.3B:9-9. With respect to joint property, the barring of the right to disclaim the present interest does not bar the right to disclaim the future interest.

b. The disclaimer of a power or discretion by a fiduciary, including an agent acting on behalf of a principal within the implied or general authority of a power of attorney, in a fiduciary capacity may be made at any time, before or after exercise.

10. N.J.S.3B:9-8 is amended to read as follows:

**Effect of disclaimer.**

3B:9-8 Effect of disclaimer. A disclaimer acts as a nonacceptance of the disclaimed interest, rather than as a transfer of the disclaimed interest. The disclaimant is treated as never having received the disclaimed interest. Unless a governing instrument otherwise provides, the property or interest disclaimed devolves:

a. As to a present interest:

(1) in the case of an intestacy, a will, a testamentary trust or a power of appointment exercised by a will or testamentary trust, as if the disclaimant had predeceased the decedent or, if the disclaimant is designated to take under a power of appointment exercised by a will or testamentary instrument, as if the disclaimant had predeceased the donee of the power. If by law or under the will or testamentary trust the descendants of the disclaimant would take the disclaimant's share by representation were the disclaimant to predecease the decedent, then the disclaimed interest devolves by representation to the descendants of the disclaimant who survive the decedent; and

(2) in the case of a nontestamentary instrument or contract, other than a joint property interest, as if the disclaimant had died before the effective date of the instrument or contract. If by law or under the nontestamentary instrument or contract the descendants of the disclaimant would take the disclaimant's share by representation were the disclaimant to predecease the effective date of the instrument, then the disclaimed interest devolves by representation to the descendants of the disclaimant who survive the effective date of the instrument.

(3) in the case of joint property created by a will, testamentary trust or non-testamentary instrument: (a) if the disclaimant is the only living owner, the disclaimed interest devolves to the estate of the last to die of the other joint owners; or (b) if the disclaimant is not the only living owner, the disclaimed interest devolves equally to the living joint owners, or all to the other living owner, if there is only one living owner.

b. As to a future interest:

(1) In the case of a will or testamentary trust or a power of appointment exercised by a will or testamentary trust, as if the disclaimant had died before the event determining that the taker of the property or interest is finally ascertained and his interest is vested; and

(2) In the case of a nontestamentary instrument or contract, as if the disclaimant had died before the event determining that the taker of the property or interest had become finally ascertained and the taker's interest is vested; and

(3) Notwithstanding the foregoing, a future interest that is held by the disclaimant who also holds the present interest and which takes effect at a time certain, such as a fixed calendar date or the disclaimant's attainment of a certain age, is not accelerated by the disclaimer and continues to take effect at the time certain.

c. Except as provided in subsection b. of this section, a disclaimer relates back for all purposes to the date of death of the decedent or the donee of the power or the effective date of the nontestamentary instrument or contract.

11. N.J.S.3B:9-9 is amended to read as follows:

**Bar of right to disclaim.**

3B:9-9. Bar of right to disclaim.

a. The right of an individual to disclaim property or any interest therein is barred by:

(1) an assignment, conveyance, encumbrance, pledge or transfer of the property or interest or a contract therefor; or

(2) a written waiver of the right to disclaim; or

(3) an acceptance of the property or interest or a benefit under it after actual knowledge that a property right has been conferred; or

(4) a sale of the property or interest that was seized under judicial process before the disclaimer is made; or

(5) the expiration of the permitted applicable perpetuities period; or

(6) a fraud on the individual's creditors as set forth in the "Uniform Fraudulent Transfer Act" (R.S.25:2-20 et seq.).

b. The disclaimant shall not be barred from disclaiming all or any part of the balance of the property where the disclaimant has received a portion of the property and there still remains an interest which the disclaimant is yet to receive.

c. A bar to the right to disclaim a present interest in joint property does not bar the right to disclaim a future interest in that property.

d. The right to disclaim may be barred to the extent provided by other applicable statutory law.

12. N.J.S.3B:9-10 is amended to read as follows:

**Binding effect of disclaimer or waiver.**

3B:9-10. Binding effect of disclaimer or waiver.

The disclaimer or written waiver of the right to disclaim a property interest shall be binding upon the disclaimant or the individual waiving and all individuals claiming by, through or under him.

13. N.J.S.3B:9-12 is amended to read as follows:

**Right to disclaim, etc.; under other law not abridged.**

3B:9-12. Right to disclaim, etc.; under other law not abridged. This chapter does not abridge the right of an individual to waive, release, disclaim or renounce property or an interest therein under any other statute or law.

14. N.J.S.3B:9-13 is amended to read as follows:

**Extension of time to disclaim interest existing on February 28, 1980.**

3B:9-13. Extension of time to disclaim interest existing on February 28, 1980.

a. An interest in property existing on February 28, 1980, as to which, if a present interest, the time for filing a disclaimer under this chapter has not expired, or if a future interest, the interest has not become indefeasibly vested or the taker finally ascertained, may be disclaimed within 9 months after February 28, 1980.

b. An interest in property existing on the effective date of this chapter as amended and supplemented by P.L.2004, c.132 (C.3B:3-33.1 et al.) as to which the right to disclaim has not been barred by prior law may be disclaimed at any time before the right to disclaim is barred by N.J.S.3B:9-9.

15. N.J.S.3B:15-23 is amended to read as follows:

**Proof of order to limit creditors required in certain cases.**

3B:15-23. Proof of order to limit creditors required in certain cases.

An order of discharge shall not be made in cases in which the fiduciary is an executor, administrator with the will annexed, substituted administrator with the will annexed, administrator or substituted administrator except upon proof that nine months have elapsed after the entry of an order to limit creditors pursuant to N.J.S. 3B:22-4, and that there are not any unpaid or pending claims of creditors of the decedent presented to the fiduciary pursuant to chapter 22 of this title.

16. N.J.S.3B:22-14 is amended to read as follows:

**Direction of court before paying claims not presented within 9-month period.**

3B:22-14. Direction of court before paying claims not presented within 9-month period.

A personal representative may not be compelled to pay any claim not presented within the period limited pursuant to N.J.S. 3B:22-4, unless the court shall, for good cause shown, so direct or until his account has been settled by the court and the court has authorized or directed him to make the payment.

17. N.J.S. 3B:24-4 is amended to read as follows:

**Apportionment of tax to transferees in absence of directions to contrary.**

3B:24-4. Apportionment of tax to transferees in absence of directions to contrary.

In the absence of directions to the contrary:

a. That part of the tax shall be apportioned to each of the transferees as bears the same ratio to the total tax as the ratio which each of the transferees' property included in the gross tax estate bears to the total property entering into the net estate for purposes of that tax, and the balance of the tax shall be apportioned to the fiduciary, the values as finally determined in the respective tax proceedings being the values to be used as the basis for apportionment of the respective taxes;

b. Any deduction allowed under the law imposing the tax by reason of the relationship of any transferee to the decedent or by reason of the charitable purposes of the gift shall inure to the benefit of the fiduciary or transferee, as the case may be, subject nonetheless to the provisions of N.J.S.3B:24-3;

c. Any deduction for property previously taxed and any credit for gift taxes paid by the decedent shall inure to the benefit of all transferees and the fiduciary and the tax to be apportioned shall be the tax after allowance of the deduction and credit; and

d. Any interest resulting from late payment of the tax shall be apportioned in the same manner as the tax and shall be charged by the fiduciary and any trustee of any inter vivos trust and any other transferee wholly against corpus.

18. N.J.S.3B:25-1 is amended to read as follows:

**Nonexoneration of property subject to mortgage or security interest; exception.**

3B:25-1. Nonexoneration of property subject to mortgage or security interest; exception.

When property subject to a mortgage or security interest descends to an heir or passes to a devisee, the heir or devisee shall not be entitled to have the mortgage or security interest discharged out of any other property of the ancestor or testator, but the property so descending or passing to the person shall be primarily liable for the mortgage or secured debt, unless the will of the testator shall direct that the mortgage or security interest be otherwise paid. A general direction in the will to pay debts shall not be deemed a direction to pay the mortgage or security interest.

19. N.J.S.3B:28-1 is amended to read as follows:

**Estates of dower and curtesy prior to May 28, 1980.**

3B:28-1. Estates of dower and curtesy prior to May 28, 1980.



The widow or widower, whether alien or not, of an individual dying intestate or otherwise, shall be endowed for the term of his life of one half of all real property of which the decedent, or another to the decedent's use, was seized of an estate of inheritance at any time during marriage prior to May 28, 1980, unless the widow or widower shall have relinquished her right of dower or his right of curtesy in the manner provided by P.L.1953, c.352 (C.37:2-18.1) or such right of dower or such right of curtesy otherwise shall have been extinguished by law.

20. N.J.S.3B:28-2 is amended to read as follows:

**No right of dower or curtesy created on or after May 28, 1980.**

3B:28-2. No right of dower or curtesy created on or after May 28, 1980.

No right of dower or curtesy in real property shall arise if, on or after May 28, 1980, an individual shall become married, or such person or another to his use, shall become seized of an estate of inheritance.

21. N.J.S.3B:28-3 is amended to read as follows:

**Right of joint possession of principal matrimonial residence where no dower or curtesy applies; alienation.**

3B:28-3. Right of joint possession of principal matrimonial residence where no dower or curtesy applies; alienation.

a. During life every married individual shall be entitled to joint possession with his spouse of any real property which they occupy jointly as their principal matrimonial residence and to which neither dower nor curtesy applies. One who acquires an estate or interest in real property from an individual whose spouse is entitled to joint possession thereof does so subject to such right of possession, unless such right of possession has been released, extinguished or subordinated by such spouse or has been terminated by order or judgment of a court of competent jurisdiction or otherwise.

b. Nothing contained herein shall be construed to prevent the release, subordination or extinguishment of the right of joint possession by either spouse, by premarital agreement, separation agreement or other written instrument.

c. The right of joint possession shall be extinguished by the consent of both parties, by the death of either spouse, by judgment of divorce, separation or annulment, by other order or judgment which extinguishes same, or by voluntary abandonment of the principal matrimonial residence.

22. N.J.S.3B:28-3.1 is amended to read as follows:

**Joint occupancy of principal matrimonial residence; mortgage lien.**

3B:28-3.1. Joint occupancy of principal matrimonial residence; mortgage lien. The right of joint possession to the principal matrimonial residence as provided in N.J.S.3B:28-3 is subject to the lien of a mortgage, irrespective of the date when the mortgage is recorded, provided:

- a. The mortgage is placed upon the matrimonial residence prior to the time that title to the residence was acquired by the married individual; or
- b. The mortgage is placed upon the matrimonial residence prior to the marriage; or
- c. The mortgage is a purchase money mortgage; or
- d. The parties to the marriage have joined in the mortgage; or
- e. The right of joint possession has been subordinated, released or extinguished by subsection b. or c. of N.J.S.3B:28-3.

**C.3B:1-8.1 Applicability of act.**

23. The provisions of P.L.2004, c. 132 and P.L.2005, c.160 (C.3B:1-8.1 et al.) shall apply to any decedent dying on or after February 27, 2005.

24. This act shall take effect on February 27, 2005 and if enacted after that date shall be retroactive to that date

Approved July 19, 2005.

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CHAPTER 161

AN ACT concerning recognition of representatives for certain employees and amending P.L.1968, c.303.

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

1. Section 5 of P.L.1968, c.303 (C.34:13A-5.1) is amended to read as follows:

**C.34:13A-5.1 Establishment of division of public employment relations and division of private employment dispute settlement.**

5. There is hereby established a Division of Public Employment Relations and a Division of Private Employment Dispute Settlement.

(a) The Division of Public Employment Relations shall be concerned exclusively with matters of public employment related to determining negotiating units, elections, certifications and settlement of public employee representative and public employer disputes and grievance procedures. For

the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the Division of Public Employment Relations is hereby allocated within the Department of Labor and Workforce Development, and located in the city of Trenton, but notwithstanding said allocation, the office shall be independent of any supervision or control by the department or by any board or officer thereof.

(b) The Division of Private Employment Dispute Settlement shall assist the New Jersey State Board of Mediation in the resolution of disputes in private employment. The New Jersey State Board of Mediation, its objectives and the powers and duties granted by this act and the act of which this act is amendatory and supplementary shall be concerned exclusively with matters of private employment and the office shall continue to be located in the city of Newark.

(c) In the case of a private employer not regulated by the National Labor Relations Board pursuant to the National Labor Relations Act (29 U.S.C. s.151 et seq.), the New Jersey State Board of Mediation shall designate a representative for a unit of employees of the private employer for the purposes of collective bargaining when:

(1) In any case in which the board determines that only one employee organization is seeking to be the majority representative, that organization demonstrates that a majority of employees in the unit have shown their preference to have that organization be their representative by signing authorization cards indicating that preference; or

(2) The employees in the unit have selected a representative by an election that conforms with the procedures outlined in section 159 of the National Labor Relations Act (29 U.S.C. s.159).

For the purposes of paragraph (1) of this subsection, an authorization card indicating preference shall not be valid unless it is printed in a language understood by the employee who signs it.

Any employer who refuses to provide information requested by the New Jersey State Board of Mediation or otherwise acts to prevent the board from carrying out its responsibilities pursuant to this subsection (c) shall have violated this subsection and shall be liable to a fine of not more than \$1,000, to be recovered under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) in the name of the board and to be used by the board for costs of implementing this subsection. In addition, an employee organization seeking to represent the employees of the employer may institute an action in a court of competent jurisdiction to obtain an injunction to restrain any continuation of the violation, to reimburse the employee organization or any affected employee for any damages caused by the violation plus reasonable costs and attorney's fees of the action.

The provisions of this subsection (c) shall not apply to religious or parochial schools or their employees or to any private nonprofit organization exempt from federal taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. s. 501).

(d) In the case of a private employer regulated by the National Labor Relations Board pursuant to the National Labor Relations Act (29 U.S.C. s. 151 et seq.), the New Jersey State Board of Mediation shall, based on the mutual agreement of the private employer and an organization seeking to represent employees of the employer, designate a representative for a unit of employees of the private employer for the purposes of collective bargaining when:

(1) In any case in which the board determines that only one employee organization is seeking to be the majority representative, that organization demonstrates, in a manner mutually agreed upon by the representative and the employer, that a majority of employees in the unit have shown their preference to have that organization be their representative by signing authorization cards indicating that preference; or

(2) the employees in the unit have selected the representative by an election that conforms with the procedures outlined in section 159 of the National Labor Relations Act (29 U.S.C. s.159).

(e) For the purposes of subsections (c) and (d) of this section, "employee unit" means an appropriate group of employees for the purposes of collective bargaining as determined, if necessary, by the New Jersey State Board of Mediation.

2. Section 7 of P.L.1968, c.303 (C.34:13A-5.3) is amended to read as follows:

**C.34:13A-5.3 Employee organizations; right to form or join; collective negotiations; grievance procedures.**

7. Except as hereinafter provided, public employees shall have, and shall be protected in the exercise of, the right, freely and without fear of penalty or reprisal, to form, join and assist any employee organization or to refrain from any such activity; provided, however, that this right shall not extend to elected officials, members of boards and commissions, managerial executives, or confidential employees, except in a school district the term managerial executive shall mean the superintendent of schools or his equivalent, nor, except where established practice, prior agreement or special circumstances dictate the contrary, shall any supervisor having the power to hire, discharge, discipline, or to effectively recommend the same, have the right to be represented in collective negotiations by an employee organization that admits nonsupervisory personnel to membership, and the fact that any organization has such supervisory employees as members shall not deny

the right of that organization to represent the appropriate unit in collective negotiations; and provided further, that, except where established practice, prior agreement, or special circumstances dictate the contrary, no policeman shall have the right to join an employee organization that admits employees other than policemen to membership. The negotiating unit shall be defined with due regard for the community of interest among the employees concerned, but the commission shall not intervene in matters of recognition and unit definition except in the event of a dispute.

Representatives designated or selected by public employees for the purposes of collective negotiation by the majority of the employees in a unit appropriate for such purposes, by the majority of the employees voting in an election conducted by the commission as authorized by this act or, at the option of the representative in a case in which the commission finds that only one representative is seeking to be the majority representative, by a majority of the employees in the unit signing authorization cards indicating their preference for that representative, shall be the exclusive representatives for collective negotiation concerning the terms and conditions of employment of the employees in such unit. An authorization card indicating preference shall not be valid unless it is printed in a language understood by the employee who signs it.

Nothing herein shall be construed to prevent any official from meeting with an employee organization for the purpose of hearing the views and requests of its members in such unit so long as (a) the majority representative is informed of the meeting; (b) any changes or modifications in terms and conditions of employment are made only through negotiation with the majority representative; and (c) a minority organization shall not present or process grievances. Nothing herein shall be construed to deny to any individual employee his rights under Civil Service laws or regulations. When no majority representative has been selected as the bargaining agent for the unit of which an individual employee is a part, he may present his own grievance either personally or through an appropriate representative or an organization of which he is a member and have such grievance adjusted.

A majority representative of public employees in an appropriate unit shall be entitled to act for and to negotiate agreements covering all employees in the unit and shall be responsible for representing the interest of all such employees without discrimination and without regard to employee organization membership. Proposed new rules or modifications of existing rules governing working conditions shall be negotiated with the majority representative before they are established. In addition, the majority representative and designated representatives of the public employer shall meet at reasonable times and negotiate in good faith with respect to grievances, disciplinary disputes, and other terms and conditions of employment. Nothing herein

shall be construed as permitting negotiation of the standards or criteria for employee performance.

When an agreement is reached on the terms and conditions of employment, it shall be embodied in writing and signed by the authorized representatives of the public employer and the majority representative.

Public employers shall negotiate written policies setting forth grievance and disciplinary review procedures by means of which their employees or representatives of employees may appeal the interpretation, application or violation of policies, agreements, and administrative decisions, including disciplinary determinations, affecting them, provided that such grievance and disciplinary review procedures shall be included in any agreement entered into between the public employer and the representative organization. Such grievance and disciplinary review procedures may provide for binding arbitration as a means for resolving disputes. Except as otherwise provided herein, the procedures agreed to by the parties may not replace or be inconsistent with any alternate statutory appeal procedure nor may they provide for binding arbitration of disputes involving the discipline of employees with statutory protection under tenure or civil service laws, except that such procedures may provide for binding arbitration of disputes involving the minor discipline of any public employees protected under the provisions of section 7 of P.L.1968, c.303 (C.34:13A-5.3), other than public employees subject to discipline pursuant to R.S.53:1-10. Grievance and disciplinary review procedures established by agreement between the public employer and the representative organization shall be utilized for any dispute covered by the terms of such agreement. For the purposes of this section, minor discipline shall mean a suspension or fine of less than five days unless the employee has been suspended or fined an aggregate of 15 or more days or received more than three suspensions or fines of five days or less in one calendar year.

Where the State of New Jersey and the majority representative have agreed to a disciplinary review procedure that provides for binding arbitration of disputes involving the major discipline of any public employee protected under the provisions of this section, other than public employees subject to discipline pursuant to R.S.53:1-10, the grievance and disciplinary review procedures established by agreement between the State of New Jersey and the majority representative shall be utilized for any dispute covered by the terms of such agreement. For the purposes of this section, major discipline shall mean a removal, disciplinary demotion, suspension or fine of more than five days, or less where the aggregate number of days suspended or fined in any one calendar year is 15 or more days or unless the employee received more than three suspensions or fines of five days or less in one calendar year.

3. This act shall take effect immediately.

Approved July 19, 2005.

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CHAPTER 162

AN ACT concerning the investment of certain public funds and supplementing chapter 18A of Title 52 of the New Jersey Statutes.

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

1. The Legislature finds and declares that:
  - a. The State of New Jersey is deeply concerned over the poor human rights situation in Sudan, calls for stepped-up international efforts to end the crisis in Sudan's Darfur region and concurs with United States policy which has officially declared that genocide is ongoing in the Sudan;
  - b. Despite significant pressure from the United States government, the government of Sudan has not taken all the necessary actions to disassociate itself fully from its ties to terrorism;
  - c. The government of Sudan places severe limitations on the political and religious freedoms of the Sudanese people despite promises of improvement and pledges to end the 20-year civil war between the government and the Sudan People's Liberation Movement/Army;
  - d. The government of Sudan violates the rules of war by deliberately attacking civilians and, since 1983, the war and famine-related effects have led to more than two million deaths and over four million people displaced;
  - e. The government of Sudan continues to engage in arbitrary arrest, prolonged detention, extra-judicial killings, torture and rape of the Sudanese people and apostasy from Islam is punishable by death;
  - f. Severe restrictions are placed on the freedoms of assembly, association, movement, and speech and the government actively censors the press;
  - g. The most sobering violation of human rights in Sudan is the existence of slavery or slavery-like indenture and the pro-government militia continues to engage in abduction and slavery with impunity;
  - h. The 2002 Machakos Protocol, signed by both sides in the civil war in Sudan, has recognized that "Sudan is a multi-cultural, multi-racial, multi-ethnic, multi-religious, and multi-lingual country," and that there "shall be freedom of belief, worship and conscience for followers of all religions or beliefs or customs and no one shall be discriminated against on such grounds" once a peace agreement is signed; and

i. It is in the best interest of this State that a statutory prohibition be enacted to prohibit the investment of public employee retirement funds in foreign companies doing business in Sudan given the poor human rights situation in Sudan and the lack of signs of improvement.

**C.52:18A-89.9 Pension, annuity funds, certain, investment in company with equity ties to Sudan, certain; prohibited.**

2. Notwithstanding any provision of law to the contrary, no assets of any pension or annuity fund under the jurisdiction of the Division of Investment in the Department of the Treasury, or its successor, shall be invested in any foreign company with an equity tie to government of Sudan or its instrumentalities and is engaged in business in or with the same. The provisions of this section shall not apply to the activities of any foreign company providing humanitarian aid to the Sudanese people through either a governmental or non-governmental organization.

As used in this section, "equity tie" means manufacturing or mining plants, employees or advisors, facilities or an investment, fiduciary, monetary or physical presence of any kind; and "humanitarian aid" means the provision of goods and services intended to relieve human suffering or to promote the general welfare, health, and religious and spiritual activities.

**C.52:18A-89.10 Sale, redemption, divestiture, withdrawal from certain investments; time.**

3. The State Investment Council and the Director of the Division of Investment shall, after reviewing the recommendations of, and consulting with, an independent research firm that specializes in global security risk for portfolio determinations selected by the Treasurer, take appropriate action to sell, redeem, divest or withdraw any investment held in violation of the provisions of this act. This act shall not be construed to require the premature or otherwise imprudent sale, redemption, divestment or withdrawal of an investment, but such sale, redemption, divestment or withdrawal shall be completed not later than three years following the effective date of this act.

**C.52:18A-89.11 Reports to Legislature; contents.**

4. Within 60 days after the effective date of this act, the Director of the Division of Investment shall file with the Legislature a report of all investments held as of the effective date of this act which are in violation of the provisions of this act. Every year thereafter, the director shall report on all investments sold, redeemed, divested or withdrawn in compliance with this act.

Each report after the initial report shall provide: a description of the progress which the division has made since the previous report and since the enactment of this act in implementing the provisions of section 2 of this act.



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

Approved July 28, 2005.

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CHAPTER 163

AN ACT concerning financing of housing for individuals with special needs by the New Jersey Housing and Mortgage Finance Agency with the proceeds of motor vehicle surcharges securitization bonds to be issued by the New Jersey Economic Development Authority, and designated the Special Needs Housing Trust Fund Act, amending and supplementing P.L.2004, c.70, and supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

**C.34:1B-21.25a Findings, declarations relative to special needs housing; trust fund, established; use.**

1. a. The Legislature finds and declares that:

(1) The State of New Jersey has the responsibility of providing for and assuring the continued operation of safe and humane residences for individuals who require supportive housing or extended care in a community residence;

(2) The State of New Jersey requires additional funding to continue efforts to create permanent supportive housing and community residences as alternatives to institutionalization or homelessness for those who would benefit from these programs;

(3) The State of New Jersey requires immediate programs: (i) to create additional units of permanent supportive housing and community residences through new construction or substantial rehabilitation; and (ii) to support community grants and loans to develop and ensure the long-term viability of such housing and residential opportunities for individuals with special needs with priority given to individuals with mental illness;

(4) Implementation of these programs will be a substantial step toward meeting the immediate and critical need of the people of New Jersey, will substantially further the public interest, and can most economically be financed through a bond issue;

(5) The establishment of the Special Needs Housing Trust Fund under the auspices of the New Jersey Housing and Mortgage Finance Agency, funded through the issuance of bonds by the New Jersey Economic Develop-

ment Authority under the already authorized "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.23 et al.), is the most desirable means to provide funding and to implement the programs.

b. There is established in the agency a special nonlapsing, revolving fund to be known as the Special Needs Housing Trust Fund. The proceeds from the sale of bonds issued by the authority pursuant to the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.23 et al.), to finance special needs housing projects pursuant to P.L.2005, c.163 (C.34:1B-21.25a et al.) and deposited into the Motor Vehicle Surcharges Securitization Proceeds Fund shall be paid by the authority to the agency for deposit into the Special Needs Housing Trust Fund based upon executed agreements between the authority and the State Treasurer. For the purpose of obtaining moneys from the authority to be deposited into the Special Needs Housing Trust Fund, the agency may enter into agreements with the authority to receive moneys from the authority for any purposes authorized by P.L.2005, c.163 (C.34:1B-21.25a et al.) and specified in the agreements between the agency and the authority. The proceeds of this fund shall be deposited in those depositories as may be selected by the agency to the credit of the fund.

c. Funds deposited into the Special Needs Housing Trust Fund shall be used by the agency to make loans, grants or other investments to finance or otherwise pay the costs of special needs housing projects, upon such terms as the agency shall determine. In making any of the foregoing loans, grants or other investments, the agency shall not be limited by any of the restrictions imposed by P.L.1983, c.530 (C.55:14K-1 et seq.) on eligible loans, funding or financial assistance for housing projects, or other financing vehicles, and shall give priority to special needs housing projects benefiting persons with mental illness. Special needs housing projects funded from the Special Needs Housing Trust Fund shall be eligible for exemption from real property taxation pursuant to subsection b. of section 37 of P.L.1983, c.530 (C.55:14K-37).

d. Pending their application to the purposes provided in P.L.2005, c.163 (C.34:1B-21.25a et al.), the moneys in the Special Needs Housing Trust Fund may be invested and reinvested as are other trust funds in the custody of the agency, in the manner provided by law. Net earnings received from the investment or deposit of moneys in the Special Needs Housing Trust Fund shall remain in such fund and be applied to the purposes set forth in P.L.2005, c.163 (C.34:1B-21.25a et al.).

e. The agency is authorized to promulgate the rules and regulations, policies and procedures necessary to effectuate the provisions and purposes of P.L.2005, c.163 (C.34:1B-21.25a et al.) in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

**C.55:14K-7.2 Powers of agency as condition of loan, grant, investment for special needs housing projects.**

2. As a condition of any loan, grant or other investment by the agency pursuant to P.L.2005, c.163 (C.34:1B-21.25a et al.), the agency shall have the power at all times during the construction, improvement, rehabilitation or operation of a special needs housing project:

a. To enter upon and inspect without prior notice any special needs housing project, including all parts thereof, for the purpose of investigating the physical and financial condition thereof, and its construction, improvement, rehabilitation, operation, management and maintenance, and to examine all books and records with respect to capitalization, income and other matters relating thereto and to make such charges as may be required to cover the cost of such inspections and examinations;

b. To order such alterations, changes or repairs as may be necessary to protect the security of its investment in a special needs housing project or the health, safety, and welfare of the occupants thereof;

c. To order any project sponsor to do such acts as may be necessary to comply with the provisions of all applicable laws or ordinances or any rule or regulation of the agency or the terms of any agreement concerning the special needs housing project or to refrain from doing any acts in violation thereof and in this regard the agency shall be a proper party to file a complaint and to prosecute thereon for any violations of laws or ordinances as set forth herein;

d. To require the adoption and continuous use of uniform systems of accounts and records for a special needs housing project and to require all project sponsors to file annual reports containing that information and verified in such manner as the agency shall require, and to file at the times and on the forms as it may prescribe, reports and answers to specific inquiries required by the agency to determine the extent of compliance with any agreement, the terms of the loan, the provisions of P.L.2005, c.163 (C.34:1B-21.25a et al.) and any other applicable law; and

e. To enforce, by court action if necessary, the terms and provisions of any agreement between the agency and the project sponsor.

3. The Title of P.L.2004, c.70 is amended to read as follows:

**Title amended.**

AN ACT authorizing the issuance of motor vehicle surcharges securitization bonds, notes or other obligations by the New Jersey Economic Development Authority for the purposes of providing revenue to meet appropriations in State fiscal year 2005 commencing on July 1, 2004, and to create additional units of supportive housing and community residences for

individuals with special needs, providing a source of payment and security for such bonds, notes or other obligations, supplementing P.L.1974, c.80 (C.34:1B-1 et seq.) and amending P.L.1994, c.57 and P.L.1983, c.65.

4. Section 2 of P.L.2004, c.70 (C.34:1B-21.24) is amended to read as follows:

**C.34:1B-21.24 Definitions relative to motor vehicle surcharges securitization bonds.**

2. The following words or terms as used in this act shall have the following meanings unless a different meaning clearly appears from the context:

"Agency" means the New Jersey Housing and Mortgage Finance Agency created pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.);

"Authority" means the New Jersey Economic Development Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

"Bonds" means any bonds, notes or other obligations issued or entered into by the authority, bearing either a fixed rate or a variable rate of interest, issued by the authority pursuant to the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.23 et al.), the proceeds of which shall be applied in accordance with that act and P.L.2005, c.163 (C.34:1B-21.25a et al.);

"Community residences" means group homes, supervised apartments, and other types of shared living environments that provide housing and treatment or specialized services needed to assist individuals with special needs to live in community settings;

"Cost of special needs housing project" means any and all expenses reasonably incurred by a project sponsor in connection with the acquisition, construction, improvement, or rehabilitation of property which is or shall be used for a special needs housing project, including, but not limited to, the costs and expenses of engineering, inspection, planning, legal, financial, or other professional services; the funding of appropriate reserves to address the anticipated future capital needs of a special needs housing project; and the administrative, organizational, or other expenses incident to the financing, completing, and placing into service of any special needs housing project authorized by P.L.2005, c.163 (C.34:1B-21.25a et al.);

"Dedicated Motor Vehicle Surcharge Revenues" means:

a. on and after July 1, 2006, moneys required to be transferred to the Motor Vehicle Surcharges Revenue Fund from the Facility Revenue Fund pursuant to subsection b. of section 7 of P.L.1994, c.57 (C.34:1B-21.7),

b. on and after July 1, 2006, all Unsafe Driving Surcharges required to be transferred to the Motor Vehicle Surcharges Revenue Fund from the Unsafe Driving Surcharges Fund pursuant to section 5 of this act, and

c. after such time as all Market Transition Facility bonds, notes and obligations and all New Jersey Motor Vehicle Commission bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4), and the costs thereof are discharged and no longer outstanding, all other plan surcharges collected by the commission pursuant to subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) and required to be transferred to the Motor Vehicle Surcharges Revenue Fund from the DMV Surcharge Fund pursuant to section 12 of P.L.1994, c.57 (C.34:1B-21.12);

"Division of Motor Vehicles Surcharge Fund" or "DMV Surcharge Fund" means the fund created pursuant to section 12 of P.L.1994, c.57 (C.34:1B-21.12);

"Individuals with mental illness" means individuals with a psychiatric disability or individuals with a mental illness eligible for housing or services funded by the Division of Mental Health Services in the Department of Human Services;

"Individuals with special needs" means individuals with mental illness, individuals with physical or developmental disabilities and individuals in other emerging special needs groups identified by State agencies;

"Market Transition Facility Revenue Fund" or "Facility Revenue Fund" means the fund created pursuant to section 7 of P.L.1994, c.57 (C.34:1B-21.7);

"Motor Vehicle Surcharges Revenue Fund" means the fund within the authority created and established pursuant to section 6 of this act;

"Motor Vehicle Surcharges Securitization Proceeds Fund" means the fund created and established pursuant to section 3 of this act;

"Permanent supportive housing" means a range of permanent housing options such as apartments, condominiums, townhouses, single and multi-family homes, single room occupancy housing, shared living and supportive living arrangements that provide access to on-site or off-site supportive services for individuals and families who can benefit from housing with services;

"Project sponsor" means any person, partnership, corporation, limited liability company, association, whether organized as for profit or not for profit, or any governmental entity to which the agency has made or proposes to make a loan or a grant, or otherwise to provide assistance, to finance a special needs housing project;

"Refunding Bonds" means any bonds, notes or other obligations issued by the authority to refinance bonds, notes or other obligations previously issued by the authority pursuant to this act;

"Special needs housing project" means a housing development, or such portion of a housing development, that is permanent supportive housing or a community residence that is primarily for occupancy by individuals with special needs who shall occupy such housing as their usual and permanent residence, together with any structures or facilities, appurtenant or ancillary thereto, and shall include the planning, development, acquisition, construction and rehabilitation of structures, and residences undertaken by a project sponsor for such purposes, including the cost of land and structures, construction, rehabilitation or any interest therein;

"Unsafe Driving Surcharges Fund" means the fund within the Department of the Treasury created and established pursuant to section 5 of this act; and

"Unsafe Driving Surcharges" means the revenues received by the State resulting from the plan surcharges established as such pursuant to subparagraph (a) of paragraph (2) of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) and assessed and collected pursuant to subsection f. of section 1 of P.L.2000, c.75 (C.39:4-97.2) for convictions for unsafe driving pursuant to that section.

5. Section 3 of P.L.2004, c.70 (C.34:1B-21.25) is amended to read as follows:

**C.34:1B-21.25 "Motor Vehicle Surcharges Securitization Proceeds Fund."**

3. a. The authority shall establish and maintain a special nonlapsing fund to be known as the "Motor Vehicle Surcharges Securitization Proceeds Fund" into which shall be deposited the following moneys:

(1) the proceeds from the sale of all bonds (other than refunding bonds) issued by the authority pursuant to this act which are remaining after any required deposit to any reserve or other fund established for such bonds or refunding bonds in accordance with subsection a. of section 4 of this act and after the payment of all costs, fees and other expenses related to, or incurred by the authority or the State in connection with, the issuance of such bonds or refunding bonds;

(2) any amounts which shall be appropriated by the State Legislature for the purposes of such fund; and

(3) any other amounts or funds which the authority shall determine to deposit into such fund. Moneys on deposit in the Motor Vehicle Surcharges Securitization Proceeds Fund shall be invested in such obligations as the authority may determine or as shall otherwise be provided in any contract between the authority and the State Treasurer authorized and entered into pursuant to section 7 of this act, and interest or other earnings on any such investments shall be credited to such fund.

b. Amounts on deposit in the Motor Vehicle Surcharges Securitization Proceeds Fund shall be withdrawn by the authority from time to time, and applied as set forth in paragraphs (1) and (2) of this subsection.

(1) Upon written request of the State Treasurer or as otherwise provided in any contract between the authority and the State Treasurer authorized and entered into pursuant to section 7 of this act, and paid to the State Treasurer for deposit either into the General Fund of the State or into the Motor Vehicle Surcharges Securitization Fund, as determined by the State Treasurer, and used for any lawful purpose of the State for which moneys on deposit in the General Fund may be used. All amounts withdrawn from the Motor Vehicle Surcharges Securitization Proceeds Fund and deposited into the General Fund of the State as provided in this paragraph shall represent financial resources and revenues of the State upon deposit into the General Fund. Notwithstanding any provision of this paragraph to the contrary, the State Treasurer shall not request the authority to pay, and the authority shall not pay, to the State Treasurer during State fiscal year 2005 for deposit into the General Fund of the State, amounts on deposit in the Motor Vehicle Surcharges Securitization Proceeds Fund which are in excess of the amounts anticipated as revenues from that fund as certified by the Governor pursuant to Article VIII, Section II, paragraph 2 of the State Constitution for the State annual appropriation act for State fiscal year 2005.

(2) Upon written request of the agency or as otherwise provided in any contract between the authority and the agency authorized and entered into pursuant to P.L.2005, c.163 (C.34:1B-21.25a et al.), an amount not to exceed \$200,000,000 in the aggregate from the proceeds of bonds authorized under the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.23 et al.), shall be paid to the agency for deposit into the Special Needs Housing Trust Fund to fund the costs of special needs housing projects authorized pursuant to P.L.2005, c.163 (C.34:1B-21.25a et al.).

6. This act shall take effect immediately.

Approved August 3, 2005.

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#### CHAPTER 164

AN ACT concerning Juvenile Justice Master Plans and State/Community Partnership Grant funds and amending P.L.1995, c.284 and P.L.1995, c.282.

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

1. Section 2 of P.L.1995, c.284 (C.52:17B-170) is amended to read as follows:

**C.52:17B-170 Juvenile Justice Commission established.**

2. a. A Juvenile Justice Commission is established in, but not of, the Department of Law and Public Safety. The commission is allocated to the Department of Law and Public Safety for the purpose of complying with Article V, Section IV, paragraph 1 of the New Jersey Constitution. The Attorney General shall be the request officer for the commission within the meaning of section 6 of article 3 of P.L.1944, c.112 (C.52:27B-15) and shall exercise that authority and other administrative functions, powers and duties consistent with the provisions of this act.

b. The commission shall consist of an executive director, an executive board, an advisory council and such facilities, officers, employees and organizational units as provided herein or as otherwise necessary to performance of the commission's duties and responsibilities.

c. The executive director 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 a successor is appointed and qualified.

d. The executive board shall consist of the following members: The Attorney General, who shall serve as chair of the executive board; the Commissioner of Corrections and the Commissioner of Human Services, who shall serve as vice-chairs of the executive board; the Commissioner of Education; the chair of the Juvenile Justice Commission advisory council, established pursuant to section 4 of P.L.1995, c.284 (C.52:17B-172); and two members who serve as chairs of a county youth services commission, established pursuant to P.L.1995, c.282 (C.52:17B-180), to be appointed by the Governor to serve at the Governor's pleasure. The Administrative Director of the Administrative Office of the Courts is invited to participate on the executive board, subject to the approval of the Supreme Court. A member of the executive board may name a designee who shall have the authority to act for the member. Members of the executive board shall serve without compensation for their services to the commission. The executive board shall meet at least quarterly and at such other times as designated by the chair. Except with respect to matters concerning distribution of funds to counties, four members of the executive board shall constitute a quorum to transact business of the executive board and action of the executive board shall require an affirmative vote of four members. A member of the executive board who is also a member of a county youth services commission shall not participate in matters concerning distribution of funds to counties; in these matters, three members of the executive board shall constitute a quo-



rum to transact business and an action of the executive board shall require an affirmative vote of three members.

e. The commission shall have the following powers, duties and responsibilities:

(1) To specify qualifications for and to employ, within the limits of available appropriations and subject to the provisions of P.L.1995, c.284 (C.52:17B-169 et seq.) and Title 11A of the New Jersey Statutes, such staff as are necessary to accomplish the work of the commission or as are needed for the proper performance of the functions and duties of the commission, including but not limited to:

(a) The number of deputy directors, assistant directors, superintendents, assistant superintendents and other assistants who shall be in the unclassified service and 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.); and

(b) Juvenile corrections officers;

(2) To utilize such staff of the Department of Law and Public Safety as the Attorney General, within the limits of available appropriations, may make available to the commission;

(3) To organize the work of the commission in appropriate bureaus and other organization units;

(4) To enter into contracts and agreements with State, county and municipal governmental agencies and with private entities for the purpose of providing services and sanctions for juveniles adjudicated or charged as delinquent and programs for prevention of juvenile delinquency;

(5) To contract for the services of professional and technical personnel and consultants as necessary to fulfill the statutory responsibilities of the commission;

(6) To establish minimum standards for the care, treatment, government and discipline of juveniles confined pending, or as a result of, an adjudication of delinquency;

(7) To assume the custody and care of all juveniles committed by court order, law, classification, regulation or contract to the custody of the commission or transferred to the custody of the commission pursuant to section 8 of P.L.1995, c.284 (C.52:17B-176);

(8) To manage and operate all State secure juvenile facilities which shall include the New Jersey Training School for Boys created pursuant to R.S.30:1-7 and transferred to the Commissioner of Corrections pursuant to section 8 of P.L.1976, c.98 (C.30:1B-8) and the Juvenile Medium Security Facility created pursuant to R.S.30:1-7 and both transferred to the commission pursuant to section 8 of P.L.1995, c.284 (C.52:17B-176) and shall

include any other secure juvenile facility established by the commission in the future;

(9) To manage and operate all State juvenile facilities or juvenile programs for juveniles adjudicated delinquent which shall include facilities and programs transferred to the commission pursuant to section 8 of P.L.1995, c.284 (C.52:17B-176) or established or contracted for in the future by the commission;

(10) To prepare a State Juvenile Justice Master Plan every third year which identifies facilities, sanctions and services available for juveniles adjudicated or charged as delinquent and juvenile delinquency prevention programs and which identifies additional needs based upon the extent and nature of juvenile delinquency and the adequacy and effectiveness of available facilities, services, sanctions and programs;

(11) To approve plans for each county submitted by the county youth services commission pursuant to P.L.1995, c.282 (C.52:17B-180);

(12) To administer the State/Community Partnership Grant Program established pursuant to P.L.1995, c.283 (C.52:17B-179);

(13) To accept from any governmental department or agency, public or private body or any other source, grants or contributions to be used in exercising its power, and in meeting its duties and responsibilities;

(14) To formulate and adopt standards and rules for the efficient conduct of the work of the commission, the facilities, services, sanctions and programs within its jurisdiction, and its officers and employees;

(15) To provide for the development of the facilities, services, sanctions and programs within its jurisdiction and to promote the integration of State, county and local facilities, sanctions, services and programs, including probation and parole;

(16) To institute, or cause to be instituted, such legal proceedings or processes as may be necessary to enforce properly and give effect to any of its powers or duties including the authority to compel by subpoena, subject to the sanction for contempt of subpoena issued by a court, attendance and production of records;

(17) To provide for the timely and efficient collection and analysis of data regarding the juvenile justice system to insure the continuing review and evaluation of services, policies and procedures;

(18) To receive and classify juveniles committed to the custody of the commission;

(19) To supervise compliance with conditions of parole;

(20) To establish appropriate dispositions of juveniles for whom parole has been revoked;

(21) To perform such other functions as may be prescribed by law; and

(22) To promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement and effectuate the purposes of this act.

2. Section 1 of P.L.1995, c.282 (C.52:17B-180) is amended to read as follows:

**C.52:17B-180 Qualification for State/Community Partnership Grant Funds.**

1. a. In order to qualify for award of State/Community Partnership Grant funds established pursuant to P.L.1995, c.283 (C.52:17B-179) a county shall:

(1) Establish a county youth services commission in accordance with regulations promulgated by the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170);

(2) Submit and obtain Juvenile Justice Commission approval of a triennial comprehensive plan for services and sanctions for juveniles adjudicated or charged as delinquent and programs for the prevention of juvenile delinquency which:

(a) are designed to promote the goals of P.L.1995, c.283 (C.52:17B-179);

(b) provide recommendations for funding of programs, sanctions and services that enhance and expand the range of sanctions and services for juveniles adjudicated or charged as delinquent and programs designed to prevent delinquency;

(c) make services available in geographical locations within the county where juveniles in need reside; and

(d) provide for distribution of State/Community Partnership Grant funds by the county in accordance with contracts or agreements executed by the appropriate county officials in accordance with applicable law.

b. The Juvenile Justice Commission shall establish by regulation:

(1) Specific guidelines as to membership of a county youth services commission;

(2) Specific requirements for the administration of the State/Community Partnership Grant funds awarded by the county.

c. Notwithstanding the provisions of subsection a. of this section, the county governing body may elect, upon annual written request approved by the executive director, to designate a commission, council or agency to assume the responsibilities of a county youth services commission in that county. Approval of such a request shall be contingent upon the governing body demonstrating that the membership of the designated entity is sufficiently representative of persons and agencies interested in the juvenile justice system to permit the entity to perform the duties and responsibilities of a county youth services commission, that the members of the designated

entity are otherwise qualified to perform the duties and responsibilities of members of a county youth services commission, and that the designated entity has the authority and responsibility to carry out the duties and responsibilities of a county youth services commission.

d. A county youth services commission shall:

(1) Recommend to the governing body of the county the approval or disapproval of contracts with local government or private agencies that desire participation in the State/Community Partnership Grant Program;

(2) Monitor the operations of programs receiving State/Community Partnership Grant funds with reference to compliance with standards, policies and rules established by the Juvenile Justice Commission;

(3) Monitor and evaluate the impact of the programs receiving State/Community Partnership Grant funds, including the nature of the offender or at risk populations served by the funded programs, and prepare a written report with relevant documentation, on an annual basis, to be submitted to the Juvenile Justice Commission as part of the commission's triennial plan and annual update; and

(4) Perform such other duties as may be established by the Juvenile Justice Commission to achieve the purposes of P.L.1995, c.284 (C.52:17B-169 et seq.) which creates the Juvenile Justice Commission and P.L.1995, c.283 (C.52:17B-179) which creates the State/Community Partnership Grant Program.

e. No county may use funds received pursuant to this section to supplant or replace existing funds or other resources from federal, State or county government for existing juvenile justice-related programs or for purposes of capital construction or renovation.

f. If a county elects not to participate in the State/Community Partnership Grant Program, the commission is authorized to allocate and expend that county's share of Partnership funding in a manner consistent with the commission's Juvenile Justice Master Plan.

3. This act shall take effect immediately.

Approved August 5, 2005.

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## CHAPTER 165

AN ACT concerning the disclosure of certain juvenile information to law enforcement agencies and amending P.L.1982, c.79.

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

1. Section 1 of P.L.1982, c.79 (C.2A:4A-60) is amended to read as follows:

**C.2A:4A-60 Disclosure of juvenile information; penalties for disclosure.**

1. Disclosure of juvenile information; penalties for disclosure.
  - a. Social, medical, psychological, legal and other records of the court and probation division, and records of law enforcement agencies, pertaining to juveniles charged as a delinquent or found to be part of a juvenile-family crisis, shall be strictly safeguarded from public inspection. Such records shall be made available only to:
    - (1) Any court or probation division;
    - (2) The Attorney General or county prosecutor;
    - (3) The parents or guardian and to the attorney of the juvenile;
    - (4) The Department of Human Services, if providing care or custody of the juvenile;
    - (5) Any institution or facility to which the juvenile is currently committed or in which the juvenile is placed;
    - (6) Any person or agency interested in a case or in the work of the agency keeping the records, by order of the court for good cause shown, except that information concerning adjudications of delinquency, records of custodial confinement, payments owed on assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution ordered following conviction of a crime or adjudication of delinquency, and the juvenile's financial resources, shall be made available upon request to the Victims of Crime Compensation Board established pursuant to section 3 of P.L.1971, c.317 (C.52:4B-3), which shall keep such information and records confidential;
    - (7) The Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170);
    - (8) Law enforcement agencies for the purpose of reviewing applications for a permit to purchase a handgun or firearms purchaser identification card;
    - (9) Any potential party in a subsequent civil action for damages related to an act of delinquency committed by a juvenile, including the victim or a member of the victim's immediate family, regardless of whether the action has been filed against the juvenile; provided, however, that records available under this paragraph shall be limited to official court documents, such as complaints, pleadings and orders, and that such records may be disclosed by the recipient only in connection with asserting legal claims or obtaining indemnification on behalf of the victim or the victim's family and otherwise

shall be safeguarded from disclosure to other members of the public. Any potential party in a civil action related to the juvenile offense may file a motion with the civil trial judge seeking to have the juvenile's social, medical or psychological records admitted into evidence in a civil proceeding for damages;

(10) Any potential party in a subsequent civil action for damages related to an act of delinquency committed by a juvenile, including the victim or a member of the victim's immediate family, regardless of whether the action has been filed against the juvenile; provided, however, that records available under this paragraph shall be limited to police or investigation reports concerning acts of delinquency, which shall be disclosed by a law enforcement agency only with the approval of the County Prosecutor's Office or the Division of Criminal Justice. Prior to disclosure, all personal information regarding all individuals, other than the requesting party and the arresting or investigating officer, shall be redacted. Such records may be disclosed by the recipient only in connection with asserting legal claims or obtaining indemnification on behalf of the victim or the victim's family, and otherwise shall be safeguarded from disclosure to other members of the public;

(11) The Office of the Child Advocate established pursuant to P.L.2005, c.155 (C.52:27EE-1 et al.). Disclosure of juvenile information received by the child advocate pursuant to this paragraph shall be in accordance with the provisions of section 76 of P.L.2005, c.155 (C.52:27EE-76); and

(12) Law enforcement agencies with respect to information available on the juvenile central registry maintained by the courts pursuant to subsection g. of this section, including, but not limited to: records of official court documents, such as complaints, pleadings and orders for the purpose of obtaining juvenile arrest information; juvenile disposition information; juvenile pretrial information; and information concerning the probation status of a juvenile.

b. Records of law enforcement agencies may be disclosed for law enforcement purposes, or for the purpose of reviewing applications for a permit to purchase a handgun or a firearms purchaser identification card to any law enforcement agency of this State, another state or the United States, and the identity of a juvenile under warrant for arrest for commission of an act that would constitute a crime if committed by an adult may be disclosed to the public when necessary to execution of the warrant.

c. At the time of charge, adjudication or disposition, information as to the identity of a juvenile charged with an offense, the offense charged, the adjudication and disposition shall, upon request, be disclosed to:

- (1) The victim or a member of the victim's immediate family;
- (2) (Deleted by amendment P.L.2005, c.165).

(3) On a confidential basis, the principal of the school where the juvenile is enrolled for use by the principal and such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or to planning programs relevant to the juvenile's educational and social development, provided that no record of such information shall be maintained except as authorized by regulation of the Department of Education; or

(4) A party in a subsequent legal proceeding involving the juvenile, upon approval by the court.

d. A law enforcement or prosecuting agency shall, at the time of a charge, adjudication or disposition, advise the principal of the school where the juvenile is enrolled of the identity of the juvenile charged, the offense charged, the adjudication and the disposition if:

(1) The offense occurred on school property or a school bus, occurred at a school-sponsored function or was committed against an employee or official of the school; or

(2) The juvenile was taken into custody as a result of information or evidence provided by school officials; or

(3) The offense, if committed by an adult, would constitute a crime, and the offense:

(a) resulted in death or serious bodily injury or involved an attempt or conspiracy to cause death or serious bodily injury; or

(b) involved the unlawful use or possession of a firearm or other weapon; or

(c) involved the unlawful manufacture, distribution or possession with intent to distribute a controlled dangerous substance or controlled substance analog; or

(d) was committed by a juvenile who acted with a purpose to intimidate an individual or group of individuals because of race, color, religion, sexual orientation or ethnicity; or

(e) would be a crime of the first or second degree.

Information provided to the principal pursuant to this subsection shall be treated as confidential but may be made available to such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or for planning programs relevant to a juvenile's educational and social development, and no record of such information shall be maintained except as authorized by regulation of the Department of Education.

e. Nothing in this section prohibits a law enforcement or prosecuting agency from providing the principal of a school with information identifying one or more juveniles who are under investigation or have been taken into custody for commission of any act that would constitute an offense if com-

mitted by an adult when the law enforcement or prosecuting agency determines that the information may be useful to the principal in maintaining order, safety or discipline in the school or in planning programs relevant to the juvenile's educational and social development. Information provided to the principal pursuant to this subsection shall be treated as confidential but may be made available to such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or for planning programs relevant to the juvenile's educational and social development. No information provided pursuant to this section shall be maintained.

f. Information as to the identity of a juvenile adjudicated delinquent, the offense, the adjudication and the disposition shall be disclosed to the public where the offense for which the juvenile has been adjudicated delinquent if committed by an adult, would constitute a crime of the first, second or third degree, or aggravated assault, destruction or damage to property to an extent of more than \$500.00, unless upon application at the time of disposition the juvenile demonstrates a substantial likelihood that specific and extraordinary harm would result from such disclosure in the specific case. Where the court finds that disclosure would be harmful to the juvenile, the reasons therefor shall be stated on the record.

g. (1) Nothing in this section shall prohibit the establishment and maintaining of a central registry of the records of law enforcement agencies relating to juveniles for the purpose of exchange between State and local law enforcement agencies and prosecutors of this State, another state, or the United States. These records of law enforcement agencies shall be available on a 24-hour basis.

(2) Certain information and records relating to juveniles in the central registry maintained by the courts, as prescribed in paragraph (12) of subsection a. of this section, shall be available to State and local law enforcement agencies and prosecutors on a 24-hour basis.

h. Whoever, except as provided by law, knowingly discloses, publishes, receives, or makes use of or knowingly permits the unauthorized use of information concerning a particular juvenile derived from records listed in subsection a. or acquired in the course of court proceedings, probation, or police duties, shall, upon conviction thereof, be guilty of a disorderly persons offense.

i. Juvenile delinquency proceedings.

(1) Except as provided in paragraph (2) of this subsection, the court may, upon application by the juvenile or his parent or guardian, the prosecutor or any other interested party, including the victim or complainant or members of the news media, permit public attendance during any court proceeding at a delinquency case, where it determines that a substantial likelihood that



specific harm to the juvenile would not result. The court shall have the authority to limit and control attendance in any manner and to the extent it deems appropriate;

(2) The court or, in cases where the county prosecutor has entered an appearance, the county prosecutor shall notify the victim or a member of the victim's immediate family of any court proceeding involving the juvenile and the court shall permit the attendance of the victim or family member at the proceeding except when, prior to completing testimony as a witness, the victim or family member is properly sequestered in accordance with the law or the Rules Governing the Courts of the State of New Jersey or when the juvenile or the juvenile's family member shows, by clear and convincing evidence, that such attendance would result in a substantial likelihood that specific harm to the juvenile would result from the attendance of the victim or a family member at a proceeding or any portion of a proceeding and that such harm substantially outweighs the interest of the victim or family member to attend that portion of the proceeding;

(3) The court shall permit a victim, or a family member of a victim to make a statement prior to ordering a disposition in any delinquency proceeding involving an offense that would constitute a crime if committed by an adult.

j. The Department of Education, in consultation with the Attorney General, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations concerning the creation, maintenance and disclosure of pupil records including information acquired pursuant to this section.

2. This act shall take effect immediately.

Approved August 5, 2005.

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## CHAPTER 166

AN ACT concerning small employer health benefits coverage and amending P.L.1992, c.162.

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

1. Section 8 of P.L.1992, c.162 (C.17B:27A-24) is amended to read as follows:

**C.17B:27A-24 Reasonable specified minimum participation.**

8. Any small employer carrier may require a reasonable specified minimum participation of eligible employees, which shall not exceed 75%, or reasonable minimum employer contributions in determining whether to accept a small group pursuant to this act. The standards so established by the carrier shall be first approved by the board and shall be applied uniformly to all small groups, except that in no event shall a carrier require an employer to contribute more than 10% to the annual cost of the policy or contract, or an amount as otherwise provided by the board, and any minimum participation standards established by the carrier shall be reasonable. In establishing the percentage of employee participation, a one-to-one credit shall be given for each employee covered by a spouse's health benefits coverage, Medicare, Medicaid, NJ FamilyCare or another group health benefits plan. In calculating an employer's participation, the carrier shall include all insured employees, regardless of whether the employees chose an indemnity plan or a health maintenance organization, or a combination thereof.

2. This act shall take effect on the 60th day after enactment.

Approved August 5, 2005.

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**CHAPTER 167**

AN ACT concerning child labor and amending P.L.1940, c.153.

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

1. Section 19 of P.L.1940, c.153 (C.34:2-21.19) is amended to read as follows:

**C.34:2-21.19 Penalty, Child Labor Law Enforcement Trust Fund, Advisory Board; annual report.**

19. a. Whoever employs or permits or suffers any minor to be employed or to work in violation of this act, or of any order or ruling issued under the provisions of this act, or obstructs the Department of Labor and Workforce Development, its officers or agents, or any other person authorized to inspect places of employment under this act, and whoever, having under his control or custody any minor, permits or suffers him to be employed or to work in violation of this act, shall be guilty of an offense. If a defendant acts knowingly, an offense under this section shall be a crime of the fourth degree. Otherwise it shall be a disorderly persons offense and the defendant shall,

upon conviction for a violation, be punished by a fine of not less than \$100 nor more than \$2,000 for an initial violation and not less than \$200 nor more than \$4,000 for each subsequent violation. Each day during which any violation of this act continues shall constitute a separate and distinct offense, and the employment of any minor in violation of the act shall with respect to each minor so employed, constitute a separate and distinct offense.

b. As an alternative to or in addition to any other sanctions provided by law for violations of P.L.1940, c.153 (C.34:2-21.1 et seq.), when the Commissioner of Labor and Workforce Development finds that an individual has violated that act, the commissioner is authorized to assess and collect administrative penalties of not more than \$500 for a first violation, not more than \$1,000 for a second violation, and not more than \$2,500 for each subsequent violation, specified in a schedule of penalties to be promulgated as a rule or regulation by the commissioner in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). When determining the amount of the penalty imposed because of a violation, the commissioner shall consider factors which include the history of previous violations by the employer, the seriousness of the violation, the good faith of the employer, and the size of the employer's business. No administrative penalty shall be levied pursuant to this section unless the Commissioner of Labor and Workforce Development provides the alleged violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing before the commissioner or his designee within 15 days following the receipt of the notice. If a hearing is requested, the commissioner shall issue a final order upon such hearing and a finding that a violation has occurred. If no hearing is requested, the notice shall become a final order upon expiration of the 15-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. Any penalty imposed pursuant to this section may be recovered with costs in a summary proceeding commenced by the commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c. 274 (C.2A:58-10 et seq.). Any sum collected as a fine or penalty pursuant to this section shall be deposited in the Child Labor Law Enforcement Trust Fund established pursuant to subsection c. of this section.

c. There is established in the Department of Labor and Workforce Development the Child Labor Law Enforcement Trust Fund. All moneys in the fund shall be applied by the department toward the enforcement of the provisions of P.L.1940, c.153 (C.34:2-21.1 et seq.) and to disseminate information and publicity regarding those provisions to employers, employer organizations, employees, unions, and teachers, counselors, social workers and other professionals engaged in work involving the welfare of children.

d. There is established a Child Labor Law Enforcement Advisory Board to advise the Commissioner of Labor and Workforce Development, and issue an annual report, regarding the use of moneys from the Child Labor Law Enforcement Trust Fund and other issues the board deems appropriate concerning child labor, including the impact of excessive or hazardous work on the educational success, health and general well-being of children. The board shall consist of the commissioner or his designee, who shall serve as the chair, and seven members appointed by the commissioner as follows: two members representing organizations of employers in industries with significant numbers of employees who are minors, two members representing labor unions in industries with significant numbers of employees who are minors, one member representing an organization of school administrators, one member representing an organization of school employees, and one member who is an individual with expertise on the impact of excessive or hazardous work on the educational success, health, and general well-being of children. Members appointed by the commissioner shall be appointed for two-year terms and may be appointed for any number of terms. Members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties. Action may be taken by the board by an affirmative vote of a majority of its members. The first annual report shall be issued not later than 12 months after the effective date of this act. Each annual report may include recommendations to enhance the enforcement and publicizing of the provisions of P.L.1940, c.153 (C.34:2-21.1 et seq.). The advisory board shall have access to reports, data and other information regarding child labor in the possession of the department and assistance from department personnel as required to perform its duties.

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

Approved August 5, 2005.

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## CHAPTER 168

AN ACT concerning the NJ STARS Program and amending P.L.2004, c.59.

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

1. Section 5 of P.L.2004, c.59 (C.18A:71B-85) is amended to read as follows:

**C.18A:71B-85 NJ STARS scholarships; eligibility.**

5. a. A scholarship under the NJ STARS Program shall cover the full cost of tuition and fees, subject to the prior application of other grants and scholarships against those costs as provided under paragraph (2) of subsection c. of this section, for up to 15 credit hours in any semester, for an eligible student enrolled in a full-time course of study at the New Jersey county college serving the student's county of residence. An otherwise eligible student who demonstrates to the authority, in accordance with such criteria and by means of such documentation as the authority shall establish by regulation, that the county college serving the student's county of residence does not offer the curriculum that the student chooses to study shall be eligible for such scholarship at another New Jersey county college offering that curriculum. The amount of any scholarship allowed hereunder to a student at a county college serving a county other than the student's county of residence shall be computed as though the student were a resident of the county served by that college, and the college shall likewise compute the amount of any additional payment, required with respect to the enrollment of that student for credit hours of study during a semester in which the scholarship is awarded that are not covered by that scholarship, as though the student were a resident of the county.

b. A student shall be eligible for a scholarship under the NJ STARS Program for up to five semesters. The scholarship shall be payable for the first year of enrollment in a county college to a student who graduated in the top 20% of the student's high school graduating class, provided that in the case of students graduating from high schools that do not calculate the class rank of their students, the student's ranking shall be determined by the high school in consultation with the authority. During a student's enrollment in a county college after the first year of enrollment, the scholarship shall be payable to that student if the student attains a grade point average of at least 3.0 by the start of the student's second year of county college enrollment. A student who attains a grade point average of less than 3.0 at the start of the second semester of the student's first year of county college enrollment shall participate in an enrichment program designed by the county college during the second semester of the student's first year of enrollment.

c. To be eligible to receive a scholarship under the NJ STARS Program a student shall:

- (1) be a State resident pursuant to guidelines established by the authority;
- (2) have applied for all other available forms of State and federal need-based grants and merit scholarships, exclusive of loans, the full amount of which grants and scholarships shall be applied to tuition and fee charges to reduce the amount of any scholarship that the student shall receive under the provisions of this act;

(3) be enrolled in a full-time course of study at a New Jersey county college;

(4) have graduated from high school in 2004 or later, and not earlier than the calendar year two years prior to the first calendar year in which a scholarship payment is to be made; and

(5) maintain continuous enrollment in a full-time course of study, unless on medical leave due to the illness of the student or a member of the student's immediate family or emergency leave because of a family emergency, which medical or emergency leave shall have been approved by the county college.

d. A student who is dismissed for academic or disciplinary reasons from a county college shall no longer be eligible for a scholarship under this act. If a student participating in the program is dismissed for disciplinary reasons, the student shall repay in full all amounts received under the program. The county college shall be responsible for collecting the repayment, or the amount of any overpayment or other improper payment, of any State awards under the program, in accordance with the provisions of N.J.S.18A:71B-10.

e. A student scholarship under the NJ STARS Program may be renewed upon the student's filing of a renewal financial aid application and providing evidence that the student has satisfied the requirements pursuant to subsection b. of this section.

2. This act shall take effect immediately.

Approved August 5, 2005.

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## CHAPTER 169

AN ACT concerning child protective services and revising various 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.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, resource family parent, stepparent, paramour of a parent 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 Office of the Public Defender or appointed by the court, and designated under this act to represent minors in alleged cases of child abuse or neglect and in termination of parental rights proceedings.

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 Office of the Public Defender or an attorney appointed by the court who shall be appointed in order to avoid conflict between the interests of the child and the parent or guardian in regard to representation.

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.

2. Section 26 of P.L.1974, c.119 (C.9:6-8.46) is amended to read as follows:

**C.9:6-8.46 Evidence.**

26. a. In any hearing under this act, including an administrative hearing held in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), (1) proof of the abuse or neglect of one child shall be admissible evidence on the issue of the abuse or neglect of any other child of, or the responsibility of, the parent or guardian and (2) proof of injuries sustained by a child or of the condition of a child of such a nature as would ordinarily not be sustained or exist except by reason of the acts or omissions of the parent or guardian shall be prima facie evidence that a child of, or who is the responsibility of such person is an abused or neglected child, and (3) any writing, record or photograph, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any condition, act, transaction, occurrence or event relating to a child in an abuse or neglect



proceeding of any hospital or any other public or private institution or agency shall be admissible in evidence in proof of that condition, act, transaction, occurrence or event, if the judge finds that it was made in the regular course of the business of any hospital or any other public or private institution or agency, and that it was in the regular course of such business to make it, at the time of the condition, act, transaction, occurrence or event, or within a reasonable time thereafter, shall be prima facie evidence of the facts contained in such certification. A certification by someone other than the head of the hospital or agency shall be accompanied by a photocopy of a delegation of authority signed by both the head of the hospital or agency and by such other employees. All other circumstances of the making of the memorandum, record or photograph, including lack of personal knowledge of the making, may be proved to affect its weight, but they shall not affect its admissibility and (4) previous statements made by the child relating to any allegations of abuse or neglect shall be admissible in evidence; provided, however, that no such statement, if uncorroborated, shall be sufficient to make a fact finding of abuse or neglect.

b. In a fact-finding hearing (1) any determination that the child is an abused or neglected child must be based on a preponderance of the evidence and (2) only competent, material and relevant evidence may be admitted.

c. In a dispositional hearing and during all other stages of a proceeding under this act, only material and relevant evidence may be admitted.

3. R.S.30:1-9 is amended to read as follows:

**Divisions; directors, assistant commissioners, powers and duties.**

30:1-9. The commissioner may create within the department such divisions as he may deem necessary. Each division shall be under the supervision of a director or assistant commissioner, who shall be qualified by training and experience, appointed by and receive the compensation fixed by the commissioner, except where otherwise provided by statute, and shall devote his entire time to the performance of his duties.

The commissioner may in his discretion combine the duties of two or more divisions under one head.

The division directors or assistant commissioners shall perform such services and exercise such powers at such times and places as the commissioner shall prescribe.

4. Section 2 of P.L.1951, c.138 (C.30:4C-2) is amended to read as follows:

**C.30:4C-2 Definitions.**

2. For the purposes of this act the following words and terms shall, unless otherwise indicated, be deemed and taken to have the meanings herein given to them:

(a) The term "Division of Youth and Family Services," or "division," successor to the "Bureau of Children's Services" means the State agency for the care, custody, guardianship, maintenance and protection of children, as more specifically described by the provisions of this act, and succeeding the agency heretofore variously designated by the laws of this State as the State Board of Child Welfare or the State Board of Children's Guardians.

(b) The word "child" includes stepchild and illegitimate child, and further means any person under the age of 18 years.

(c) The term "care" means cognizance of a child for the purpose of providing necessary welfare services, or maintenance, or both.

(d) The term "custody" means continuing responsibility for the person of a child, as established by a surrender and release of custody or consent to adoption, for the purpose of providing necessary welfare services, or maintenance, or both.

(e) The term "guardianship" means control over the person and property of a child as established by the order of a court of competent jurisdiction, and as more specifically defined by the provisions of this act. Guardianship by the Division of Youth and Family Services shall be treated as guardianship by the Commissioner of Human Services exercised on his behalf wholly by and in the name of the Division of Youth and Family Services, acting through the chief executive officer of the division or his authorized representative. Such exercise of guardianship by the division shall be at all times and in all respects subject to the supervision of the commissioner.

(f) The term "maintenance" means moneys expended by the Division of Youth and Family Services to procure board, lodging, clothing, medical, dental, and hospital care, or any other similar or specialized commodity or service furnished to, on behalf of, or for a child pursuant to the provisions of this act; maintenance also includes but is not limited to moneys expended for shelter, utilities, food, repairs, essential household equipment, and other expenditures to remedy situations of an emergent nature to permit, as far as practicable, children to continue to live with their families.

(g) The term "welfare services" means consultation, counseling, and referral to or utilization of available resources, for the purpose of determining and correcting or adjusting matters and circumstances which are endangering the welfare of a child, and for the purpose of promoting his proper development and adjustment in the family and the community.

(h) The term "resource family parent" means any person other than a natural or adoptive parent with whom a child in the care, custody or guardianship of the Department of Human Services is placed by the department, or with its approval, for care, and shall include any person with whom a child is placed by the division for the purpose of adoption until the adoption is finalized.

(i) The term "resource family home" means and includes private residences wherein any child in the care, custody or guardianship of the Department of Human Services may be placed by the department, or with its approval, for care, and shall include any private residence maintained by persons with whom any such child is placed by the division for the purpose of adoption until the adoption is finalized.

(j) The singular includes the plural form.

(k) The masculine noun and pronoun include the feminine.

(l) The word "may" shall be construed to be permissive.

(m) The term "group home" means and includes any single family dwelling used in the placement of 12 children or less pursuant to law, recognized as a group home by the Department of Human Services in accordance with rules and regulations adopted by the Commissioner of Human Services; provided, however, that no group home shall contain more than 12 children.

(n) The term "youth facility" means a facility within this State used to house or provide services to children under this act, including but not limited to group homes, residential facilities, day care centers, and day treatment centers.

(o) The term "youth facility aid" means aid provided by the Division of Youth and Family Services to public, private or voluntary agencies to purchase, construct, renovate, repair, upgrade or otherwise improve a youth facility in consideration for an agreement for the agency to provide residential care, day treatment or other youth services for children in need of such services.

(p) The term "day treatment center" means a facility used to provide counseling, supplemental educational services, therapy, and other related services to children for whom it has been determined that such services are necessary, but is not used to house these children in a residential setting.

(q) The term "residential facility" means a facility used to house and provide treatment and other related services on a 24-hour basis to children determined to be in need of such housing and services.

(r) The term "legally responsible person" means the natural or adoptive parent, or the spouse of a child receiving maintenance from or through the Division of Youth and Family Services.

(s) "Commissioner" means the Commissioner of Human Services.

(t) "Department" means the Department of Human Services.

5. Section 1 of P.L.1962, c.137 (C.30:4C-26.1) is amended to read as follows:

**C.30:4C-26.1 "Resource family home" defined.**

1. As used in this act "resource family home" means and includes private residences wherein any child in the care, custody or guardianship of the Department of Human Services may be placed by the department, or with its approval, for care, and shall include any private residence maintained by persons with whom any such child is placed by the Division of Youth and Family Services for the purpose of adoption until the adoption is finalized.

6. Section 1 of P.L.1962, c.136 (C.30:4C-26.4) is amended to read as follows:

**C.30:4C-26.4 "Resource family parent" defined.**

1. As used in this act "resource family parent" shall mean any person with whom a child in the care, custody or guardianship of the Department of Human Services is placed by the department, or with its approval, for care and shall include any person with whom a child is placed by the Division of Youth and Family Services for the purpose of adoption until the adoption is finalized.

7. Section 1 of P.L.1962, c.139 (C.30:4C-26.6) is amended to read as follows:

**C.30:4C-26.6 "Resource family parent" defined.**

1. As used in this act "resource family parent" shall mean any person with whom a child in the care, custody or guardianship of the Department of Human Services is placed by the department, or with its approval, for care and shall include any person with whom a child is placed by the Division of Youth and Family Services for the purpose of adoption until the adoption is finalized.

8. Section 1 of P.L.1985, c.396 (C.30:4C-26.8) is amended to read as follows:

**C.30:4C-26.8 Adoptive, resource family parent; investigation.**

1. a. A person, in addition to meeting other requirements as may be established by the Department of Human Services, shall become a resource family parent or eligible to adopt a child only upon the completion of an investigation to ascertain if there is a State or federal record of criminal history for the prospective adoptive or resource family parent or any other adult residing in the prospective parent's home. The investigation shall be conducted by the Division of State Police in the Department of Law and

Public Safety and shall include an examination of its own files and the obtaining of a similar examination by federal authorities.

b. If the prospective resource family parent or any adult residing in the prospective parent's home has a record of criminal history, the Department of Human Services shall review the record with respect to the type and date of the criminal offense and make a determination as to the suitability of the person to become a resource family parent or the suitability of placing a child in that person's home, as the case may be.

c. For the purposes of this section, a conviction for one of the offenses enumerated in subsection d. or e. of this section has occurred if the person has been convicted under the laws of this State or any other state or jurisdiction for an offense that is substantially equivalent to the offenses enumerated in these subsections.

d. A person shall be disqualified from being a resource family parent or shall not be eligible to adopt a child if that person or any adult residing in that person's household ever committed a crime which resulted in a conviction for:

(1) a crime against a child, including endangering the welfare of a child and child pornography pursuant to N.J.S.2C:24-4; or child abuse, neglect, or abandonment pursuant to R.S.9:6-3;

(2) murder pursuant to N.J.S.2C:11-3 or manslaughter pursuant to N.J.S.2C:11-4;

(3) aggravated assault which would constitute a crime of the second or third degree pursuant to subsection b. of N.J.S.2C:12-1;

(4) stalking pursuant to P.L.1992, c.209 (C.2C:12-10);

(5) kidnapping and related offenses including criminal restraint; false imprisonment; interference with custody; criminal coercion; or enticing a child into a motor vehicle, structure, or isolated area pursuant to N.J.S.2C:13-1 through 2C:13-6;

(6) sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.2C:14-2 through N.J.S.2C:14-4;

(7) robbery which would constitute a crime of the first degree pursuant to N.J.S.2C:15-1;

(8) burglary which would constitute a crime of the second degree pursuant to N.J.S.2C:18-2;

(9) domestic violence pursuant to P.L.1991, c.261 (C.2C:25-17 et seq.);

(10) endangering the welfare of an incompetent person pursuant to N.J.S.2C:24-7 or endangering the welfare of an elderly or disabled person pursuant to N.J.S.2C:24-8;

(11) terrorist threats pursuant to N.J.S.2C:12-3;

(12) arson pursuant to N.J.S.2C:17-1, or causing or risking widespread injury or damage which would constitute a crime of the second degree pursuant to N.J.S.2C:17-2; or

(13) an attempt or conspiracy to commit an offense listed in paragraphs (1) through (12) of this subsection.

e. A person shall be disqualified from being a resource family parent if that person or any adult residing in that person's household was convicted of one of the following crimes and the date of release from confinement occurred during the preceding five years:

(1) simple assault pursuant to subsection a. of N.J.S.2C:12-1;

(2) aggravated assault which would constitute a crime of the fourth degree pursuant to subsection b. of N.J.S.2C:12-1;

(3) a drug-related crime pursuant to P.L.1987, c.106 (C.2C:35-1 et seq.);

(4) robbery which would constitute a crime of the second degree pursuant to N.J.S.2C:15-1;

(5) burglary which would constitute a crime of the third degree pursuant to N.J.S.2C:18-2; or

(6) an attempt or conspiracy to commit an offense listed in paragraphs (1) through (5) of this subsection.

For the purposes of this subsection, the "date of release from confinement" means the date of termination of court-ordered supervision through probation, parole, or residence in a correctional facility, whichever date occurs last.

For purposes of this section, "resource family parent" means any person with whom a child in the care, custody or guardianship of the Department of Human Services is placed by the department, or with its approval, for care and shall include any person with whom a child is placed by the Division of Youth and Family Services for the purpose of adoption until the adoption is finalized.

9. Section 1 of P.L.1989, c.21 (C.30:4C-26.9) is amended to read as follows:

**C.30:4C-26.9 Provisional approval for resource family parent.**

1. The Department of Human Services may grant approval to a prospective resource family parent for a period not to exceed six months, upon completion of the State portion of the criminal history record investigation required pursuant to P.L.1985, c.396 (C.30:4C-26.8), pending completion and review of the federal portion of the criminal history record investigation required pursuant to that act, if (1) the State portion of the criminal history record investigation indicates no information which would disqualify the person, (2) the prospective resource family parent and any adult residing in

the prospective resource family parent's home submit a sworn statement to the Department of Human Services attesting that the person does not have a record of criminal history which would disqualify the person and (3) there is substantial compliance with department standards for resource family homes indicating there is no risk to a child's health or safety.

For purposes of this section, "resource family parent" means any person with whom a child in the care, custody or guardianship of the Department of Human Services is placed by the department, or with its approval, for care and shall include any person with whom a child is placed by the Division of Youth and Family Services for the purpose of adoption until the adoption is finalized.

10. Section 1 of P.L.1962, c.135 (C.30:4C-27.1) is amended to read as follows:

**C.30:4C-27.1 "Resource family parent" defined.**

1. As used in this act "resource family parent" shall mean any person with whom a child in the care, custody or guardianship of the Department of Human Services is placed by the department, or with its approval, for care and shall include any person with whom a child is placed by the Division of Youth and Family Services for the purpose of adoption until the adoption is finalized.

11. Section 3 of P.L.2001, c.419 (C.30:4C-27.5) is amended to read as follows:

**C.30:4C-27.5 Definitions relative to resource family care.**

3. As used in this act:

"Child" means a person who: is either under the age of 18 or meets the criteria set forth in subsection f. of section 2 of P.L.1972, c.81 (C.9:17B-2); and is under the care or custody of the division or another public or private agency authorized to place children in New Jersey.

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

"Division" means the Division of Youth and Family Services in the Department of Human Services.

"Resource family home" or "home" means a private residence, other than a children's group home or shelter home, in which board, lodging, care and temporary out-of-home placement services are provided by a resource family parent on a 24-hour basis to a child under the auspices of the division or any public or private agency authorized to place children in New Jersey.

"Resource family parent" means a person who has been licensed pursuant to this act to provide resource family care to five or fewer children,

including a child who has been placed by the division with the person for the purpose of adoption, except that the department may license a resource family parent to provide care for more than five children, if necessary, to keep sibling groups intact or to serve the best interests of the children in the home.

"License" means a document issued by the department to a person who meets the requirements of this act to provide resource family care to children in the person's home.

12. Section 3 of P.L.1973, c.81 (C.30:4C-47) is amended to read as follows:

**C.30:4C-47 Costs and expenses covered.**

3. Payments in subsidization of adoption shall include but are not limited to the maintenance costs, medical and surgical expenses, and other costs incidental to the care, training and education of the child. Such payments may not exceed the cost of providing comparable assistance in resource family care and shall not be made after the adoptive child becomes 18 years of age, except that payments shall be made until the child becomes 21 years of age if the child is enrolled as a student of a secondary school or its equivalent.

13. 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 resource family 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 resource family 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.

14. Section 5 of P.L.1977, c.424 (C.30:4C-54) is amended to read as follows:

**C.30:4C-54 Determination by court as to 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.

If the division has documented an exception to the requirement to provide reasonable efforts towards family reunification, the court shall make a finding of whether reasonable efforts are required in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3). The child's health, safety and need for permanency shall be of paramount concern to the court when it makes its finding.

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. If the child's caretaker is a resource family parent, preadoptive parent or relative, the caretaker shall receive written notice of and an opportunity to be heard at the hearing, but the caretaker shall not be made a party to the hearing solely on the basis of the notice and opportunity to be heard.

15. Section 7 of P.L.2001, c.250 (C.30:4C-84) is amended to read as follows:

**C.30:4C-84 Definitions relative to kinship legal guardianship and State agency action.**

7. As used in sections 7 through 10 of P.L.2001, c.250 (C.30:4C-84 et seq.):

"Caregiver" means a person over 18 years of age, other than a child's parent, who has a kinship relationship with the child and has been providing care and support for the child, while the child has been residing in the caregiver's home, for either the last 12 consecutive months or 15 of the last 22 months.

"Child" means a person under 18 years of age, except as otherwise provided in P.L.2001, c.250 (C.3B:12A-1 et al.).

"Commissioner" means the Commissioner of Human Services.

"Court" means the Superior Court, Chancery Division, Family Part.

"Division" means the Division of Youth and Family Services in the Department of Human Services.

"Kinship caregiver assessment" means a written report prepared in accordance with the provisions of P.L.2001, c.250 (C.3B:12A-1 et al.) and pursuant to regulations adopted by the commissioner.

"Kinship legal guardian" means a caregiver who is willing to assume care of a child due to parental incapacity, with the intent to raise the child to adulthood, and who is appointed the kinship legal guardian of the child by the court pursuant to P.L.2001, c.250 (C.3B:12A-1 et al.). A kinship legal guardian shall be responsible for the care and protection of the child and for providing for the child's health, education and maintenance.

"Kinship relationship" means a family friend or a person with a biological or legal relationship with the child.

16. Section 8 of P.L.2001, c.250 (C.30:4C-85) is amended to read as follows:

**C.30:4C-85 Conduct of kinship caregiver assessment in certain cases.**

8. a. In the case of a child who has been removed from his home by the division within the last 12 months, or for whom the division has an open or currently active case and where legal representation is currently being provided by the Office of the Public Defender either through its Law Guardian Program or Parental Representation Unit:

(1) The kinship caregiver assessment required pursuant to section 5 of P.L.2001, c.250 (C.3B:12A-5) shall be conducted by the division, at no cost to the caregiver.

(2) An indigent parent and child shall be afforded the same right to legal counsel and representation as in actions under P.L.1974, c.119 (C.9:6-8.21 et seq.) and section 54 of P.L.1999, c.53 (C.30:4C-15.4).

(3) In cases where the child has been placed in the caregiver's home by the division and the child has resided in the caregiver's home for either the last 12 consecutive months or 15 of the last 22 months, the caregiver shall obtain the consent of the division in order to petition the court for the appointment of the caregiver as kinship legal guardian of the child. The appointment of a kinship legal guardian for a child shall be considered by the court as the permanent placement for the child.

b. In all cases other than those specified in subsection a. of this section:

(1) The kinship caregiver assessment required pursuant to section 5 of P.L.2001, c.250 (C.3B:12A-5) shall be conducted by an agency in accordance with regulations adopted by the commissioner.

(2) The costs for the kinship caregiver assessment shall be borne by the department in cases where a financially eligible individual is applying for cash assistance under a kinship care program or pilot program provided by the department, for which kinship legal guardianship is a requirement for receiving such assistance. For all other cases under this subsection, the caregiver shall be responsible for all of the costs of the kinship caregiver assessment.

17. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read as follows:

**C.30:4D-3 Definitions.**

3. Definitions. As used in this act, and unless the context otherwise requires:

a. "Applicant" means any person who has made application for purposes of becoming a "qualified applicant."

b. "Commissioner" means the Commissioner of Human Services.

c. "Department" means the Department of Human Services, which is herein designated as the single State agency to administer the provisions of this act.

d. "Director" means the Director of the Division of Medical Assistance and Health Services.

e. "Division" means the Division of Medical Assistance and Health Services.

f. "Medicaid" means the New Jersey Medical Assistance and Health Services Program.

g. "Medical assistance" means payments on behalf of recipients to providers for medical care and services authorized under this act.

h. "Provider" means any person, public or private institution, agency or business concern approved by the division lawfully providing medical care, services, goods and supplies authorized under this act, holding, where applicable, a current valid license to provide such services or to dispense such goods or supplies.

i. "Qualified applicant" means a person who is a resident of this State, and either a citizen of the United States or an eligible alien, and is determined to need medical care and services as provided under this act, with respect to whom the period for which eligibility to be a recipient is determined shall be the maximum period permitted under federal law, and who:

(1) Is a dependent child or parent or caretaker relative of a dependent child who would be, except for resources, eligible for the aid to families with dependent children program under the State Plan for Title IV-A of the federal Social Security Act as of July 16, 1996;

(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 Supplemental Security Income under Title XVI of the federal Social Security Act or, without regard to resources, would be eligible for the aid to families with dependent children program under the State Plan for Title IV-A of the federal Social Security Act as of July 16, 1996, 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) (Deleted by amendment, P.L.2000, c.71).

(6) Is an individual under 21 years of age who, without regard to resources, would be, except for dependent child requirements, eligible for the aid to families with dependent children program under the State Plan for Title IV-A of the federal Social Security Act as of July 16, 1996, or groups of such individuals, including but not limited to, children in resource family 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 resource family home or institution by a private adoption agency in New Jersey or children in intermediate care facilities, including developmental centers for the developmentally disabled, or in psychiatric hospitals;

(7) Would be eligible for the Supplemental Security Income program, but is not receiving such assistance and applies for medical assistance only;

(8) Is determined to be medically needy and meets all the eligibility requirements described below:

(a) The following individuals are eligible for services, if they are determined to be medically needy:

- (i) Pregnant women;
- (ii) Dependent children under the age of 21;
- (iii) Individuals who are 65 years of age and older; and
- (iv) Individuals who are blind or disabled pursuant to either 42 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

(b) The following income standard shall be used to determine medically needy eligibility:

(i) For one person and two person households, the income standard shall be the maximum allowable under federal law, but shall not exceed 133 1/3% of the State's payment level to two person households under the aid to families with dependent children program under the State Plan for Title IV-A of the federal Social Security Act in effect as of July 16, 1996; 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 under the aid to families with dependent children program under the State Plan for Title IV-A of the federal Social Security Act in effect as of July 16, 1996.

(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. s.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. s.1382(2)(B);

(iii) For households of three or more persons, the resource standard in subparagraph (c)(ii) above shall be increased by \$100.00 for each additional person; and

(iv) The resource standards established in (i), (ii), and (iii) are subject to federal approval and the resource standard may be lower if required by the federal Department of Health and Human Services.

(d) Individuals whose income exceeds those established in subparagraph (b) of paragraph (8) of this subsection may become medically needy by incurring medical expenses as defined in 42 C.F.R.435.831(c) which will reduce their income to the applicable medically needy income established in subparagraph (b) of paragraph (8) of this subsection.

(e) A six-month period shall be used to determine whether an individual is medically needy.

(f) Eligibility determinations for the medically needy program shall be administered as follows:

(i) County welfare agencies and other entities designated by the commissioner are responsible for determining and certifying the eligibility of pregnant women and dependent children. The division shall reimburse county welfare agencies for 100% of the reasonable costs of administration which are not reimbursed by the federal government for the first 12 months of this program's operation. Thereafter, 75% of the administrative costs incurred by county welfare agencies which are not reimbursed by the federal government shall be reimbursed by the division;

(ii) The division is responsible for certifying the eligibility of individuals who are 65 years of age and older and individuals who are blind or disabled. The division may enter into contracts with county welfare agencies to determine certain aspects of eligibility. In such instances the division shall provide county welfare agencies with all information the division may have available on the individual.

The division shall notify all eligible recipients of the Pharmaceutical Assistance to the Aged and Disabled program, P.L.1975, c.194 (C.30:4D-20 et seq.) on an annual basis of the medically needy program and the program's general requirements. The division shall take all reasonable administrative actions to ensure that Pharmaceutical Assistance to the Aged and Disabled recipients, who notify the division that they may be eligible for the program, have their applications processed expeditiously, at times and locations convenient to the recipients; and

(iii) The division is responsible for certifying incurred medical expenses for all eligible persons who attempt to qualify for the program pursuant to subparagraph (d) of paragraph (8) of this subsection;

(9) (a) Is a child who is at least one year of age and under 19 years of age and, if older than six years of age but under 19 years of age, is uninsured; and

(b) Is a member of a family whose income does not exceed 133% of the poverty level and who meets the federal Medicaid eligibility requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C. s.1396a);

(10) Is a pregnant woman who is determined by a provider to be presumptively eligible for medical assistance based on criteria established by the commissioner, pursuant to section 9407 of Pub.L.99-509 (42 U.S.C. s.1396a(a));

(11) Is an individual 65 years of age and older, or an individual who is blind or disabled pursuant to section 301 of Pub.L.92-603 (42 U.S.C. s.1382c), whose income does not exceed 100% of the poverty level, adjusted for family size, and whose resources do not exceed 100% of the resource

standard used to determine medically needy eligibility pursuant to paragraph (8) of this subsection;

(12) Is a qualified disabled and working individual pursuant to section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income does not exceed 200% of the poverty level and whose resources do not exceed 200% of the resource standard used to determine eligibility under the Supplemental Security Income Program, P.L.1973, c.256 (C.44:7-85 et seq.);

(13) Is a pregnant woman or is a child who is under one year of age and is a member of a family whose income does not exceed 185% of the poverty level and who meets the federal Medicaid eligibility requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C. s.1396a), except that a pregnant woman who is determined to be a qualified applicant shall, notwithstanding any change in the income of the family of which she is a member, continue to be deemed a qualified applicant until the end of the 60-day period beginning on the last day of her pregnancy;

(14) (Deleted by amendment, P.L.1997, c.272).

(15) (a) Is a specified low-income Medicare beneficiary pursuant to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning January 1, 1993 do not exceed 200% of the resource standard used to determine eligibility under the Supplemental Security Income program, P.L.1973, c.256 (C.44:7-85 et seq.) and whose income beginning January 1, 1993 does not exceed 110% of the poverty level, and beginning January 1, 1995 does not exceed 120% of the poverty level.

(b) An individual who has, within 36 months, or within 60 months in the case of funds transferred into a trust, of applying to be a qualified applicant for Medicaid services in a nursing facility or a medical institution, or for home or community-based services under section 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)), disposed of resources or income for less than fair market value shall be ineligible for assistance for nursing facility services, an equivalent level of services in a medical institution, or home or community-based services under section 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)). The period of the ineligibility shall be the number of months resulting from dividing the uncompensated value of the transferred resources or income by the average monthly private payment rate for nursing facility services in the State as determined annually by the commissioner. In the case of multiple resource or income transfers, the resulting penalty periods shall be imposed sequentially. Application of this requirement shall be governed by 42 U.S.C. s.1396p(c). In accordance with federal law, this provision is effective for all transfers of resources or income made on or after August 11, 1993. Notwithstanding the provisions of this subsection to the contrary, the State eligibility requirements concern-

ing resource or income transfers shall not be more restrictive than those enacted pursuant to 42 U.S.C. s.1396p(c).

(c) An individual seeking nursing facility services or home or community-based services and who has a community spouse shall be required to expend those resources which are not protected for the needs of the community spouse in accordance with section 1924(c) of the federal Social Security Act (42 U.S.C. s.1396r-5(c)) on the costs of long-term care, burial arrangements, and any other expense deemed appropriate and authorized by the commissioner. An individual shall be ineligible for Medicaid services in a nursing facility or for home or community-based services under section 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)) if the individual expends funds in violation of this subparagraph. The period of ineligibility shall be the number of months resulting from dividing the uncompensated value of transferred resources and income by the average monthly private payment rate for nursing facility services in the State as determined by the commissioner. The period of ineligibility shall begin with the month that the individual would otherwise be eligible for Medicaid coverage for nursing facility services or home or community-based services.

This subparagraph shall be operative only if all necessary approvals are received from the federal government including, but not limited to, approval of necessary State plan amendments and approval of any waivers;

(16) Subject to federal approval under Title XIX of the federal Social Security Act, is a dependent child, parent or specified caretaker relative of a child who is a qualified applicant, who would be eligible, without regard to resources, for the aid to families with dependent children program under the State Plan for Title IV-A of the federal Social Security Act as of July 16, 1996, except for the income eligibility requirements of that program, and whose family earned income,

(a) if a dependent child, does not exceed 133% of the poverty level; and

(b) if a parent or specified caretaker relative, beginning September 1, 2005 does not exceed 100% of the poverty level, beginning September 1, 2006 does not exceed 115% of the poverty level and beginning September 1, 2007 does not exceed 133% of the poverty level,

plus such earned income disregards as shall be determined according to a methodology to be established by regulation of the commissioner;

The commissioner may increase the income eligibility limits for children and parents and specified caretaker relatives, as funding permits;

(17) Is an individual from 18 through 20 years of age who is not a dependent child and would be eligible for medical assistance pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), without regard to income or resources, who, on the individual's 18th birthday was in resource family care under the



care and custody of the Division of Youth and Family Services and whose maintenance was being paid in whole or in part from public funds;

(18) Is a person between the ages of 16 and 65 who is permanently disabled and working, and:

(a) whose income is at or below 250% of the poverty level, plus other established disregards;

(b) who pays the premium contribution and other cost sharing as established by the commissioner, subject to the limits and conditions of federal law; and

(c) whose assets, resources and unearned income do not exceed limitations as established by the commissioner;

(19) Is an uninsured individual under 65 years of age who:

(a) has been screened for breast or cervical cancer under the federal Centers for Disease Control and Prevention breast and cervical cancer early detection program;

(b) requires treatment for breast or cervical cancer based upon criteria established by the commissioner;

(c) has an income that does not exceed the income standard established by the commissioner pursuant to federal guidelines;

(d) meets all other Medicaid eligibility requirements; and

(e) in accordance with Pub.L.106-354, is determined by a qualified entity to be presumptively eligible for medical assistance pursuant to 42 U.S.C. s.1396a(aa), based upon criteria established by the commissioner pursuant to section 1920B of the federal Social Security Act (42 U.S.C. s.1396r-1b); or

(20) Subject to federal approval under Title XIX of the federal Social Security Act, is a single adult or couple, without dependent children, whose income in 2006 does not exceed 50% of the poverty level, in 2007 does not exceed 75% of the poverty level and in 2008 and each year thereafter does not exceed 100% of the poverty level; except that a person who is a recipient of Work First New Jersey general public assistance, pursuant to P.L.1947, c.156 (C.44:8-107 et seq.), shall not be a qualified applicant.

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, group health plan as defined in section 607(1) of the federal "Employee Retirement and Income Security Act of 1974," 29 U.S.C. s.1167(1), service benefit plan, health maintenance organization, or other prepaid health plan, or public, private or governmental entity who is or may be liable in contract, tort, or otherwise by law or equity to pay all or part of the medical cost of injury, disease or disability of an applicant for or recipient of medical assistance payable under this act.

n. "Governmental peer grouping system" means a separate class of skilled nursing and intermediate care facilities administered by the State or county governments, established for the purpose of screening their reported costs and setting reimbursement rates under the Medicaid program that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated State or county skilled nursing and intermediate care facilities.

o. "Comprehensive maternity or pediatric care provider" means any person or public or private health care facility that is a provider and that is approved by the commissioner to provide comprehensive maternity care or comprehensive pediatric care as defined in subsection b. (18) and (19) of section 6 of P.L.1968, c.413 (C.30:4D-6).

p. "Poverty level" means the official poverty level based on family size established and adjusted under Section 673(2) of Subtitle B, the "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C. s.9902(2)).

q. "Eligible alien" means one of the following:

(1) an alien present in the United States prior to August 22, 1996, who is:

(a) a lawful permanent resident;

(b) a refugee pursuant to section 207 of the federal "Immigration and Nationality Act" (8 U.S.C. s.1157);

(c) an asylee pursuant to section 208 of the federal "Immigration and Nationality Act" (8 U.S.C. s.1158);

(d) an alien who has had deportation withheld pursuant to section 243(h) of the federal "Immigration and Nationality Act" (8 U.S.C. s.1253 (h));

(e) an alien who has been granted parole for less than one year by the U.S. Citizenship and Immigration Services pursuant to section 212(d)(5) of the federal "Immigration and Nationality Act" (8 U.S.C. s.1182(d)(5));

(f) an alien granted conditional entry pursuant to section 203(a)(7) of the federal "Immigration and Nationality Act" (8 U.S.C. s.1153(a)(7)) in effect prior to April 1, 1980; or

(g) an alien who is honorably discharged from or on active duty in the United States armed forces and the alien's spouse and unmarried dependent child.

(2) An alien who entered the United States on or after August 22, 1996, who is:

(a) an alien as described in paragraph (1)(b), (c), (d) or (g) of this subsection; or

(b) an alien as described in paragraph (1)(a), (e) or (f) of this subsection who entered the United States at least five years ago.

(3) A legal alien who is a victim of domestic violence in accordance with criteria specified for eligibility for public benefits as provided in Title V of the federal "Illegal Immigration Reform and Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).

18. This act shall take effect immediately.

Approved August 5, 2005.

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## CHAPTER 170

AN ACT concerning certain public records and amending P.L.1995, c.23.

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

1. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to read as follows:

**C.47:1A-1.1 Definitions.**

1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented:

"Biotechnology" means any technique that uses living organisms, or parts of living organisms, to make or modify products, to improve plants or animals, or to develop micro-organisms for specific uses; including the industrial use of recombinant DNA, cell fusion, and novel bioprocessing techniques.

"Custodian of a government record" or "custodian" means in the case of a municipality, the municipal clerk and in the case of any other public agency, the officer officially designated by formal action of that agency's director or governing body, as the case may be.

"Government record" or "record" means any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of his or its official business by any officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received in the course of his or its official business by any such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof. The terms shall not include inter-agency or intra-agency advisory, consultative, or deliberative material.

A government record shall not include the following information which is deemed to be confidential for the purposes of P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented:

- information received by a member of the Legislature from a constituent or information held by a member of the Legislature concerning a constituent, including but not limited to information in written form or contained in any e-mail or computer data base, or in any telephone record whatsoever, unless it is information the constituent is required by law to transmit;

- any memorandum, correspondence, notes, report or other communication prepared by, or for, the specific use of a member of the Legislature in the course of the member's official duties, except that this provision shall not apply to an otherwise publicly-accessible report which is required by law to be submitted to the Legislature or its members;

- any copy, reproduction or facsimile of any photograph, negative or print, including instant photographs and videotapes of the body, or any portion of the body, of a deceased person, taken by or for the medical examiner at the scene of death or in the course of a post mortem examination or autopsy made by or caused to be made by the medical examiner except:

- when used in a criminal action or proceeding in this State which relates to the death of that person,

- for the use as a court of this State permits, by order after good cause has been shown and after written notification of the request for the court order has been served at least five days before the order is made upon the county prosecutor for the county in which the post mortem examination or autopsy occurred,

- for use in the field of forensic pathology or for use in medical or scientific education or research, or

- for use by any law enforcement agency in this State or any other state or federal law enforcement agency;

- criminal investigatory records;

victims' records, except that a victim of a crime shall have access to the victim's own records;

trade secrets and proprietary commercial or financial information obtained from any source. For the purposes of this paragraph, trade secrets shall include data processing software obtained by a public body under a licensing agreement which prohibits its disclosure;

any record within the attorney-client privilege. This paragraph shall not be construed as exempting from access attorney or consultant bills or invoices except that such bills or invoices may be redacted to remove any information protected by the attorney-client privilege;

administrative or technical information regarding computer hardware, software and networks which, if disclosed, would jeopardize computer security;

emergency or security information or procedures for any buildings or facility which, if disclosed, would jeopardize security of the building or facility or persons therein;

security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons, property, electronic data or software;

information which, if disclosed, would give an advantage to competitors or bidders;

information generated by or on behalf of public employers or public employees in connection with any sexual harassment complaint filed with a public employer or with any grievance filed by or against an individual or in connection with collective negotiations, including documents and statements of strategy or negotiating position;

information which is a communication between a public agency and its insurance carrier, administrative service organization or risk management office;

information which is to be kept confidential pursuant to court order;

any copy of form DD-214, or that form, issued by the United States Government, or any other certificate of honorable discharge, or copy thereof, from active service or the reserves of a branch of the Armed Forces of the United States, or from service in the organized militia of the State, that has been filed by an individual with a public agency, except that a veteran or the veteran's spouse or surviving spouse shall have access to the veteran's own records; and

that portion of any document which discloses the social security number, credit card number, unlisted telephone number or driver license number of any person; except for use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf thereof, or any private person or entity seeking to enforce payment of court-ordered child support; except with

respect to the disclosure of driver information by the New Jersey Motor Vehicle Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4); and except that a social security number contained in a record required by law to be made, maintained or kept on file by a public agency shall be disclosed when access to the document or disclosure of that information is not otherwise prohibited by State or federal law, regulation or order or by State statute, resolution of either or both houses of the Legislature, Executive Order of the Governor, rule of court or regulation promulgated under the authority of any statute or executive order of the Governor.

A government record shall not include, with regard to any public institution of higher education, the following information which is deemed to be privileged and confidential:

- pedagogical, scholarly and/or academic research records and/or the specific details of any research project conducted under the auspices of a public higher education institution in New Jersey, including, but not limited to research, development information, testing procedures, or information regarding test participants, related to the development or testing of any pharmaceutical or pharmaceutical delivery system, except that a custodian may not deny inspection of a government record or part thereof that gives the name, title, expenditures, source and amounts of funding and date when the final project summary of any research will be available;

- test questions, scoring keys and other examination data pertaining to the administration of an examination for employment or academic examination;

- records of pursuit of charitable contributions or records containing the identity of a donor of a gift if the donor requires non-disclosure of the donor's identity as a condition of making the gift provided that the donor has not received any benefits of or from the institution of higher education in connection with such gift other than a request for memorialization or dedication;

- valuable or rare collections of books and/or documents obtained by gift, grant, bequest or devise conditioned upon limited public access;

- information contained on individual admission applications; and

- information concerning student records or grievance or disciplinary proceedings against a student to the extent disclosure would reveal the identity of the student.

"Public agency" or "agency" means any of the principal departments in the Executive Branch of State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department; the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch; and any independent State authority, commission, instrumentality or agency. The terms also mean any political subdivision of the State or combination of political subdivisions, and any division, board, bureau, office, commission or other instrumentality

within or created by a political subdivision of the State or combination of political subdivisions, and any independent authority, commission, instrumentality or agency created by a political subdivision or combination of political subdivisions.

"Law enforcement agency" means a public agency, or part thereof, determined by the Attorney General to have law enforcement responsibilities.

"Constituent" means any State resident or other person communicating with a member of the Legislature.

"Member of the Legislature" means any person elected or selected to serve in the New Jersey Senate or General Assembly.

"Criminal investigatory record" means a record which is not required by law to be made, maintained or kept on file that is held by a law enforcement agency which pertains to any criminal investigation or related civil enforcement proceeding.

"Victim's record" means an individually-identifiable file or document held by a victims' rights agency which pertains directly to a victim of a crime except that a victim of a crime shall have access to the victim's own records.

"Victim of a crime" means a person who has suffered personal or psychological injury or death or incurs loss of or injury to personal or real property as a result of a crime, or if such a person is deceased or incapacitated, a member of that person's immediate family.

"Victims' rights agency" means a public agency, or part thereof, the primary responsibility of which is providing services, including but not limited to food, shelter, or clothing, medical, psychiatric, psychological or legal services or referrals, information and referral services, counseling and support services, or financial services to victims of crimes, including victims of sexual assault, domestic violence, violent crime, child endangerment, child abuse or child neglect, and the Victims of Crime Compensation Board, established pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.).

2. This act shall take effect immediately.

Approved August 5, 2005.

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## CHAPTER 171

AN ACT concerning the continuation of child support under certain circumstances and amending N.J.S.2A:34-23, N.J.S.2A:34-24 and P.L.1983, c.17.

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

1. N.J.S.2A:34-23 is amended to read as follows:

**Alimony, maintenance.**

2A:34-23. Pending any matrimonial action brought in this State or elsewhere, or after judgment of divorce or maintenance, whether obtained in this State or elsewhere, the court may make such order as to the alimony or maintenance of the parties, and also as to the care, custody, education and maintenance of the children, or any of them, as the circumstances of the parties and the nature of the case shall render fit, reasonable and just, and require reasonable security for the due observance of such orders, including, but not limited to, the creation of trusts or other security devices, to assure payment of reasonably foreseeable medical and educational expenses. Upon neglect or refusal to give such reasonable security, as shall be required, or upon default in complying with any such order, the court may award and issue process for the immediate sequestration of the personal estate, and the rents and profits of the real estate of the party so charged, and appoint a receiver thereof, and cause such personal estate and the rents and profits of such real estate, or so much thereof as shall be necessary, to be applied toward such alimony and maintenance as to the said court shall from time to time seem reasonable and just; or the performance of the said orders may be enforced by other ways according to the practice of the court. Orders so made may be revised and altered by the court from time to time as circumstances may require.

The court may order one party to pay a retainer on behalf of the other for expert and legal services when the respective financial circumstances of the parties make the award reasonable and just. In considering an application, the court shall review the financial capacity of each party to conduct the litigation and the criteria for award of counsel fees that are then pertinent as set forth by court rule. Whenever any other application is made to a court which includes an application for pendente lite or final award of counsel fees, the court shall determine the appropriate award for counsel fees, if any, at the same time that a decision is rendered on the other issue then before the court and shall consider the factors set forth in the court rule on counsel fees, the financial circumstances of the parties, and the good or bad faith of either party.

- a. In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, the court in those cases not governed by court rule shall consider, but not be limited to, the following factors:



- (1) Needs of the child;
- (2) Standard of living and economic circumstances of each parent;
- (3) All sources of income and assets of each parent;
- (4) Earning ability of each parent, including educational background, training, employment skills, work experience, custodial responsibility for children including the cost of providing child care and the length of time and cost of each parent to obtain training or experience for appropriate employment;
- (5) Need and capacity of the child for education, including higher education;
- (6) Age and health of the child and each parent;
- (7) Income, assets and earning ability of the child;
- (8) Responsibility of the parents for the court-ordered support of others;
- (9) Reasonable debts and liabilities of each child and parent; and
- (10) Any other factors the court may deem relevant.

The obligation to pay support for a child who has not been emancipated by the court shall not terminate solely on the basis of the child's age if the child suffers from a severe mental or physical incapacity that causes the child to be financially dependent on a parent. The obligation to pay support for that child shall continue until the court finds that the child is relieved of the incapacity or is no longer financially dependent on the parent. However, in assessing the financial obligation of the parent, the court shall consider, in addition to the factors enumerated in this section, the child's eligibility for public benefits and services for people with disabilities and may make such orders, including an order involving the creation of a trust, as are necessary to promote the well-being of the child.

As used in this section "severe mental or physical incapacity" shall not include a child's abuse of, or addiction to, alcohol or controlled substances.

b. In all actions brought for divorce, divorce from bed and board, or nullity the court may award one or more of the following types of alimony: permanent alimony; rehabilitative alimony; limited duration alimony or reimbursement alimony to either party. In so doing the court shall consider, but not be limited to, the following factors:

- (1) The actual need and ability of the parties to pay;
- (2) The duration of the marriage;
- (3) The age, physical and emotional health of the parties;
- (4) The standard of living established in the marriage and the likelihood that each party can maintain a reasonably comparable standard of living;
- (5) The earning capacities, educational levels, vocational skills, and employability of the parties;
- (6) The length of absence from the job market of the party seeking maintenance;

- (7) The parental responsibilities for the children;
- (8) The time and expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment, the availability of the training and employment, and the opportunity for future acquisitions of capital assets and income;
- (9) The history of the financial or non-financial contributions to the marriage by each party including contributions to the care and education of the children and interruption of personal careers or educational opportunities;
- (10) The equitable distribution of property ordered and any payouts on equitable distribution, directly or indirectly, out of current income, to the extent this consideration is reasonable, just and fair;
- (11) The income available to either party through investment of any assets held by that party;
- (12) The tax treatment and consequences to both parties of any alimony award, including the designation of all or a portion of the payment as a non-taxable payment; and
- (13) Any other factors which the court may deem relevant.

When a share of a retirement benefit is treated as an asset for purposes of equitable distribution, the court shall not consider income generated thereafter by that share for purposes of determining alimony.

c. In any case in which there is a request for an award of permanent alimony, the court shall consider and make specific findings on the evidence about the above factors. If the court determines that an award of permanent alimony is not warranted, the court shall make specific findings on the evidence setting out the reasons therefor. The court shall then consider whether alimony is appropriate for any or all of the following: (1) limited duration; (2) rehabilitative; (3) reimbursement. In so doing, the court shall consider and make specific findings on the evidence about factors set forth above. The court shall not award limited duration alimony as a substitute for permanent alimony in those cases where permanent alimony would otherwise be awarded.

An award of alimony for a limited duration may be modified based either upon changed circumstances, or upon the nonoccurrence of circumstances that the court found would occur at the time of the award. The court may modify the amount of such an award, but shall not modify the length of the term except in unusual circumstances.

In determining the length of the term, the court shall consider the length of time it would reasonably take for the recipient to improve his or her earning capacity to a level where limited duration alimony is no longer appropriate.

d. Rehabilitative alimony shall be awarded based upon a plan in which the payee shows the scope of rehabilitation, the steps to be taken, and the

time frame, including a period of employment during which rehabilitation will occur. An award of rehabilitative alimony may be modified based either upon changed circumstances, or upon the nonoccurrence of circumstances that the court found would occur at the time of the rehabilitative award.

This section is not intended to preclude a court from modifying permanent alimony awards based upon the law.

e. Reimbursement alimony may be awarded under circumstances in which one party supported the other through an advanced education, anticipating participation in the fruits of the earning capacity generated by that education.

f. Nothing in this section shall be construed to limit the court's authority to award permanent alimony, limited duration alimony, rehabilitative alimony or reimbursement alimony, separately or in any combination, as warranted by the circumstances of the parties and the nature of the case.

g. In all actions for divorce other than those where judgment is granted solely on the ground of separation the court may consider also the proofs made in establishing such ground in determining an amount of alimony or maintenance that is fit, reasonable and just. In all actions for divorce or divorce from bed and board where judgment is granted on the ground of institutionalization for mental illness the court may consider the possible burden upon the taxpayers of the State as well as the ability of the party to pay in determining an amount of maintenance to be awarded.

h. In all actions where a judgment of divorce or divorce from bed and board is entered the court may make such award or awards to the parties, in addition to alimony and maintenance, to effectuate an equitable distribution of the property, both real and personal, which was legally and beneficially acquired by them or either of them during the marriage. However, all such property, real, personal or otherwise, legally or beneficially acquired during the marriage by either party by way of gift, devise, or intestate succession shall not be subject to equitable distribution, except that interspousal gifts shall be subject to equitable distribution.

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

**Lien, security.**

2A:34-24. If an obligor shall abandon an obligee or separate from the obligee and refuse or neglect to maintain and provide for the obligee, the court may order suitable support and maintenance to be paid and provided by the obligor for the obligee and their children in the manner provided in N.J.S.2A:34-23, as applicable. If the obligor fails to comply with the order of the court, entered in New Jersey or another jurisdiction, the court may impose a lien against the real and personal property of the obligor who lives

in or owns property in New Jersey to secure payment of the overdue support and for such time as the nature of the case and circumstances of the parties render suitable and proper; such lien shall have priority from the time of the proper filing or recording.

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

3. Section 16 of P.L.1983, c.17 (C.9:17-53) is amended to read as follows:

**C.9:17-53 Judgment, order of court, certificate of parentage, amendment of birth record; amount of support.**

16. a. The judgment or order of the court or a Certificate of Parentage determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

b. If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that an amendment to the original birth record be made under section 22 of P.L.1983, c.17 (C.9:17-59).

c. The judgment or order may contain any other provision directed against the appropriate party to the proceeding concerning the duty of support, the custody and guardianship of the child, parenting time privileges with the child, the furnishing of bond or other security for the payment of the judgment, the repayment of any public assistance grant, or any other matter in the best interests of the child. The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy and postpartum disability, including repayment to an agency which provided public assistance funds for those expenses. Bills for pregnancy, childbirth and blood or genetic testing are admissible as evidence without requiring third party foundation testimony, and shall constitute prima facie evidence of the amounts incurred for these services or for testing on behalf of the child.

d. Support judgments or orders ordinarily shall be for periodic payments, which may vary in amount. In the best interests of the child, the purchase of an annuity may be ordered in lieu of periodic payments of support. The court may limit a parent's liability for past support of the child to the proportion of the expenses already incurred that the court deems just.

e. In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, the court shall apply the child support guidelines as defined in section 3 of P.L.1998, c.1

(C.2A:17-56.52). In cases in which the court finds that a deviation from these guidelines is appropriate, the court shall consider all relevant facts when determining the amount of support, including the:

- (1) Needs of the child;
- (2) Standard of living and economic circumstances of each parent;
- (3) Income and assets of each parent, including any public assistance grant received by a parent;
- (4) Earning ability of each parent, including educational background, training, employment skills, work experience, custodial responsibility for children and the length of time and cost for each parent to obtain training or experience for appropriate employment;
- (5) Need and capacity of the child for education, including higher education;
- (6) Age and health of the child and each parent;
- (7) Income, assets and earning ability of the child;
- (8) Responsibility of the parents for the support of others; and
- (9) Debts and liabilities of each child and parent.

The factors set forth herein are not intended to be exhaustive. The court may consider such other factors as may be appropriate under the circumstances.

The obligation to pay support for a child who has not been emancipated by the court shall not terminate solely on the basis of the child's age if the child suffers from a severe mental or physical incapacity that causes the child to be financially dependent on a parent. The obligation to pay support for that child shall continue until the court finds that the child is relieved of the incapacity or is no longer financially dependent on the parent. However, in assessing the financial obligation of the parent, the court shall consider, in addition to the factors enumerated in this section, the child's eligibility for public benefits and services for people with disabilities and may make such orders, including an order involving the creation of a trust, as are necessary to promote the well-being of the child.

As used in this section "severe mental or physical incapacity" shall not include a child's abuse of, or addiction to, alcohol or controlled substances.

f. Upon a motion by a party, the court shall enter a temporary support order pending a judicial determination of parentage if there is clear and convincing evidence of paternity supported by blood or genetic test results or other evidence.

4. This act shall take effect immediately.

Approved August 5, 2005.

## CHAPTER 172

AN ACT concerning managed behavioral health care services and amending and supplementing P.L.1997, c.192.

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

1. Section 2 of P.L.1997, c.192 (C.26:2S-2) is amended to read as follows:

**C.26:2S-2 Definitions relative to health care quality.**

2. As used in sections 2 through 19 of this act:

"Behavioral health care services" means procedures or services rendered by a health care provider for the treatment of mental illness, emotional disorders, or drug or alcohol abuse. "Behavioral health care services" does not include: any quality assurance or utilization management activities or treatment plan reviews conducted by a carrier, or a private entity on behalf of the carrier, pertaining to these services, whether administrative or clinical in nature; or any other administrative functions, including, but not limited to, accounting and financial reporting, billing and collection, data processing, debt or debt service, legal services, promotion and marketing, or provider credentialing.

"Carrier" means an insurance company, health service corporation, hospital service corporation, medical service corporation or health maintenance organization authorized to issue health benefits plans in this State.

"Commissioner" means the Commissioner of Health and Senior Services.

"Contract holder" means an employer or organization that purchases a contract for services.

"Covered person" means a person on whose behalf a carrier offering the plan is obligated to pay benefits or provide services pursuant to the health benefits plan.

"Covered service" means a health care service provided to a covered person under a health benefits plan for which the carrier is obligated to pay benefits or provide services.

"Department" means the Department of Health and Senior Services.

"Health benefits plan" means a benefits plan which pays or provides hospital and medical expense benefits for covered services, and is delivered or issued for delivery in this State by or through a carrier. Health benefits plan includes, but is not limited to, Medicare supplement coverage and risk contracts to the extent not otherwise prohibited by federal law. For the

purposes of this act, health benefits plan shall not include the following plans, policies or contracts: accident only, credit, disability, long-term care, CHAMPUS supplement coverage, coverage arising out of a workers' compensation or similar law, automobile medical payment insurance, personal injury protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.) or hospital confinement indemnity coverage.

"Health care provider" means an individual or entity which, acting within the scope of its licensure or certification, provides a covered service defined by the health benefits plan. Health care provider includes, but is not limited to, a physician and other health care professionals licensed pursuant to Title 45 of the Revised Statutes, and a hospital and other health care facilities licensed pursuant to Title 26 of the Revised Statutes.

"Independent utilization review organization" means an independent entity comprised of physicians and other health care professionals who are representative of the active practitioners in the area in which the organization will operate and which is under contract with the department to provide medical necessity or appropriateness of services appeal reviews pursuant to this act.

"Managed behavioral health care organization" means an entity, other than a carrier, which contracts with a carrier to provide, undertake to arrange, or administer behavioral health care services to covered persons through health care providers employed by the managed behavioral health care organization or otherwise make behavioral health care services available to covered persons through contracts with health care providers. "Managed behavioral health care organization" does not include a person or entity that, for an administrative fee only, solely arranges a panel of health care providers for a carrier for the provision of behavioral health care services on a discounted fee-for-service basis.

"Managed care plan" means a health benefits plan that integrates the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers, who are selected to participate on the basis of explicit standards, to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan.

"Subscriber" means, in the case of a group contract, a person whose employment or other status, except family status, is the basis for eligibility for enrollment by the carrier or, in the case of an individual contract, the person in whose name the contract is issued.

"Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be

given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the health benefits plan. The system may include: preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures and retrospective review.

2. Section 4 of P.L.1997, c.192 (C.26:2S-4) is amended to read as follows:

**C.26:2S-4 Disclosure of terms and conditions in writing to subscriber.**

4. A carrier shall disclose in writing to a subscriber, in a manner consistent with the "Life and Health Insurance Policy Language Simplification Act," P.L.1979, c.167 (C.17B:17-17 et seq.), the terms and conditions of its health benefits plan, and shall promptly provide the subscriber with written notification of any change in the terms and conditions prior to the effective date of the change. The carrier shall provide the required information at the time of enrollment and upon request thereafter.

a. The information required to be disclosed pursuant to this section shall include a description of:

(1) covered services and benefits to which the subscriber or other covered person is entitled;

(2) restrictions or limitations on covered services and benefits, including, but not limited to, physical and occupational therapy services, clinical laboratory tests, hospital and surgical procedures, prescription drugs and biologics, radiological examinations and behavioral health care services;

(3) financial responsibility of the covered person, including copayments and deductibles;

(4) prior authorization and any other review requirements with respect to accessing covered services;

(5) where and in what manner covered services may be obtained;

(6) changes in covered services or benefits, including any addition, reduction or elimination of specific services or benefits;

(7) the covered person's right to appeal and the procedure for initiating an appeal of a utilization management decision made by or on behalf of the carrier with respect to the denial, reduction or termination of a health care benefit or the denial of payment for a health care service;

(8) the procedure to initiate an appeal through the Independent Health Care Appeals Program established pursuant to this act; and

(9) such other information as the commissioner shall require.

b. The carrier shall file the information required pursuant to this section with the department.



c. In the case of a carrier that owns, wholly or in part, or contracts with a managed behavioral health care organization, the information required to be disclosed pursuant to this section shall include the following:

(1) the specific behavioral health care services covered and the specific exclusions that apply to the subscriber or other covered person;

(2) the covered person's responsibilities for obtaining behavioral health care services;

(3) the reimbursement methodology that the carrier and managed behavioral health care organization use to reimburse health care providers for behavioral health care services; and

(4) if the carrier offers a managed care plan that provides for both in-network and out-of-network benefits, the procedure that a covered person must utilize when attempting to obtain behavioral health care services from a health care provider who is not included in the network of providers used by the carrier or managed behavioral health care organization.

3. Section 5 of P.L.1997, c.192 (C.26:2S-5) is amended to read as follows:

**C.26:2S-5 Additional disclosure requirements.**

5. a. In addition to the disclosure requirements provided in section 4 of this act, a carrier which offers a managed care plan shall disclose to a subscriber, in writing, in a manner consistent with the "Life and Health Insurance Policy Language Simplification Act," P.L.1979, c.167 (C.17B:17-17 et seq.), the following information at the time of enrollment and annually thereafter:

(1) A current participating provider directory providing information on a covered person's access to primary care physicians and specialists, including the number of available participating physicians, by provider category or specialty and by county. The directory shall include the professional office address of a primary care physician and any hospital affiliation the primary care physician has. The directory shall also provide information about participating hospitals.

In the case of a carrier that owns, wholly or in part, or contracts with a managed behavioral health care organization, the directory shall include a list of participating providers of behavioral health care services with the address of each provider.

The carrier shall promptly notify each covered person prior to the termination or withdrawal from the carrier's provider network of the covered person's primary care physician;

(2) General information about the financial incentives between participating physicians under contract with the carrier and other participating

health care providers and facilities to which the participating physicians refer their managed care patients;

(3) The percentage of the carrier's managed care plan's network physicians who are board certified;

(4) The carrier's managed care plan's standard for customary waiting times for appointments for urgent and routine care;

(5) The availability through the department, upon request of a member of the general public, of independent consumer satisfaction survey results and an analysis of quality outcomes of health care services of managed care plans in the State;

(6) Information about the Managed Health Care Consumer Assistance Program established pursuant to P.L.2001, c.14 (C.26:2S-19 et al.) as prescribed by regulation of the commissioner, including the toll-free telephone number available to contact the program; and

(7) The carrier's preauthorization and review requirements of the health benefits plan regarding the determination of medical necessity that apply to a covered person who is admitted to an in-network health care facility, and the financial responsibility of the patient for the cost of services provided by an out-of-network admitting or attending health care practitioner.

The carrier shall provide a prospective subscriber with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request.

b. Upon request of a covered person, a carrier shall promptly inform the person:

(1) whether a particular network physician is board certified; and

(2) whether a particular network physician is currently accepting new patients.

c. The carrier shall file the information required pursuant to this section with the department.

**C.26:2S-15.1 Annual report to carrier by managed behavioral health care organization.**

4. a. A carrier that owns, wholly or in part, or contracts with a managed behavioral health care organization shall require the managed behavioral health care organization to provide the carrier and the commissioner with an annual report, no later than March 15th of each year and covering the preceding calendar year, which includes the following information:

(1) the payments made by the managed behavioral health care organization to health care providers for the provision of behavioral health care services to covered persons during the preceding calendar year, which shall be separately identified in the report from the other information that is required to be included pursuant to this subsection;

(2) the total expenses incurred by the managed behavioral health care organization for quality assurance and utilization management activities and treatment plan reviews, whether administrative or clinical in nature, during the preceding calendar year, which shall be separately identified in the report;

(3) the total expenses incurred by the managed behavioral health care organization for other administrative functions, including, but not limited to, accounting and financial reporting, billing and collection, data processing, debt or debt service, legal services, promotion and marketing, or provider credentialing, during the preceding calendar year, which shall each be separately identified in the report; and

(4) the amount of any premiums or other fees received by the managed behavioral health care organization during the preceding calendar year.

b. A carrier shall make available to a subscriber or other covered person, upon request, a copy of the report that is required pursuant to subsection a. of this section. The carrier may charge a fee, in an amount to be established by the commissioner, for furnishing a copy of the report or form to a subscriber or other covered person, which shall reasonably reflect the cost of preparation and the actual cost of postage and handling.

5. This act shall take effect on the 60th day after enactment.

Approved August 5, 2005.

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## CHAPTER 173

AN ACT requiring municipal and county sewerage authorities and utilities authorities to credit connection fees for certain catastrophic events under certain circumstances, and amending and supplementing P.L.1946, c.138 (C.40:14A-1 et seq.) and P.L.1957, c.183 (C.40:14B-1 et seq.).

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

1. Section 8 of P.L.1946, c.138 (C.40:14A-8) is amended to read as follows:

**C.40:14A-8 Service charges authorized.**

8. (a) Every sewerage authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "service charges") for direct or indirect connection with, or the use or services of, the

sewerage system. Such service charges may be charged to and collected from any person contracting for such connection or use or services or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the system or from or on which originates or has originated sewage or other wastes which directly or indirectly have entered or may enter the sewerage system, and the owner of any such real property shall be liable for and shall pay such service charges to the sewerage authority at the time when and the place where such service charges are due and payable.

(b) Rents, rates, fees and charges, which may be payable periodically, being in the nature of use or service charges, shall as nearly as the sewerage authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use or service of the sewerage system, except as permitted by section 1 of P.L.1994, c.78 (C.40:14A-8.2), and may be based or computed either on the consumption of water on or in connection with the real property, making due allowance for commercial use of water, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing or sewerage fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use or service of the sewerage system, or on any combination of any such factors, and may give weight to the characteristics of the sewage and other wastes and any other special matter affecting the cost of treatment and disposal thereof, including chlorine demand, biochemical oxygen demand, concentration of solids and chemical composition. In addition to any such periodic service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the sewerage system, may be imposed upon the owner or occupant of the property so connected. Such connection charges shall be uniform within each class of users, except as provided by section 2 of P.L.2005, c.29 (C.40:14A-8.3) and except as provided by section 2 of P.L.2005, c.173 (C.40:14A-8.4), and the amount thereof shall not exceed the actual cost of the physical connection, if made by the authority, plus an amount computed in the following manner to represent a fair payment toward the cost of the system:

(1) The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest on bonds, and the amount of any loans and interest thereon, paid by the sewerage authority to defray the capital cost of developing the system as of the end of the immediately preceding fiscal year of the authority shall be added to all capital

expenditures made by the authority not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding fiscal year of the authority.

(2) Any gifts, contributions or subsidies to the authority received from, and not reimbursed or reimbursable to any federal, State, county or municipal government or agency or any private person, and that portion of amounts paid to the authority by a public entity under a service agreement or service contract which is not repaid to the public entity by the authority, shall then be subtracted.

(3) The remainder shall be divided by the total number of service units served by the authority at the end of the immediately preceding fiscal year of the authority, and the results shall then be apportioned to each new connector according to the number of service units attributed to that connector, to produce the connector's contribution to the cost of the system. In attributing service units to each connector, the estimated average daily flow of sewage for the connector shall be divided by the average daily flow of sewage for the average single family residence in the authority's district to produce the number of service units to be attributed.

The connection fee shall be recomputed at the end of each fiscal year of the authority, after a public hearing is held in the manner prescribed in subsection (c) of this section. The revised connection fee may be imposed upon those who subsequently connect in that fiscal year to the system. The combination of such connection fee or tapping fee and the aforesaid periodic service charges shall meet the requirements of subsection (c) hereof.

(c) The sewerage authority shall prescribe and from time to time when necessary revise a schedule of service charges, which shall comply with the terms of any contract of the sewerage authority and in any event shall be such that the revenues of the sewerage authority will at all times be adequate to pay all expenses of operation and maintenance of the sewerage system, including reserves, insurance, extensions, and replacements, and to pay punctually the principal of and interest on any bonds and to maintain such reserves or sinking funds therefor as may be required by the terms of any contract of the sewerage authority or as may be deemed necessary or desirable by the sewerage authority. Said schedule shall thus be prescribed and from time to time revised by the sewerage authority after public hearing thereon which shall be held by the sewerage authority at least 20 days after notice of the proposed adjustment is mailed to the clerk of each municipality serviced by the authority and publication of notice of the proposed adjustment of the service charges and of the time and place of the public hearing in at least two newspapers of general circulation in the area serviced by the authority. The sewerage authority shall provide evidence at the hearing showing that the proposed adjustment of the service charges is necessary and

reasonable, and shall provide the opportunity for cross-examination of persons offering such evidence, and a transcript of the hearing shall be made and a copy thereof shall be available upon request to any interested party at a reasonable fee. The sewerage authority shall likewise fix and determine the time or times when and the place or places where such service charges shall be due and payable and may require that such service charges shall be paid in advance for periods of not more than one year. A copy of such schedule of service charges in effect shall at all times be kept on file at the principal office of the sewerage authority and shall at all reasonable times be open to public inspection.

(d) Any county sewerage authority may establish sewerage regions in portions of the district. Rents, rates, fees and charges which may be payable periodically, being in the nature of use or service charges, shall as nearly as the sewerage authority shall deem practicable and equitable, be uniform throughout the district for the same type, class and amount of use or service of the sewerage systems, except as permitted by section 1 of P.L.1994, c.78 (C.40:14A-8.2), and shall meet all other requirements of subsection (b) hereof.

**C.40:14A-8.4 Credit provided by sewerage authority for damage caused by catastrophic event.**

2. a. For a unit damaged by a catastrophic event, a county, regional or municipal sewerage authority shall provide, within two years after the date of the catastrophic event, a credit for the connection fee or tapping fee assessed pursuant to section 8 of P.L.1946, c.138 (C.40:14A-8) for connection to the sewerage system, provided that:

- (1) the unit was damaged by a catastrophic event during construction or refurbishing of the unit;
- (2) the connection fee or tapping fee has been paid; and
- (3) the damaged unit is refurbished or replaced with another unit and connected to the sewerage system within two years after the date of the catastrophic event.

If the refurbishing of the damaged unit or the construction of the unit replacing the damaged unit expands the sewerage system use, the property owner of the refurbished unit or the newly constructed unit, as applicable, shall be credited for any connection fee or tapping fee previously paid for the unit and shall be assessed the difference between the credit and the connection fee or tapping fee, as applicable, for the new class of use.

b. For the purposes of this section, "catastrophic event" means a fire or any declared national, State or municipal emergency or a flood or other natural disaster or event which substantially affects or damages a building or structure; and "unit" means any publicly or privately owned real property that is a building or part of a building that is connected to, or, after construc-

tion or refurbishing, is to be connected to, a sewerage system, and shall include, but shall not be limited to, any building or part of a building leased, operated, or owned by a municipality or a school district.

3. Section 21 of P.L.1957, c.183 (C.40:14B-21) is amended to read as follows:

**C.40:14B-21 Water service charges.**

21. a. Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "water service charges") for direct or indirect connection with, or the use, products or services of, the water system, or for sale of water or water supply services, water supply facilities or products. Such water service charges may be charged to and collected from any person contracting for such connection or use, products or services or for such sale or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the water system or to which directly or indirectly has been supplied or furnished such use, products or services of the water system or water or water supply services, water supply facilities or products, and the owner of any such real property shall be liable for and shall pay such water service charges to the municipal authority at the time when and place where such water service charges are due and payable. Such rents, rates, fees and charges shall as nearly as the municipal authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use, products or services of the water system, except as permitted by section 1 of P.L.1992, c.215 (C.40:14B-22.2), and may be based or computed either on the consumption of water on or in connection with the real property, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use, products or services of the water system supplied or furnished, or on any combination of such factors, and may give weight to the characteristics of the water or water services, facilities or products and, as to service outside the district, any other matter affecting the cost of supplying or furnishing the same, including the cost of installation of necessary physical properties.

Every municipal authority that furnishes water supply services or operates water supply facilities shall establish a rate structure that provides for

uniform water service charges for water supply service and fire protection systems.

No municipal authority may impose standby fees or charges for any fire protection system to a residential customer served by a water service line of two inches or less in diameter.

Nothing in this section shall preclude a municipal authority from requiring separate dedicated service lines for fire protection. A municipal authority may require that fire service lines be metered. Nothing in this section shall alter the liability for maintenance and repair of service lines which exists on the effective date of P.L.2003, c.278.

b. In addition to any such water service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the water system, may be imposed upon the owner or occupant of the property so connected. Such connection charges shall be uniform within each class of users, except as provided by section 5 of P.L.2005, c.29 (C.40:14B-22.3) and except as provided by section 5 of P.L.2005, c.173 (C.40:14B-22.4), and the amount thereof shall not exceed the actual cost of the physical connection, if made by the authority, plus an amount computed in the following manner to represent a fair payment toward the cost of the system:

(1) The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest on bonds, and the amount of any loans and interest thereon, paid by a municipal authority to defray the capital cost of developing the system as of the end of the immediately preceding fiscal year of the authority shall be added to all capital expenditures made by the authority not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding fiscal year of the authority.

(2) Any gifts, contributions or subsidies to the authority received from, and not reimbursed or reimbursable to any federal, State, county or municipal government or agency or any private person, and that portion of amounts paid to the authority by a public entity under a service agreement or service contract which is not repaid to the public entity by the authority, shall then be subtracted.

(3) The remainder shall be divided by the total number of service units served by the authority at the end of the immediately preceding fiscal year of the authority, and the results shall then be apportioned to each new connector according to the number of service units attributed to that connector, to produce the connector's contribution to the cost of the system. In attributing service units to each connector, the estimated average daily flow of water for the connector shall be divided by the average daily flow of water to the



average single family residence in the authority's district, to produce the number of service units to be attributed.

c. The connection fee shall be recomputed at the end of each fiscal year of the authority, after a public hearing is held in the manner prescribed in section 23 of P.L.1957, c.183 (C.40:14B-23). The revised connection fee may be imposed upon those who subsequently connect in that fiscal year to the system. The combination of such connection fee or tapping fee and the aforesaid water service charges all meet the requirements of section 23 of P.L.1957, c.183 (C.40:14B-23).

d. The foregoing notwithstanding, no municipal authority shall impose any charges or fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated thereunder. Nothing herein shall preclude any municipal authority from charging for the actual cost of water main connections, except as provided by section 5 of P.L.2005, c.29 (C.40:14B-22.3) and except as provided by section 5 of P.L.2005, c.173 (C.40:14B-22.4).

4. Section 22 of P.L.1957, c.183 (C.40:14B-22) is amended to read as follows:

**C.40:14B-22 Sewerage service charges.**

22. Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "sewerage service charges") for direct or indirect connection with, or the use or services of, the sewerage system. Such sewerage service charges may be charged to and collected from any person contracting for such connection or use or services or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the sewerage system or from or on which originates or has originated sewage or other wastes which directly or indirectly have entered or may enter the sewerage system, and the owner of any such real property shall be liable for and shall pay such sewerage service charges to the municipal authority at the time when and place where such sewerage service charges are due and payable. Such rents, rates, fees and charges, being in the nature of use or service charges, shall as nearly as the municipal authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use or service of the sewerage system, except as permitted by section 1 of P.L.1992, c.215 (C.40:14B-22.2), and may be based or

computed either on the consumption of water on or in connection with the real property, making due allowance for commercial use of water, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing or sewerage fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use or service of the sewerage system, or on any combination of any such factors, and may give weight to the characteristics of the sewage and other wastes and any other special matter affecting the cost of treatment and disposal of the same; including chlorine demand, biochemical oxygen demand, concentration of solids and chemical composition, and, as to service outside the district, the cost of installation of necessary physical properties.

In addition to any such sewerage service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the sewerage system, may be imposed upon the owner or occupant of the property so connected. Such connection charges shall be uniform within each class of users, except as provided by section 5 of P.L.2005, c.29 (C.40:14B-22.3) and except as provided by section 5 of P.L.2005, c.173 (C.40:14B-22.4), and the amount thereof shall not exceed the actual cost of the physical connection, if made by the authority, plus an amount computed in the following manner to represent a fair payment towards the cost of the system:

a. The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest on bonds, and the amount of any loans and the interest thereon, paid by the municipal authority to defray the capital cost of developing the system as of the end of the immediately preceding fiscal year of the authority shall be added to all capital expenditures made by a municipal authority not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding fiscal year of the authority.

b. Any gifts, contributions or subsidies to the authority received from, and not reimbursed or reimbursable to, any federal, State, county or municipal government or agency or any private person, and that portion of amounts paid to the authority by a public entity under a service agreement or service contract which is not repaid to the public entity by the authority, shall then be subtracted.

c. The remainder shall be divided by the total number of service units served by the authority at the end of the immediately preceding fiscal year of the authority, and the results shall then be apportioned to each new connector according to the number of service units attributed to that connector.

In attributing service units to each connector, the estimated average daily flow of sewage for the connector shall be divided by the average daily flow of sewage from the average single family residence in the authority's district, to produce the number of service units to be attributed.

The connection fee shall be recomputed at the end of each fiscal year of the authority, after a public hearing is held in the manner prescribed in section 23 of P.L.1957, c.183 (C.40:14B-23). The revised connection fee may be imposed upon those who subsequently connect in that fiscal year to the system.

The combination of such connection fee or tapping fee and the aforesaid sewerage service charges shall meet the requirements of section 23.

**C.40:14B-22.4 Credit provided by utilities authority for damage caused by catastrophic event.**

5. a. For a unit damaged by a catastrophic event, a county, regional or municipal utilities authority shall provide, within two years after the date of the catastrophic event, a credit for the connection fee or tapping fee assessed pursuant to section 21 of P.L.1957, c.183 (C.40:14B-21) for connection to the water system, or a credit for the connection fee or tapping fee assessed pursuant to section 22 of P.L.1957, c.183 (C.40:14B-22) for connection to the sewerage system, or both, as the case may be, provided that:

(1) the unit was damaged by a catastrophic event during construction or refurbishing of the unit;

(2) the connection fee or tapping fee has been paid; and

(3) the damaged unit is refurbished or replaced with another unit and connected to the water system or the sewerage system, or both, as the case may be, within two years after the date of the catastrophic event.

If the refurbishing of the damaged unit or the construction of the unit replacing the damaged unit expands the water system use or the sewerage system use, or both, as the case may be, the property owner of the refurbished unit or the newly constructed unit, as applicable, shall be credited for any connection fee or tapping fee previously paid for the unit and shall be assessed the difference between the credit and the connection fee or tapping fee, as applicable, for the new class of use.

b. For the purposes of this section, "catastrophic event" means a fire or any declared national, State or municipal emergency or a flood or other natural disaster or event which substantially affects or damages a building or structure; and "unit" means any publicly or privately owned real property that is a building or part of a building that is connected to, or, after construction or refurbishing, is to be connected to, a water system or a sewerage system, or both, as the case may be, and shall include, but shall not be limited to, any building or part of a building leased, operated, or owned by a municipality or a school district.

6. This act shall take effect immediately.

Approved August 5, 2005.

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CHAPTER 174

AN ACT concerning the issuance of local bonds and amending N.J.S.40A:2-22.

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

1. N.J.S.40A:2-22 is amended to read as follows:

**Maximum bond terms.**

40A:2-22. The governing body of the local unit shall determine the period of usefulness of any purpose according to its reasonable life computed from the date of the bonds, which period shall not be greater than the following:

- a. Buildings and structures.
  1. Bridges, including retaining walls and approaches, or permanent structures of brick, stone, concrete or metal, or similar durable construction, 30 years.
  2. Buildings, including the original furnishings and equipment therefor:
    - Class A: A building, of which all walls, floors, partitions, stairs and roof are wholly of incombustible material, except the window frames, doors, top flooring and wooden handrails on the stairs, 40 years;
    - Class B: A building, the outer walls of which are wholly of incombustible material, except the window frames and doors, 30 years;
    - Class C: A building which does not meet the requirements of Class A or Class B, 20 years.
  3. Buildings or structures acquired substantially reconstructed or additions thereto, one-half the period fixed in this subsection for such buildings or structures.
  4. Additional furnishings, five years.
- b. Marine improvements.
  1. Harbor improvements, docks or marine terminals, 40 years.
  2. Dikes, bulkheads, jetties or similar devices of stone, concrete or metal, 15 years; of wood or partly of wood, 10 years.
- c. Additional equipment and machinery.
  1. Additional or replacement equipment and machinery, 15 years.
  2. Voting machines, 15 years.
- d. Real property.

1. Acquisition for any public purpose of lands or riparian rights, or both, and the original dredging, grading, draining or planting thereof, 40 years.

2. Improvement of airport, cemetery, golf course, park, playground, 15 years.

3. Stadia of concrete or other incombustible materials, 20 years.

e. Streets or thoroughfares.

1. Elimination of grade crossings, 35 years.

2. Streets or roads:

Class A: Rigid pavement. A pavement of not less than eight inches of cement concrete or a six-inch cement concrete base with not less than three-inch bituminous concrete surface course, or equivalent wearing surface, 20 years.

Flexible pavement. A pavement not less than 10 inches in depth consisting of five-inch macadam base, three-inch modified penetration macadam and three-inch bituminous concrete surface course or other pavements of equivalent strength, in accordance with the findings of the American Association of State Highway Officials (AASHO) Road Test, 20 years.

Class B: Mixed surface-treated road. An eight-inch surface of gravel, stone or other selected material under partial control mixed with cement or lime and fly ash, six inches in compacted thickness with bituminous surface treatment and cover, 10 years.

Bituminous penetration road. A five-inch gravel or stone base course and a three-inch course bound with a bituminous or equivalent binder, 10 years.

Class C: Mixed bituminous road. An eight-inch surface of gravel, stone, or other selected material under partial control mixed with bituminous material one inch or more in compacted thickness, five years.

Penetration macadam road. A road of sand, gravel or water-bound macadam, or surfacing with penetration macadam, five years.

3. Sidewalks, curbs and gutters of stone, concrete or brick, 10 years.

The period of usefulness in this subsection shall apply to construction and reconstruction of streets and thoroughfares.

f. Utilities and municipal systems.

1. Sewerage system, whether sanitary or storm water, water supply or distribution system, 40 years.

2. Electric light, power or gas systems, garbage, refuse or ashes incinerator or disposal plant, 25 years.

3. Communication and signal systems, 10 years.

4. House connections to publicly-owned gas, water or sewerage systems from the service main in the street to the curb or property lines where not part of original installation, five years.

- g. Vehicles and apparatus.
    - 1. Fire engines, apparatus and equipment, when purchased new, but not fire equipment purchased separately, 10 years.
    - 2. Automotive vehicles, including original apparatus and equipment (other than passenger cars and station wagons), when purchased new, five years.
    - 3. Major repairs, reconditioning or overhaul of fire engines and apparatus, ambulances, rescue vehicles, and similar public safety vehicles (other than passenger cars and station wagons) which may reasonably be expected to extend for at least five years the period of usefulness thereof, five years.
  - h. The closure of a sanitary landfill facility utilized, owned or operated by a county or municipality, 15 years; provided that the closure has been approved by the Board of Public Utilities and the Department of Environmental Protection. For the purposes of this subsection "closure" means all activities associated with the design, purchase or construction of all measures required by the Department of Environmental Protection, 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, and the installation of methane gas vents or monitors and leachate monitoring wells or collection systems at the site of any sanitary landfill facility.
    - i. Any purpose, except vehicles, not included in the foregoing, for which obligations may be issued, 15 years.
    - j. The prefunding of a claims account for environmental liability claims by an environmental impairment liability insurance pool pursuant to P.L.1993, c.269 (C.40A:10-38.1 et al.), 20 years.
2. This act shall take effect immediately.

Approved August 5, 2005.

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## CHAPTER 175

AN ACT appropriating \$1,289,407 from the Jobs, Education and Competitiveness Fund created under the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78, for the construction, reconstruction, development, extension, improvement and equipment of classrooms, academic buildings, libraries, computer facilities and other higher education buildings at New Jersey's public and private institutions of higher education.

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

1. There is appropriated to the Commission on Higher Education from the "Jobs, Education and Competitiveness Fund" created pursuant to section 14 of the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78, the sum of \$1,289,407 for the purpose of constructing, reconstructing, developing, extending, improving and equipping classrooms, academic buildings, libraries, computer facilities and other higher education buildings. The sum shall be allocated to the following institution of higher education which shall provide funds to projects which have been approved by the Commission on Higher Education as provided below:

<b><u>Project</u></b>	<b><u>Institution Funds</u></b>	<b><u>P.L.1988, c.78 Bond Funds</u></b>
Construction of Higher Education Buildings at the County Colleges		
Construction of an addition and renovations to the James Kerney Campus at Mercer County College		<u>\$1,289,407</u>
<b>TOTAL</b>		<b><u>\$1,289,407</u></b>

2. This act shall take effect immediately.

Approved August 5, 2005.

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CHAPTER 176

AN ACT concerning neonatal jaundice and amending P.L.1983, c.291.

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

1. Section 1 of P.L.1983, c.291 (C.26:8-40.20) is amended to read as follows:

**C.26:8-40.20 Legislative findings and declarations.**

1. The Legislature finds and declares that: major birth defects occur in approximately 1% of all births and are related to over 25% of all infant

deaths; while the cause of many birth defects is unknown, there is much concern that certain birth defects may be related to environmental factors such as pollution and toxic chemicals; about 60% of newborns develop jaundice, which is caused by a buildup of bilirubin, pigment that results from the natural breakdown of red blood cells, and toxic levels of bilirubin can cause severe neurological damage, called kernicterus, which is associated with cerebral palsy, mental retardation, hearing loss and complications with vision and teeth; in order to effectively address these public health problems, it is necessary to collect and compile complete and accurate information concerning the occurrence of birth defects and cases of severe hyperbilirubinemia in this State; and a birth defects and severe neonatal jaundice registry would provide a needed base of information to analyze these problems and plan for and provide services to children with birth defects and severe hyperbilirubinemia and their families.

2. Section 2 of P.L.1983, c.291 (C.26:8-40.21) is amended to read as follows:

**C.26:8-40.21 Birth defects, severe neonatal jaundice registry.**

2. a. The Department of Health and Senior Services shall establish and maintain a birth defects and severe neonatal jaundice registry, which shall contain a confidential record of all birth defects and all cases of severe hyperbilirubinemia that occur in New Jersey and any other information that the department deems necessary and appropriate in order to conduct thorough and complete epidemiologic surveys of birth defects and cases of severe hyperbilirubinemia that occur in this State and plan for and provide services to children with birth defects and severe hyperbilirubinemia and their families.

b. The department shall make available electronically on its Internet website, in English and Spanish, information on the characteristics and effects of severe neonatal jaundice.

3. Section 3 of P.L.1983, c.291 (C.26:8-40.22) is amended to read as follows:

**C.26:8-40.22 Confidential reports of abortions of fetus with or infant affected by birth defect or severe neonatal jaundice.**

3. a. The Commissioner of Health and Senior Services, in consultation with the Public Health Council, shall require the confidential reporting to the Department of Health and Senior Services of all cases where an infant is diagnosed with severe hyperbilirubinemia, and where a pregnancy results in a naturally aborted fetus or infant affected by a birth defect, and an electively aborted fetus that exhibits or is known to have a birth defect after 15



weeks of gestation. The reporting requirement shall apply to all infants from birth through five years of age.

b. The Commissioner of Health and Senior Services shall determine the health care providers and facilities which shall be required to report all birth defects and all cases of severe hyperbilirubinemia, the types of conditions or defects that shall be reported, the type of information that shall be contained in the confidential report and the method for making the report. In reports concerning all fetuses with anomalies, the name of the mother shall not be submitted.

4. This act shall take effect on the 180th day after enactment, but the Commissioner of Health and Senior Services may take such anticipatory administrative action in advance as is necessary for the implementation of the act.

Approved August 5, 2005.

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CHAPTER 177

AN ACT appropriating \$75,000,000 from the "Garden State Green Acres Preservation Trust Fund," and reappropriating certain other moneys, for the acquisition or development of lands by the State for recreation and conservation purposes.

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

1. a. There is appropriated from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), to the Department of Environmental Protection the sum of \$65,000,000 for the acquisition of lands by the State for recreation and conservation purposes. This sum shall be allocated as follows:

<b>Project</b>	<b>County</b>	<b>Municipality</b>	<b>Amount</b>
(1) BARNEGAT BAY WATERSHED GREENWAY			\$ 4,000,000
	<i>Barnegat Bay Greenway</i>		
	Monmouth	Freehold Twp Howell Twp	
	Ocean	Barnegat Twp Berkeley Twp Brick Twp	

		Dover Twp Eagleswood Twp Jackson Twp Lacey Twp Lakewood Twp Little Egg Harbor Twp Ocean Twp Stafford Twp	
(2) CAPE MAY PENINSULA			1,000,000
	<i>Cape May Peninsula</i>		
	Cape May	Cape May City Cape May Point Boro Dennis Twp Lower Twp Middle Twp Sea Isle City Upper Twp West Cape May Boro Woodbine Boro	
(3) CROSSROADS OF AMERICAN REVOLUTION			4,000,000
	<i>Princeton Battlefield to Monmouth</i>		
	Mercer	East Windsor Twp Hamilton Twp Lawrence Twp Washington Twp West Windsor Twp	
	Middlesex	Cranbury Twp Monroe Twp Plainsboro Twp South Brunswick Twp	
	Monmouth	Allentown Boro Englishtown Boro Freehold Twp Manalapan Twp Marlboro Twp Millstone Twp Roosevelt Boro Upper Freehold Twp	
	<i>Princeton to Morristown</i>		
	Morris	Chester Boro Harding Twp Long Hill Twp Mendham Boro Mendam Twp Morris Twp Morristown Town Randolph Twp	
	Somerset	Bedminster Twp	

		Bernards Twp Bernardsville Boro Bound Brook Boro Branchburg Twp Bridgewater Twp Franklin Twp Hillsborough Twp Manville Boro Montgomery Twp Raritan Boro Somerville Boro Warren Twp	
<i>Washington Crossing to Princeton Battlefield</i>	Hunterdon	East Amwell Twp West Amwell Twp	
	Mercer	Hopewell Twp Princeton Twp Trenton City	
(4) DELAWARE & RARITAN CANAL GREENWAY			1,000,000
	Hunterdon	Delaware Twp Kingwood Twp Lambertville City Stockton Boro West Amwell Twp	
	Mercer	Ewing Twp Hamilton Twp Hopewell Twp Lawrence Twp Princeton Twp Trenton City	
	Middlesex	New Brunswick City Plainsboro Twp South Brunswick Twp	
	Somerset	Franklin Twp	
(5) DELAWARE BAY WATERSHED GREENWAY			4,000,000
<i>Alloways Creek Greenway</i>	Salem	Alloway Twp Elsinboro Twp Lower Alloways Creek Twp Pilesgrove Twp Quinton Twp Upper Pittsgrove Twp	
<i>Cape May Tributaries</i>	Cape May	Dennis Twp Lower Twp Middle Twp Upper Twp	
<i>Cohansey River Greenway</i>	Cumberland	Bridgeton City	

		Fairfield Twp
		Greenwich Twp
		Hopewell Twp
		Lawrence Twp
		Shiloh Boro
		Upper Deerfield Twp
	Salem	Alloway Twp
<i>Dividing/ Nantuxent/ Cedar/ Back Creeks Greenway</i>	Cumberland	Commercial Twp
		Downe Twp
		Fairfield Twp
		Lawrence Twp
<i>Maurice River Greenway</i>	Atlantic	Buena Boro
		Buena Vista Twp
	Cape May	Dennis Twp
	Cumberland	Commercial Twp
		Deerfield Twp
		Maurice River Twp
		Millville City
		Vineland City
	Gloucester	Clayton Boro
		Elk Twp
		Franklin Twp
		Glassboro Boro
		Monroe Twp
		Newfield Boro
	Salem	Elmer Boro
		Pittsgrove Twp
		Upper Pittsgrove Twp
<i>Salem River/ Mannington Greenway</i>	Salem	Carneys Point Twp
		Elsinboro Twp
		Mannington Twp
		Oldmans Twp
		Pennsville Twp
		Pilesgrove Twp
		Upper Pittsgrove Twp
		Woodstown Boro
<i>Stow Creek Greenway</i>	Cumberland	Greenwich Twp
		Stow Creek Twp
	Salem	Alloway Twp
		Lower Alloways Creek Twp
		Quinton Twp
(6) DELAWARE RIVER WATERSHED GREENWAY		6,000,000
<i>Assinkunk Creek Watershed</i>	Burlington	Mansfield Twp
<i>Big Timber Creek</i>	Camden	Clementon Boro
		Gloucester Twp

	Gloucester	Lindenwold Boro Pine Hill Boro Deptford Twp Westville Boro
<i>Cooper River Greenway</i>	Camden	Berlin Twp Camden City Gibbsboro Boro Haddon Twp Lindenwold Boro Voorhees Twp
<i>Crosswicks Creek Watershed</i>	Burlington	Bordentown City Bordentown Twp Chesterfield Twp Mansfield Twp North Hanover Twp
	Mercer	Hamilton Twp Trenton City Washington Twp
	Monmouth	Allentown Boro Millstone Twp Upper Freehold Twp
	Ocean	Jackson Twp Plumsted Twp
<i>Delaware River Bluffs</i>	Hunterdon	Delaware Twp Frenchtown Boro Kingwood Twp Lambertville City Stockton Boro West Amwell Twp
	Mercer	Ewing Twp Hopewell Twp
<i>Nishisakawick Greenway</i>	Hunterdon	Alexandria Twp Delaware Twp Frenchtown Boro Kingwood Twp
<i>Oldmans Creek Greenway</i>	Gloucester	Logan Twp South Harrison Twp Woolwich Twp
	Salem	Oldmans Twp Pilesgrove Twp Upper Pittsgrove Twp
<i>Raccoon Creek Greenway</i>	Gloucester	Elk Twp Harrison Twp Logan Twp Woolwich Twp
<i>Rancocas Creek Greenway</i>	Burlington	Cinnaminson Twp

		Delanco Twp	
		Delran Twp	
		Eastampton Twp	
		Hainesport Twp	
		Lumberton Twp	
		Medford Twp	
		Moorestown Twp	
		Mount Holly Twp	
		Mount Laurel Twp	
		Pemberton Twp	
		Riverside Twp	
		Southampton Twp	
		Springfield Twp	
		Westampton Twp	
		Willingboro Twp	
	<i>Trenton / Hamilton Marsh</i>		
	Burlington	Bordentown Twp	
		Chesterfield Twp	
	Mercer	Hamilton Twp	
		Trenton City	
	<i>Woodbury Creek Watershed</i>		
	Gloucester	National Park Boro	
		West Deptford Twp	
(7) HARBOR ESTUARY			1,000,000
	Bergen	Carlstadt Boro	
		East Rutherford Boro	
		Emerson Boro	
		Haworth Boro	
		Lyndhurst Twp	
		North Arlington Boro	
		Old Tappan Boro	
		Oradell Boro	
		Ridgefield Boro	
		Ridgefield Park Village	
		River Vale Twp	
		Westwood Boro	
	Hudson	Jersey City	
		Kearny Town	
		North Bergen Twp	
		Secaucus Town	
	Middlesex	Carteret Boro	
		East Brunswick Twp	
		Edison Twp	
		Highland Park Boro	
		Monroe Twp	
		New Brunswick City	
		Old Bridge Twp	
		Perth Amboy City	
		Sayreville Boro	
		South Amboy City	
		South River Boro	

Monmouth	Woodbridge Twp Aberdeen Twp Atlantic Highlands Boro Hazlet Twp Holmdel Twp Keansburg Boro Keyport Boro Matawan Boro Middletown Twp Ocean Twp Union Beach Boro	
Union	Clark Twp Linden City Rahway City	
(8) HIGHLANDS GREENWAY		15,000,000
Bergen	Mahwah Twp Oakland Boro	
Hunterdon	Alexandria Twp Bethlehem Twp Bloomsbury Boro Califon Boro Clinton Town Clinton Twp Glen Gardner Boro Hampton Boro High Bridge Boro Holland Twp Lebanon Boro Lebanon Twp Milford Boro Tewksbury Twp	
Morris	Union Twp Boonton Town Boonton Twp Butler Boro Chester Boro Chester Twp Denville Twp Dover Town Hanover Twp Harding Twp Jefferson Twp Kinnelon Boro Mendham Boro Mendham Twp Mine Hill Twp Montville Twp Morris Plains Boro Morris Twp Morristown Town Mount Arlington Boro	

	Mount Olive Twp
	Mountain Lakes Boro
	Netcong Boro
	Parsippany-Troy Hills Twp
	Pequannock Twp
	Randolph Twp
	Riverdale Boro
	Rockaway Boro
	Rockaway Twp
	Roxbury Twp
	Victory Gardens Boro
	Washington Twp
	Wharton Boro
Passaic	Bloomington Boro
	Pompton Lakes Boro
	Ringwood Boro
	Wanaque Boro
	West Milford Twp
Somerset	Bedminster Twp
	Bernards Twp
	Bernardsville Boro
	Far Hills Boro
	Peapack-Gladstone Boro
Sussex	Byram Twp
	Franklin Boro
	Green Twp
	Hamburg Boro
	Hardyston Twp
	Hopatcong Boro
	Ogdensburg Boro
	Sparta Twp
	Stanhope Boro
	Vernon Twp
Warren	Allamuchy Twp
	Alpha Boro
	Belvidere Town
	Franklin Twp
	Frelinghuysen Twp
	Greenwich Twp
	Hackettstown Town
	Harmony Twp
	Hope Twp
	Independence Twp
	Liberty Twp
	Lopatcong Twp
	Mansfield Twp
	Oxford Twp
	Phillipsburg Town
	Pohatcong Twp
	Washington Boro
	Washington Twp
	White Twp



## (9) HISTORIC RESOURCES

1,000,000

<i>Allaire State Park</i>	Monmouth	Howell Twp Wall Twp
<i>Fort Mott Officers Quarters</i>	Salem	Pennsville Twp
<i>Griggstown Muletenders Barracks</i>	Somerset	Franklin Twp
<i>Monmouth Battlefield</i>	Monmouth	Freehold Twp Manalapan Twp
<i>New Bridge Landing</i>	Bergen	New Milford Boro River Edge Boro
<i>Princeton Battlefield</i>	Mercer	Princeton Twp
<i>Proprietary House</i>	Middlesex	Perth Amboy City
<i>Register Eligible Sites</i>	Somerset	Green Brook Twp Watchung Boro
<i>Rockingham Farmstead</i>	Somerset	Franklin Twp
<i>Twin Lights</i>	Monmouth	Highlands Boro
<i>Washington Crossing State Park</i>	Mercer	Ewing Twp Hopewell Twp
<i>Waterloo Village</i>	Sussex	Byram Twp Stanhope Boro

## (10) NATURAL AREAS

2,000,000

<i>Bill Henry Pond</i>	Atlantic	Egg Harbor Twp
<i>Budd Lake Bog</i>	Morris	Mount Olive Twp
<i>Campus Swamp</i>	Camden	Gloucester Twp
<i>Cheesequake State Park</i>	Middlesex	Old Bridge Twp
<i>Crossley Preserve</i>	Ocean	Berkeley Twp Manchester Twp
<i>Five Acre Pond</i>	Atlantic	Estell Manor City
<i>Gravel Hill</i>	Hunterdon	Holland Twp
<i>Great Piece Meadows/ Troy Meadows</i>	Essex	Fairfield Twp

	Morris	Roseland Boro West Caldwell Twp East Hanover Twp Hanover Twp Lincoln Park Boro Montville Twp Parsippany-Troy Hills Twp Wayne Twp
<i>Hamburg Mountain</i>	Passaic	
	Sussex	Hardyston Twp Vernon Twp
<i>Hidden Lake</i>		
	Camden	Gloucester Twp
<i>High Mountain</i>		
	Passaic	North Haledon Boro Wayne Twp
<i>Limestone Ridge</i>		
	Warren	Blairstown Twp
<i>Long-A-Coming Branch</i>		
	Camden	Winslow Twp
<i>Milford Bluffs</i>		
	Hunterdon	Holland Twp
<i>Mountain Lake Bog</i>		
	Warren	White Twp
<i>Ogdensburg Fen</i>		
	Sussex	Ogdensburg Boro
<i>Oswego River Natural Area</i>		
	Burlington	Washington Twp
<i>Phone-In-Fen</i>		
	Warren	Hardwick Twp
<i>Ramapo Lake Natural Area</i>		
	Bergen	Oakland Boro Ringwood Boro Wanaque Boro
	Passaic	
<i>Ramapo Mountain</i>		
	Bergen	Mahwah Twp Oakland Boro
	Passaic	Pompton Lakes Boro Ringwood Boro Wanaque Boro
<i>Sourland Mountains</i>		
	Hunterdon	East Amwell Twp West Amwell Twp
	Mercer	Hopewell Twp
	Somerset	Hillsborough Twp Montgomery Twp
<i>Strawberry Hill</i>		
	Mercer	Hopewell Twp
<i>Sunfish Pond</i>		
	Warren	Hardwick Twp
<i>Sweet Hollow</i>		
	Hunterdon	Alexandria Twp

<i>Troy Meadows</i>	Morris	Parsippany-Troy Hills Twp	
<i>Uttertown Bog</i>	Passaic	West Milford Twp	
<i>Washington Crossing State Park</i>	Mercer	Hopewell Twp	
<i>Wetlands Habitat/ Bog Turtle</i>	Sussex	Frankford Twp Wantage Twp	
<i>Whale Pond</i>	Monmouth	Ocean Twp	
<i>Woodbine Bogs</i>	Cape May	Upper Twp	
(11) NON-PROFIT CAMPS			2,000,000
<i>Youth Camps</i>			
	Bergen	Mahwah Twp	
	Burlington	Evesham Twp Medford Twp Tabernacle Twp Greenwich Twp Hopewell Twp	
	Cumberland	Franklin Twp East Amwell Twp Readington Twp	
	Gloucester	Wall Twp	
	Hunterdon	Kinnelon Boro Rockaway Boro	
	Monmouth	Ocean Twp	
	Morris	Ringwood Boro West Milford Twp	
	Ocean	Alloway Twp	
	Passaic	Franklin Twp Byram Twp Hampton Twp Sandyston Twp Sparta Twp Stillwater Twp Vernon Twp Wantage Twp	
	Salem	Hardwick Twp	
	Somerset	Independence Twp	
	Sussex	Mansfield Twp	
	Warren		
(12) PINELANDS			7,000,000
	Atlantic	Brigantine City Buena Boro Buena Vista Twp Corbin City Egg Harbor City Egg Harbor Twp	

- Burlington
  - Estell Manor City
  - Folsom Boro
  - Galloway Twp
  - Hamilton Twp
  - Hammonton Town
  - Mullica Twp
  - Port Republic City
  - Weymouth Twp
  - Bass River Twp
  - Evesham Twp
  - Medford Lakes Boro
  - Medford Twp
  - New Hanover Twp
  - North Hanover Twp
  - Pemberton Twp
  - Shamong Twp
  - Southampton Twp
  - Springfield Twp
  - Tabernacle Twp
  - Washington Twp
  - Woodland Twp
- Camden
  - Wrightstown Boro
  - Berlin Boro
  - Berlin Twp
  - Chesilhurst Boro
  - Waterford Twp
- Cape May
  - Winslow Twp
  - Dennis Twp
  - Middle Twp
  - Upper Twp
- Cumberland
  - Woodbine Boro
  - Maurice River Twp
- Gloucester
  - Vineland City
  - Franklin Twp
  - Monroe Twp
- Ocean
  - Barnegat Twp
  - Beachwood Boro
  - Berkeley Twp
  - Dover Twp
  - Eagleswood Twp
  - Jackson Twp
  - Lacey Twp
  - Lakehurst Boro
  - Little Egg Harbor Twp
  - Manchester Twp
  - Ocean Twp
  - Plumsted Twp
  - South Toms River Boro
  - Stafford Twp
  - Tuckerton Boro

(13) RARITAN RIVER WATERSHED GREENWAY

6,000,000

	Hunterdon	Bethlehem Twp Clinton Twp East Amwell Twp Franklin Twp High Bridge Boro Lebanon Twp Raritan Twp Readington Twp Tewksbury Twp Union Twp	
	Middlesex	East Brunswick Twp Milltown Boro New Brunswick City North Brunswick Twp Piscataway Twp South Brunswick Twp	
	Morris	Chester Twp Harding Twp Long Hill Twp Mendham Boro Mendham Twp Mount Olive Twp Washington Twp	
	Somerset	Bedminster Twp Bernards Twp Branchburg Twp Bridgewater Twp Far Hills Boro Franklin Twp Hillsborough Twp Manville Boro Montgomery Twp Peapack-Gladstone Boro Somerville Boro Warren Twp	
(14)	RIDGE AND VALLEY GREENWAY		8,000,000
	Sussex	Andover Boro Andover Twp Branchville Boro Frankford Twp Fredon Twp Green Twp Hampton Twp Lafayette Twp Montague Twp Newton Town Sandyston Twp Stillwater Twp Sussex Boro Walpack Twp Wantage Twp	

	Warren	Blairstown Twp Frelinghuysen Twp Hackettstown Town Hardwick Twp Hope Twp Knowlton Twp Liberty Twp	
(15) TRAILS			2,000,000
	<i>Appalachian Trail Easements</i>		
	Passaic		
	Sussex	West Milford Twp Vernon Twp Wantage Twp	
	<i>Capitol to the Coast</i>		
	Mercer	Hamilton Twp Trenton City Washington Twp West Windsor Twp	
	Monmouth	Freehold Twp Howell Twp Manasquan Boro Millstone Twp Roosevelt Boro Sea Girt Boro Spring Lake Boro Spring Lake Heights Boro Upper Freehold Twp Wall Twp Jackson Twp	
	<i>Rails to Trails</i>		
	Ocean		
	Burlington	Burlington City Burlington Twp Chesterfield Twp Mansfield Twp North Hanover Twp Pemberton Boro Pemberton Twp Southampton Twp Springfield Twp Westampton Twp Willingboro Twp	
	Mercer	East Windsor Twp Hightstown Boro Washington Twp West Windsor Twp	
	Ocean	Plumsted Twp	
	Sussex	Andover Boro Andover Twp Franklin Boro Green Twp Hamburg Boro	

	Warren	Newton Town Ogdensburg Boro Sparta Twp Sussex Boro Vernon Twp Allamuchy Twp Belvidere Town Franklin Twp Independence Twp Knowlton Twp Liberty Twp Washington Twp White Twp	
	<i>Warren County Trails</i> Warren	Franklin Twp Harmony Twp Lopatcong Twp Mansfield Twp Oxford Twp Phillipsburg Town Washington Twp White Twp	
(16) URBAN PARKS			1,000,000
	Bergen Camden Essex	Edgewater Boro Camden City Belleville Twp Bloomfield Twp Caldwell Boro East Orange City Glen Ridge Boro Irvington Twp Maplewood Twp Montclair Twp Newark City Nutley Twp Orange City Twp South Orange Village Twp West Orange Twp	
	Hudson	Bayonne City East Newark Boro Guttenberg Town Harrison Town Hoboken City Jersey City Kearny Town North Bergen Twp Union City Weehawken Twp West New York Town	
	Mercer Middlesex	Trenton City Edison Twp	

Passaic	Paterson City
Union	Elizabeth City
	Fanwood Boro
	Garwood Boro
	Hillside Twp
	Linden City
	Plainfield City
	Rahway City
	Roselle Boro
	Roselle Park Boro
	Union Twp
	Winfield Twp

**TOTAL** **\$ 65,000,000**

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any State project that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, section 2 of this act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. The expenditure of moneys appropriated by this act is subject to the provisions of subsection o. of section 26 of P.L.1999, c.152 (C.13:8C-26).

e. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1989, c.183.

2. a. There is appropriated from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), to the Department of Environmental Protection the sum of \$10,000,000 for the development of lands by the State for recreation and conservation purposes. This sum shall be allocated as follows:

Project	County	Municipality	Amount
(1) BARNEGAT BAY WATERSHED GREENWAY			\$ 1,500,000
	<i>Barnegat Bay Greenway</i>		
	Monmouth	Freehold Twp	
		Howell Twp	
	Ocean	Barnegat Twp	
		Berkeley Twp	
		Brick Twp	



Dover Twp  
 Eagleswood Twp  
 Jackson Twp  
 Lacey Twp  
 Lakewood Twp  
 Little Egg Harbor Twp  
 Ocean Twp  
 Stafford Twp

(2) DELAWARE BAY WATERSHED GREENWAY 1,500,000

*Alloways Creek Greenway*

Salem

Alloway Twp  
 Elsinboro Twp  
 Lower Alloways Creek Twp  
 Pilesgrove Twp  
 Quinton Twp  
 Upper Pittsgrove Twp

*Cape May Tributaries*

Cape May

Dennis Twp  
 Lower Twp  
 Middle Twp  
 Upper Twp

*Cohansey River Greenway*

Cumberland

Bridgeton City  
 Fairfield Twp  
 Greenwich Twp  
 Hopewell Twp  
 Lawrence Twp  
 Shiloh Boro  
 Upper Deerfield Twp  
 Alloway Twp

*Dividing/ Nantuxent/ Cedar/ Back Creeks Greenway*

Salem

Cumberland

Commercial Twp  
 Downe Twp  
 Fairfield Twp  
 Lawrence Twp

*Maurice River Greenway*

Atlantic

Cape May

Cumberland

Gloucester

Salem

Buena Boro  
 Buena Vista Twp  
 Dennis Twp  
 Commercial Twp  
 Deerfield Twp  
 Maurice River Twp  
 Millville City  
 Vineland City  
 Clayton Boro  
 Elk Twp  
 Franklin Twp  
 Glassboro Boro  
 Monroe Twp  
 Newfield Boro  
 Elmer Boro

		Pittsgrove Twp Upper Pittsgrove Twp	
	<i>Salem River/ Mannington Greenway</i>		
	Salem	Carneys Point Twp Elsinboro Twp Mannington Twp Oldmans Twp Pennsville Twp Pilesgrove Twp Upper Pittsgrove Twp Woodstown Boro	
	<i>Stow Creek Greenway</i>		
	Cumberland	Greenwich Twp Stow Creek Twp	
	Salem	Alloway Twp Lower Alloways Creek Twp Quinton Twp	
(3) HIGHLANDS GREENWAY			3,000,000
	Bergen	Mahwah Twp Oakland Boro	
	Hunterdon	Alexandria Twp Bethlehem Twp Bloomsbury Boro Califon Boro Clinton Town Clinton Twp Glen Gardner Boro Hampton Boro High Bridge Boro Holland Twp Lebanon Boro Lebanon Twp Milford Boro Tewksbury Twp	
	Morris	Union Twp Boonton Town Boonton Twp Butler Boro Chester Boro Chester Twp Denville Twp Dover Town Hanover Twp Harding Twp Jefferson Twp Kinnelon Boro Mendham Boro Mendham Twp Mine Hill Twp Montville Twp Morris Plains Boro	

	Morris Twp
	Morristown Town
	Mount Arlington Boro
	Mount Olive Twp
	Mountain Lakes Boro
	Netcong Boro
	Parsippany-Troy Hills Twp
	Pequannock Twp
	Randolph Twp
	Riverdale Boro
	Rockaway Boro
	Rockaway Twp
	Roxbury Twp
	Victory Gardens Boro
	Washington Twp
	Wharton Boro
Passaic	Bloomington Boro
	Pompton Lakes Boro
	Ringwood Boro
	Wanaque Boro
	West Milford Twp
Somerset	Bedminster Twp
	Bernards Twp
	Bernardsville Boro
	Far Hills Boro
	Peapack-Gladstone Boro
Sussex	Byram Twp
	Franklin Boro
	Green Twp
	Hamburg Boro
	Hardyston Twp
	Hopatcong Boro
	Ogdensburg Boro
	Sparta Twp
	Stanhope Boro
	Vernon Twp
Warren	Allamuchy Twp
	Alpha Boro
	Belvidere Town
	Franklin Twp
	Frelinghuysen Twp
	Greenwich Twp
	Hackettstown Town
	Harmony Twp
	Hope Twp
	Independence Twp
	Liberty Twp
	Lopatcong Twp
	Mansfield Twp
	Oxford Twp
	Phillipsburg Town
	Pohatcong Twp
	Washington Boro

		Washington Twp White Twp	
(4) HISTORIC RESOURCES			2,000,000
<i>Allaire State Park</i>	Monmouth	Howell Twp Wall Twp	
<i>Fort Mott Officers Quarters</i>	Salem	Pennsville Twp	
<i>Griggstown Muletenders Barracks</i>	Somerset	Franklin Twp	
<i>Monmouth Battlefield</i>	Monmouth	Freehold Twp Manalapan Twp	
<i>New Bridge Landing</i>	Bergen	New Milford Boro River Edge Boro	
<i>Princeton Battlefield</i>	Mercer	Princeton Twp	
<i>Proprietary House</i>	Middlesex	Perth Amboy City	
<i>Register Eligible Sites</i>	Somerset	Green Brook Twp Watchung Boro	
<i>Rockingham Farmstead</i>	Somerset	Franklin Twp	
<i>Twin Lights</i>	Monmouth	Highlands Boro	
<i>Washington Crossing State Park</i>	Mercer	Ewing Twp Hopewell Twp	
<i>Waterloo Village</i>	Sussex	Byram Twp Stanhope Boro	
(5) PINELANDS			1,000,000
	Atlantic	Brigantine City Buena Boro Buena Vista Twp Corbin City Egg Harbor City Egg Harbor Twp Estell Manor City Folsom Boro Galloway Twp Hamilton Twp Hammonton Town Mullica Twp Port Republic City Weymouth Twp	
	Burlington	Bass River Twp	

	Evesham Twp	
	Medford Lakes Boro	
	Medford Twp	
	New Hanover Twp	
	North Hanover Twp	
	Pemberton Twp	
	Shamong Twp	
	Southampton Twp	
	Springfield Twp	
	Tabernacle Twp	
	Washington Twp	
	Woodland Twp	
	Wrightstown Boro	
Camden	Berlin Boro	
	Berlin Twp	
	Chesilhurst Boro	
	Waterford Twp	
Cape May	Winslow Twp	
	Dennis Twp	
	Middle Twp	
	Upper Twp	
	Woodbine Boro	
Cumberland	Maurice River Twp	
	Vineland City	
Gloucester	Franklin Twp	
	Monroe Twp	
Ocean	Barnegat Twp	
	Beachwood Boro	
	Berkeley Twp	
	Dover Twp	
	Eagleswood Twp	
	Jackson Twp	
	Lacey Twp	
	Lakehurst Boro	
	Little Egg Harbor Twp	
	Manchester Twp	
	Ocean Twp	
	Plumsted Twp	
	South Toms River Boro	
	Stafford Twp	
	Tuckerton Boro	
(6) RIDGE AND VALLEY GREENWAY		1,000,000
Sussex	Andover Boro	
	Andover Twp	
	Branchville Boro	
	Frankford Twp	
	Fredon Twp	
	Green Twp	
	Hampton Twp	
	Lafayette Twp	
	Montague Twp	

	Newton Town
	Sandyston Twp
	Stillwater Twp
	Sussex Boro
	Walpack Twp
	Wantage Twp
Warren	Blairstown Twp
	Frelinghuysen Twp
	Hackettstown Town
	Hardwick Twp
	Hope Twp
	Knowlton Twp
	Liberty Twp

**TOTAL****\$ 10,000,000**

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any State project that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, section 1 of this act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1989, c.183.

3. a. There is reappropriated to the Department of Environmental Protection the unexpended balances, due to project cancellations or cost savings, of the amounts appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for State projects to acquire lands for recreation and conservation purposes, for the purpose of providing additional funding, as determined by the Department of Environmental Protection, to any State project that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes or that receives funding approved pursuant to section 1 of this act, subject to the approval of the Joint Budget Oversight Committee or its successor. Any such additional funding provided from a Green Acres bond act may include administrative costs.

b. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1989, c.183.

4. This act shall take effect July 1, 2005 or on the date of enactment, whichever is later.

Approved August 8, 2005.

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CHAPTER 178

AN ACT concerning farmland preservation, amending and supplementing P.L.1999, c.152, appropriating \$44,000,000 from the "Garden State Farmland Preservation Trust Fund" for farmland preservation purposes, canceling certain prior appropriations for withdrawn farmland preservation projects, and appropriating \$1,009,225 in interest earned from farmland preservation bond funds to provide grants for soil and water conservation projects.

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

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the following sums to pay the cost of acquisition by the committee of development easements on, or fee simple titles to, farmland, and to provide grants to counties and municipalities for up to 80% of the cost of acquisition of fee simple titles to farmland, for farmland preservation purposes for projects approved as eligible for such funding pursuant to the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.) and the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.):

(1) \$27,000,000 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20);

(2) \$13,457,401 from the "Garden State Farmland Preservation Trust Fund," made available due to project withdrawals and canceled obligations; and

(3) \$3,542,599 from the "Garden State Farmland Preservation Trust Fund," made available from proceeds received from the resale or lease of farmland previously acquired in fee simple by the committee.

b. Any farmland acquired in fee simple with moneys appropriated pursuant to this section shall be offered for resale or lease with agricultural deed restrictions approved by the committee.

2. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee such sums from any additional proceeds which may become available by the effective date of this act due to the resale or lease of farmland previously acquired in fee simple by the committee, for the purpose of providing for the cost of acquisition by the committee of fee simple titles to farmland for farmland preservation purposes. Any such farmland acquired in fee simple with moneys appropriated pursuant to this section shall be offered for resale or lease with agricultural deed restrictions approved by the committee.

3. Of the moneys appropriated or reappropriated pursuant to P.L.2000, c.169, P.L.2001, c.103, P.L.2001, c.184, P.L.2001, c.306, P.L.2003, c.80, P.L.2003, c.81, P.L.2003, c.83, and P.L.2003, c.273 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), the sum of \$13,457,401 is canceled due to project withdrawals and canceled obligations.

4. The expenditure of the sums appropriated by sections 1 and 2 of this act is subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.) and P.L.1983, c.32 (C.4:1C-11 et seq.), as appropriate.

5. There is appropriated to the State Agriculture Development Committee the following sums for the purpose of providing grants to landowners for up to 75% of the cost of soil and water conservation projects approved as eligible for such funding:

a. \$70,488 from the "1992 Farmland Preservation Fund," established pursuant to section 24 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, made available due to interest earnings; and

b. \$938,737 from the "1995 Farmland Preservation Fund," established pursuant to section 25 of the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, made available due to interest earnings.

6. Section 23 of P.L.1999, c.152 (C.13:8C-23) is amended to read as follows:



**C.13:8C-23 Submission of recommendations, requests for funding.**

23. a. (1) At least twice each State fiscal year, the Department of Environmental Protection shall submit to the trust a list of projects that the department recommends to receive funding from: the Garden State Green Acres Preservation Trust Fund, based upon a priority system, ranking criteria, and funding policies established by the department pursuant to P.L.1999, c.152 (C.13:8C-1 et seq.); or any Green Acres bond act with respect to moneys allocated therein for appropriation for the purpose of acquiring or developing lands for recreation and conservation purposes, based upon a priority system, ranking criteria, and funding policies established by the department pursuant to law and any rules or regulations adopted pursuant thereto.

To the extent the department receives a sufficient number of applications from local government units for the funding of projects to acquire or develop, for recreation and conservation purposes, lands located in municipalities eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), and those projects qualify for funding based upon the priority system, ranking criteria, and funding policies established by the department, in any State fiscal year the percentage of funding from the Garden State Green Acres Preservation Trust Fund for such projects recommended by the department shall be substantially equivalent to or greater than the percentage derived by dividing the total amount allocated pursuant to P.L.1983, c.354, P.L.1987, c.265, P.L.1989, c.183, P.L.1992, c.88, and P.L.1995, c.204, for local government unit projects for recreation and conservation purposes in municipalities eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) by the total amount allocated pursuant to P.L.1983, c.354, P.L.1987, c.265, P.L.1989, c.183, P.L.1992, c.88, and P.L.1995, c.204, for all local government unit projects for recreation and conservation purposes. In any State fiscal year, not less than 20% of the total amount of funding from the Garden State Green Acres Preservation Trust Fund for all State projects to acquire and develop lands for recreation and conservation purposes throughout the State recommended by the department shall be for State projects located in highly populated counties of the State with population densities of at least 1,000 persons per square mile according to the latest federal decennial census.

The trust shall review the list and may make such deletions, but not additions, of projects therefrom as it deems appropriate and in accordance with the procedures established for such deletions pursuant to subsection d. of this section, whereupon the trust shall approve the list. At least twice each State fiscal year: (a) the trust shall prepare, and submit to the Governor and to the President of the Senate and the Speaker of the General Assembly for introduction in the Legislature, proposed legislation appropriating moneys

from the Garden State Green Acres Preservation Trust Fund, or from any Green Acres bond act with respect to moneys allocated therein for appropriation for the purpose of acquiring or developing lands for recreation and conservation purposes, to fund projects on any such list; and (b) the Legislature may approve one or more appropriation bills containing a project list or lists submitted by the trust pursuant to this paragraph.

(2) Any act appropriating moneys from the Garden State Green Acres Preservation Trust Fund, or from any Green Acres bond act with respect to moneys allocated therein for appropriation for the purpose of acquiring or developing lands for recreation and conservation purposes, shall identify the particular project or projects to be funded by those moneys, and any expenditure for a project for which the location is not identified by county and municipality in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

Moneys may be appropriated to a local government unit that has prepared and adopted an open space acquisition and development plan approved by the department, or to a qualifying tax exempt nonprofit organization that in cooperation and with the approval of a local government unit is implementing or assisting in the implementation of an open space acquisition and development plan adopted by the local government unit and approved by the department, without identifying in the act the particular project or projects to be funded, provided that the appropriation will be expended in accordance with that approved plan and, with respect to Green Acres bond act moneys, the appropriation in that form is not inconsistent with the Green Acres bond act.

(3) Any transfer of moneys appropriated from the Garden State Green Acres Preservation Trust Fund, or from any Green Acres bond act with respect to moneys allocated therein for appropriation for the purpose of acquiring or developing lands for recreation and conservation purposes, or any change in project sponsor, site, or type that has received an appropriation from the fund or from a Green Acres bond act, shall require the approval of the Joint Budget Oversight Committee or its successor but shall not require the approval of the Garden State Preservation Trust.

b. (1) At least once each State fiscal year, the State Agriculture Development Committee shall submit to the trust a request for funding that includes a list of projects that the committee recommends to receive funding from the Garden State Farmland Preservation Trust Fund, based upon a priority system, ranking criteria, and funding policies established by the committee pursuant to P.L.1999, c.152 (C.13:8C-1 et seq.) and the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.), and any rules or regulations adopted pursuant thereto. The trust shall review the request and may make such deletions, but not additions, of projects

therefrom as it deems appropriate and in accordance with the procedures established for such deletions pursuant to subsection d. of this section, whereupon the trust shall approve the request. At least once each State fiscal year: (a) the trust shall prepare, and submit to the Governor and to the President of the Senate and the Speaker of the General Assembly for introduction in the Legislature, proposed legislation appropriating moneys from the Garden State Farmland Preservation Trust Fund to fund the request, including the projects on any such list; and (b) the Legislature may approve one or more appropriation bills containing the request and any project list or lists submitted by the trust pursuant to this paragraph.

Notwithstanding the provisions of this paragraph to the contrary, in any request submitted by the committee to the trust for funding to pay the cost of acquisition by the State of development easements on farmland or the cost of acquisition by the State, a local government unit, or a qualifying tax exempt nonprofit organization of fee simple titles to farmland, the committee shall not be required to submit a list of projects for which those funds are to be expended.

(2) Any act appropriating moneys from the Garden State Farmland Preservation Trust Fund shall identify the particular project or projects to be funded with those moneys, and any expenditure for a project for which the location is not identified by county and municipality in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

Notwithstanding the provisions of this paragraph to the contrary, any appropriation of moneys from the fund to pay the cost of acquisition by the State of a development easement on farmland or the cost of acquisition by the State, a local government unit, or a qualifying tax exempt nonprofit organization of a fee simple title to farmland shall not be required to identify the particular project or identify its location by county or municipality, and the expenditure of those moneys shall not require the approval of the Joint Budget Oversight Committee or its successor.

(3) Any transfer of moneys appropriated from the Garden State Farmland Preservation Trust Fund, or change in project sponsor, site, or type that has received an appropriation from the fund, shall require the approval of the Joint Budget Oversight Committee or its successor but shall not require the approval of the Garden State Preservation Trust.

c. (1) At least once each State fiscal year, or at such other interval as the New Jersey Historic Trust in consultation with the Garden State Preservation Trust deems appropriate, the New Jersey Historic Trust shall submit to the Garden State Preservation Trust a list of projects that the New Jersey Historic Trust recommends to receive funding from the Garden State Historic Preservation Trust Fund, based upon a priority system, ranking criteria, and fund-

ing policies established by the New Jersey Historic Trust pursuant to P.L.1999, c.152 (C.13:8C-1 et seq.) and P.L.1967, c.124 (C.13:1B-15.111 et al.), and any rules or regulations adopted pursuant thereto. The Garden State Preservation Trust shall review the list and may make such deletions, but not additions, of projects therefrom as it deems appropriate and in accordance with the procedures established for such deletions pursuant to subsection d. of this section, whereupon the Garden State Preservation Trust shall approve the list. At least once each State fiscal year, or at such other interval as the Garden State Preservation Trust in consultation with the New Jersey Historic Trust deems appropriate: (a) the Garden State Preservation Trust shall prepare, and submit to the Governor and to the President of the Senate and the Speaker of the General Assembly for introduction in the Legislature, proposed legislation appropriating moneys from the Garden State Historic Preservation Trust Fund to fund projects on any such list; and (b) the Legislature may approve one or more appropriation bills containing a project list or lists submitted by the Garden State Preservation Trust pursuant to this paragraph.

(2) Any act appropriating moneys from the Garden State Historic Preservation Trust Fund shall identify the particular project or projects to be funded by those moneys, and any expenditure for a project for which the location is not identified by county and municipality in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

(3) Any transfer of moneys appropriated from the Garden State Historic Preservation Trust Fund, or change in project sponsor, site, or type that has received an appropriation from the fund, shall require the approval of the Joint Budget Oversight Committee or its successor but shall not require the approval of the Garden State Preservation Trust.

d. Whenever the Garden State Preservation Trust deletes a project from a list of projects that has been submitted to the Garden State Preservation Trust pursuant to subsection a., b., or c. of this section, the Garden State Preservation Trust shall, in consultation with the applicant and the department, the committee, or the New Jersey Historic Trust, as the case may be, review and reevaluate the merits and validity of the project. After completion of this review and reevaluation, if the department, committee, or New Jersey Historic Trust, as the case may be, continues to recommend funding of the project, it shall transmit its reasons therefor in writing to the Garden State Preservation Trust and place the project on the next or a subsequent list of projects submitted to the Garden State Preservation Trust pursuant to subsection a., b., or c. of this section. The Garden State Preservation Trust shall include the project in the next proposed legislation appropriating moneys from the Garden State Green Acres Preservation Trust Fund, Green

Acres bond act, Garden State Farmland Preservation Trust Fund, or Garden State Historic Preservation Trust Fund, as the case may be, that is submitted to the Governor, President of the Senate, and Speaker of the General Assembly pursuant to subsection a., b., or c. of this section, together with a written report setting forth the rationale of the Garden State Preservation Trust in recommending deletion of the project from the proposed legislation and the rationale of the department, committee, or New Jersey Historic Trust, as the case may be, in recommending retention of the project in the proposed legislation.

e. The Garden State Preservation Trust may at any time suggest projects to be considered or rejected for consideration by the department, the committee, or the New Jersey Historic Trust in the preparation of recommended project funding lists pursuant to this section.

f. Projects involving the joint effort of more than one level of government or qualifying tax exempt nonprofit organization, or the joint effort of the department, the committee, and the New Jersey Historic Trust, or any combination thereof, shall be encouraged.

g. For the purposes of efficiency and convenience, nothing in this section shall prohibit the Garden State Preservation Trust from combining the project lists, in whole or in part, of the department, committee, and New Jersey Historic Trust into one proposed appropriation bill or bills to be submitted to the Governor and Legislature for consideration and enactment into law as otherwise prescribed pursuant to this section.

h. The total amount appropriated in any State fiscal year from the Garden State Green Acres Preservation Trust Fund and the Garden State Farmland Preservation Trust Fund for proposed projects pursuant to subsections a. and b. of this section shall not exceed \$350,000,000, excluding grants, contributions, donations, and reimbursements from federal aid programs, including but not limited to funding received by the State from the federal Land and Water Conservation Fund, 16 U.S.C. s.4601-4 et al., and from other public or private sources as may be used lawfully for such projects.

**C.13:8C-38.1 Solicitation of development easements, fee simple interests in farmland.**

7. a. To accomplish the expenditure provisions required pursuant to section 38 of P.L.1999, c.152 (C.13:8C-38), and advance the preservation of important agricultural resources of the State, the State Agriculture Development Committee shall solicit, at least annually, applications for sale to the committee of development easements on farmland and fee simple interests in farmland. The committee shall utilize appropriate farmland resource data and information available to effectively identify and target farmland resources eligible for inclusion in the farmland preservation program.

b. The committee shall request, at least annually, the opinion of the respective county agriculture development boards regarding farmland that, in the opinion of each board, is appropriate and suitable for targeting and acquisition under the State development easement and fee simple acquisition programs in order to further and effectuate the goals and objectives of the respective county farmland preservation program.

c. The committee shall utilize the priority system, ranking criteria, and funding policies established by the committee pursuant to the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.) to identify, process, and preserve eligible farms through the farmland preservation program.

**C.13:8C-38.2 Report of farms preserved through receipt of grants.**

8. a. The State Agriculture Development Committee shall prepare and issue at least annually a report listing the farms preserved through the acquisition by the committee of development easements on farmland or the acquisition of fee simple interests in farmland using monies appropriated from the Garden State Farmland Preservation Trust Fund or any other source. The report also shall include a list of any farms that have received soil and water conservation grants from the State in the prior State fiscal year. The report shall identify each farm by name and provide the county and municipality in which it is located.

b. Each report shall be transmitted within 15 business days after its issuance to: (1) the President of the Senate; (2) the Speaker of the General Assembly; (3) the chairpersons of the Senate Economic Growth Committee and the Assembly Agriculture and Natural Resources Committee, or their successors as designated by the President of the Senate and the Speaker of the General Assembly, respectively; (4) the Garden State Preservation Trust established pursuant to section 4 of P.L.1999, c.152 (C.13:8C-4); (5) the Highlands Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); and (6) the Pinelands Commission established pursuant to section 4 of P.L.1979, c.111 (C.13:18A-4). Copies of each report shall also be made available to the public upon request and on the Internet website maintained by the State Agriculture Development Committee.

9. This act shall take effect July 1, 2005 or on the date of enactment, whichever is later.

Approved August 8, 2005.

## CHAPTER 179

AN ACT appropriating \$15,000,000 from the "Garden State Farmland Preservation Trust Fund" for farmland preservation purposes in the Highlands Region.

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

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$15,000,000 for the purpose of preserving farmland in the counties and municipalities listed in subsection b. of this section and constituting the Highlands Region, as defined pursuant to section 7 of P.L.2004, c.120 (C.13:20-7), by:

(1) Providing grants to counties and municipalities for (a) up to 80% of the cost of acquisition of development easements on farmland, or (b) up to 80% of the cost of acquisition of fee simple titles to farmland from willing sellers only, which shall be offered for resale or lease with agricultural deed restrictions approved by the State Agriculture Development Committee;

(2) Providing planning incentive grants to counties and municipalities pursuant to the provisions of P.L.1999, c.180 (C.4:1C-43.1 et seq.);

(3) Providing grants to qualifying tax exempt nonprofit organizations for (a) up to 50% of the cost of acquisition of development easements on farmland, or (b) up to 50% of the cost of acquisition of fee simple titles to farmland from willing sellers only, which shall be offered for resale or lease with agricultural deed restrictions approved by the State Agriculture Development Committee;

(4) Paying the cost of acquisition by the State of development easements on farmland; and

(5) Paying the cost of acquisition by the State of fee simple titles to farmland from willing sellers only, which shall be offered for resale or lease with agricultural deed restrictions approved by the State Agriculture Development Committee.

b. Projects approved by the State Agriculture Development Committee for acquisition in the following project areas in the Highlands Region are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

**County**

Bergen  
Hunterdon

**Municipality**

Mahwah and Oakland  
Alexandria, Bethlehem, Bloomsbury,  
Califon, Clinton Town, Clinton Township,

	Glen Gardner, Hampton, High Bridge, Holland, Lebanon Boro, Lebanon Township, Milford, Tewksbury, and Union
Morris	Boonton Town, Boonton Township, Butler, Chester Boro, Chester Township, Denville, Dover, Hanover, Harding, Jefferson, Kinnelon, Mendham Boro, Mendham Township, Mine Hill, Montville, Morris Plains, Morris Township, Morristown, Mount Arlington, Mount Olive, Mountain Lakes, Netcong, Parsippany-Troy Hills, Pequannock, Randolph, Riverdale, Rockaway Boro, Rockaway Township, Roxbury, Victory Gardens, Washington, and Wharton
Passaic	Bloomingtondale, Pompton Lakes, Ringwood, Wanaque, and West Milford
Somerset	Bedminster, Bernards, Bernardsville, Far Hills, and Peapack-Gladstone
Sussex	Byram, Franklin, Green, Hamburg, Hardyston, Hopatcong, Ogdensburg, Sparta, Stanhope, and Vernon
Warren	Allamuchy, Alpha, Belvidere, Franklin, Frelinghuysen, Greenwich, Hackettstown, Harmony, Hope, Independence, Liberty, Lopatcong, Mansfield, Oxford, Phillipsburg, Pohatcong, Washington Boro, Washington Township, and White.

c. The expenditure of the sum appropriated by subsection a. of this section, and the receipt of any funds or proceeds from the transfer, resale, or lease of preserved farmland, are subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999, c.180 (C.4:1C-43.1 et seq.), as appropriate.

d. The State Agriculture Development Committee shall prepare and issue at least annually a report listing the farms preserved using the monies appropriated pursuant to this section until such time as all of the monies have been expended. The report shall identify each farm by name and provide the county and municipality in which it is located.

Each report shall be transmitted within 15 business days after its issuance to: (1) the President of the Senate, (2) the Speaker of the General Assembly, (3) the chairpersons of the Senate Economic Growth Committee and the Assembly Agriculture and Natural Resources Committee, or their successors



as designated by the President of the Senate and the Speaker of the General Assembly, respectively, (4) the Garden State Preservation Trust established pursuant to section 4 of P.L.1999, c.152 (C.13:8C-4), and (5) the Highlands Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4). Copies of each report shall also be made available to the public upon request and on the Internet website maintained by the State Agriculture Development Committee.

2. This act shall take effect July 1, 2005 or on the date of enactment, whichever is later.

Approved August 8, 2005.

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## CHAPTER 180

AN ACT appropriating \$5,015,000 from the "Garden State Farmland Preservation Trust Fund" for grants to qualifying tax exempt nonprofit organizations for farmland preservation purposes, and canceling certain prior appropriations for withdrawn farmland preservation projects.

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

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the following sums for the purpose of providing grants to qualifying tax exempt nonprofit organizations listed in subsection b. of this section for up to 50% of the cost of acquisition of development easements on farmland or for up to 50% of the cost of acquisition of fee simple titles to farmland for resale or lease with agricultural deed restrictions approved by the committee:

(1) \$1,500,000 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20); and

(2) \$3,515,000 from the "Garden State Farmland Preservation Trust Fund," made available due to project withdrawals and canceled obligations.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

<b>Applicant (Project)</b>	<b>County</b>	<b>Municipality</b>	<b>Amount of Grant Not to Exceed</b>
Delaware & Raritan Greenway Inc (Fairview Road)	Somerset	Montgomery Twp	\$ 315,000
Delaware & Raritan Greenway Inc (Hopewell Twp Project)	Mercer	Hopewell Twp	700,000
New Jersey Conservation Foundation (Musconetcong Farm Belt)	Warren	Franklin Twp Greenwich Twp Mansfield Twp Washington Twp	1,000,000
New Jersey Conservation Foundation (Raccoon/ Oldmans Farm Belt)	Gloucester	East Greenwich Twp Woolwich Twp South Harrison Twp Pilesgrove Twp	1,000,000
New Jersey Conservation Foundation (Sourlands Farmland Region)	Hunterdon	East Amwell Twp West Amwell Twp	1,000,000
New Jersey Conservation Foundation (Wickecheoke Farm Belt)	Mercer	Hopewell Twp	1,000,000
	Somerset	Hillsborough Twp	
	Hunterdon	Delaware Twp	1,000,000

2. Of the moneys appropriated or reappropriated pursuant to P.L.2001, c.105, P.L.2001, c.306, and P.L.2003, c.244 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), the sum of \$3,515,000 is canceled due to project withdrawals and canceled obligations.

3. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.), and P.L.1983, c.32 (C.4:1C-11 et seq.), as appropriate.

4. This act shall take effect July 1, 2005 or on the date of enactment, whichever is later.

Approved August 8, 2005.

## CHAPTER 181

AN ACT appropriating \$46,225,000 from the "Garden State Farmland Preservation Trust Fund" for farmland preservation purposes, and canceling certain prior appropriations for withdrawn farmland preservation projects.

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

1. a. There is appropriated to the State Agriculture Development Committee the following sums for the purpose of providing grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland for projects approved as eligible for such funding pursuant to subsection b. of this section, provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements:

(1) \$33,700,000 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20); and

(2) \$11,300,000 from the "Garden State Farmland Preservation Trust Fund," made available due to project withdrawals and canceled obligations.

The total expenditure by the State Agriculture Development Committee from the list of eligible projects in subsection b. of this section totaling \$58,050,000 shall not exceed \$45,000,000.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

<b>Project (Farm)</b>	<b>County</b>	<b>Municipality</b>	<b>Acres (+/-)</b>	<b>Amount of Grant Not to Exceed</b>
Hagaman, R. & P.	Atlantic	Mullica Twp	65	\$ 175,000
Kohout, L./ Reinhartsen, C.	Bergen	Mahwah Twp	44	2,325,000
Mahrapo Farms Ltd Partnership (Dator)	Bergen	Mahwah Twp	18	900,000
McDonnell, G. & E.	Bergen	Mahwah Twp	10	400,000
Burlington County/ Probasco- Mt Pleasant N	Burlington	Chesterfield Twp/ Mansfield Twp	86	475,000
Burlington County/ Giacchino, G.	Burlington	Lumberton Twp	246	900,000
Burlington County/ Garrison, W. & B.	Burlington	Springfield Twp	52	150,000
Burlington County/ Probasco- Mt Pleasant S	Burlington	Springfield Twp	89	500,000

Cape May County/ Hand, J.	Cape May	Middle Twp	45	250,000
Cape May County/ Sack, F. Jr. & W.	Cape May	Upper Twp	15	150,000
Cape May County/ Vasser, J. Jr, J. III, & W.	Cape May	West Cape May Boro	10	250,000
Thibodeau, A & R.	Cumberland	Greenwich Twp	53	200,000
Buckley, M & E.	Cumberland	Hopewell Twp	74	350,000
M. R. Dickinson & Son #1	Cumberland	Stow Creek Twp	53	250,000
M. R. Dickinson & Son #2	Cumberland	Stow Creek Twp	32	175,000
Timberman, G. & J.	Cumberland	Stow Creek Twp	35	125,000
Power, D.	Gloucester	Clayton Boro	8	75,000
Leone, J. & S.	Gloucester	East Greenwich Twp/ Mantua Twp	29	225,000
Musser-Mondelli, N.	Gloucester	East Greenwich Twp	17	100,000
Haynicz, D. & E.	Gloucester	Elk Twp	68	500,000
Emerson, R. Sr. & G.	Gloucester	Franklin Twp	29	125,000
Haden, D. & K.	Gloucester	Franklin Twp	22	125,000
Harrell, T. & D.	Gloucester	Franklin Twp	20	100,000
Rauchfuss, C. & E.	Gloucester	Franklin Twp	31	150,000
Home, B. & J.	Gloucester	Harrison Twp	31	325,000
Katinos, J.	Gloucester	Harrison Twp	16	200,000
Turk, W. & M.	Gloucester	Harrison Twp	29	225,000
Back Creek Holding Trust (Snyder)	Gloucester	Harrison Twp/ Woolwich Twp	80	700,000
Cedarvale Family LLP	Gloucester	Logan Twp	85	400,000
Eachus, V. & P.	Gloucester	Mantua Twp	97	1,350,000
Eivich, E. & S.	Gloucester	Mantua Twp	27	200,000
Heilig Orchards Inc	Gloucester	Mantua Twp	106	950,000
Estate of Dorothy Gootee	Gloucester	Monroe Twp	29	350,000
Leatherwood, W. & G.	Gloucester	South Harrison Twp	41	225,000
Marino, R/ Alfred Marino Trust	Gloucester	South Harrison Twp	161	1,475,000
Zirbser, E. Jr. & J.	Gloucester	South Harrison Twp	29	325,000
Di Bella, C. & J.	Gloucester	Woolwich Twp	36	425,000
Hanahan, J. & J.	Gloucester	Woolwich Twp	6	75,000
Niebuhr, A. & L.	Hunterdon	Alexandria	45	175,000
Sargenti, D.	Hunterdon	Alexandria Twp/ Kingwood Twp	105	500,000

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Peabody, T. & K. and Manners, B. & J. Hilken, E.	Hunterdon Hunterdon	East Amwell Twp Franklin Twp/ Raritan Twp	46 36	275,000 300,000
Borwegen, R. & B. Lane, B.	Hunterdon Hunterdon	Holland Twp Holland Twp	40 116	200,000 450,000
Milz, D. & P. Shire, C.	Hunterdon Hunterdon	Holland Twp Holland Twp	45 113	300,000 500,000
Zeller, K. Rozansky, E.	Hunterdon Hunterdon	Holland Twp Kingwood Twp	64 45	375,000 250,000
Fentzloff, E. & N. Masefield, D.	Hunterdon Hunterdon	Lebanon Twp Lebanon Twp	42 71	375,000 425,000
Reading Twp/ Estate of S. Kean Emmet, C. & A.	Hunterdon Hunterdon	Readington Twp Tewksbury Twp/ Readington Twp	89 124	900,000 1,500,000
West Amwell Twp	Hunterdon	West Amwell Twp	53	400,000
East Windsor Twp/ Etra Road	Mercer	East Windsor Twp	39	325,000
Washington Twp/ Dyjak, Meshechek, Adamec	Mercer	Washington Twp	49	575,000
Mercer County/ Tindall Family LTD Partnership	Mercer	West Windsor Twp	79	1,950,000
Schauer-Byrne, B. Blaso, P. & M.	Middlesex Monmouth	Monroe Twp Upper Freehold Twp	28 21	1,225,000 350,000
Cream Ridge Training Center, LLC/Matthews, T. Honadle, H. & R.	Monmouth Monmouth	Upper Freehold Twp	42	700,000
Chester Twp/ Farro Farm	Morris	Upper Freehold Twp Chester Twp	14 56	150,000 1,150,000
Morris County/ Lancor Development Corp	Morris	Harding Twp	10	875,000
Morris County/ Thebault, B. & L.	Morris	Harding Twp	31	2,075,000
Morris County/ Borinski Estate	Morris	Lincoln Park Boro	43	1,925,000
Morris County/ VanWingerden, K. & L.	Morris	Lincoln Park Boro	34	1,200,000
Morris County/ Peach Family Partnership, L.P.	Morris	Washington Twp	146	1,425,000
Morris County/ Peach, S.	Morris	Washington Twp	102	1,025,000

Johnston, G. & I.	Ocean	Jackson Twp	48	950,000
Friedrich, R. & A. #1	Ocean	Plumsted Twp	24	150,000
Friedrich, R. & A. #2	Ocean	Plumsted Twp	14	250,000
Hughes, L.	Ocean	Plumsted Twp	14	125,000
Marchese, S./ Emery's Berry Farm, Inc	Ocean	Plumsted Twp	59	675,000
Davis, D.	Salem	Alloway Twp	75	275,000
Dolbow, W. #2	Salem	Alloway Twp	50	175,000
R. H. Vassallo, Inc.	Salem	Alloway Twp	98	475,000
Shuman, J.	Salem	Elsinboro Twp	61	150,000
Bowers, E.	Salem	Lower Alloways Creek Twp	63	250,000
Rachkiss, M. & D.	Salem	Lower Alloways Creek Twp/ Quinton Twp	31	125,000
Battiato, J.	Salem	Mannington Twp	120	650,000
Dolbow, W. #1	Salem	Mannington Twp	123	525,000
Hancock, W. & M. #2	Salem	Mannington Twp	40	200,000
Hancock, W. #1	Salem	Mannington Twp	76	475,000
Hancock, W. #2	Salem	Mannington Twp	110	575,000
Williams, A.	Salem	Pilesgrove Twp/ Upper Pittsgrove Twp	103	550,000
Williams, L. & G.	Salem	Pilesgrove Twp/ Upper Pittsgrove Twp	113	550,000
Elwell, C.	Salem	Upper Pittsgrove Twp	31	175,000
Melchert, R. & M.	Salem	Upper Pittsgrove Twp	82	425,000
Ware, L. & J.	Salem	Upper Pittsgrove Twp	79	400,000
E. G. Anderson, Inc	Somerset	Bedminster Twp	88	1,625,000
Durling, H.	Somerset	Hillsborough Twp	71	2,050,000
Lewis, S./Miller Sheep Ranch #2	Sussex	Andover Twp	180	500,000
Lewis, S./Miller Sheep Ranch #3	Sussex	Andover Twp	77	300,000
Lewis, D. & Coltelli, J. & S. #1	Sussex	Fredon Twp	42	200,000

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Lewis, D. & Coltelli, J. & S. #2	Sussex	Fredon Twp	42	200,000
Hunt, Ralph	Sussex	Green Twp/ Fredon Twp	103	350,000
Fairclough, J. & R. #1	Sussex	Hampton Twp	72	200,000
Fairclough, J. & R. #2	Sussex	Hampton Twp	77	175,000
Fairclough, J. & R. #3	Sussex	Hampton Twp	35	175,000
Fairclough, J. L. #1	Sussex	Hampton Twp	32	150,000
Fairclough, J. L. #2	Sussex	Hampton Twp	46	200,000
Foody, W. & M. #1	Sussex	Hampton Twp	64	325,000
Foody, W. & M. #2	Sussex	Hampton Twp	63	300,000
Foody, W. & M. #3	Sussex	Hampton Twp	77	250,000
Foody, W. & M. #4	Sussex	Hampton Twp	58	175,000
Foody, W. & M. #5	Sussex	Hampton Twp	61	200,000
Foody, W. & M. #6	Sussex	Hampton Twp	71	225,000
Lust, C. & H.	Sussex	Lafayette Twp	30	150,000
Ortiz, N. & V.	Sussex	Lafayette Twp	41	150,000
Pritchard, F. & N.	Sussex	Lafayette Twp	20	125,000
Frank, L.	Sussex	Sandyston Twp	130	300,000
Rogers, M. & C., C.	Sussex	Stillwater Twp	122	375,000
Afran, N. & O'Bray, J.	Sussex	Wantage Twp	87	275,000
Braunwell, A. & S.	Sussex	Wantage Twp	34	175,000
Gebhard, A.	Sussex	Wantage Twp	158	375,000
Bungert, M. L.	Warren	Franklin Twp	42	250,000
Convey, F. & H.	Warren	Franklin Twp	128	475,000
Peck, H.	Warren	Frelinghuysen Twp	44	200,000
Stephen Gurba Revocable Trust	Warren	Frelinghuysen Twp	127	325,000
White Oak Farm Greenhouse & Nursey, LLC	Warren	Hope Twp	47	250,000
Sams, T. & B.	Warren	Mansfield Twp	57	125,000
Matthews, I. & B.	Warren	White Twp	39	200,000
White Twp (Crossroads Farm)	Warren	White Twp	109	500,000

2. Of the moneys appropriated or reappropriated pursuant to P.L.2000, c.49, P.L.2001, c.182, P.L.2001, c.183, P.L.2001, c.306, P.L.2003, c.81, P.L.2003, c.83, P.L.2003, c.271, P.L.2005, c.14, and P.L.2005, c.15 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), the sum of \$12,525,000 is canceled due to project withdrawals and canceled obligations.

3. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152

(C.13:8C-20), to the State Agriculture Development Committee the sum of \$1,225,000, made available due to project withdrawals and canceled obligations, for the purpose of providing grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland located in the pinelands area for the project approved as eligible for such funding pursuant to subsection b. of this section, provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements.

b. The following project is eligible for funding with the monies appropriated pursuant to subsection a. of this section:

<b>Project (Farm)</b>	<b>County</b>	<b>Municipality</b>	<b>Acres (+/-)</b>	<b>Amount of Grant Not to Exceed</b>
John Bertino Trust	Atlantic	Hammonton Town	232	\$1,225,000

4. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.) and P.L.1983, c.32 (C.4:1C-11 et seq.), as appropriate.

5. This act shall take effect July 1, 2005 or on the date of enactment, whichever is later.

Approved August 8, 2005.

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#### CHAPTER 182

AN ACT appropriating \$31,415,464 from the "Garden State Farmland Preservation Trust Fund" for farmland preservation purposes, and canceling certain prior appropriations for withdrawn farmland preservation projects.

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

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the following sums for the purpose of providing planning incentive grants to counties and municipalities pursuant to the provisions of P.L.1999, c.180 (C.4:1C-43.1



et seq.) and approved as eligible for such funding pursuant to subsection b. of this section:

(1) \$17,800,000 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20); and

(2) \$13,615,464 from the "Garden State Farmland Preservation Trust Fund," made available due to project withdrawals and canceled obligations.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

<b>Applicant</b>	<b>County</b>	<b>Municipality</b>	<b>Amount of Grant Not to Exceed</b>
Burlington County - Central	Burlington	Mansfield Twp	\$1,500,000
Burlington County - North	Burlington	Chesterfield Twp	1,500,000
Lumberton Twp	Burlington	North Hanover Twp	1,500,000
Camden County - Winslow Twp North & South	Camden	Lumberton Twp	1,500,000
Hopewell Twp	Cumberland	Winslow Twp	1,500,000
Woolwich Twp - North & Southeast	Gloucester	Hopewell Twp	1,500,000
Bethlehem Twp - Charlestown Road Area	Hunterdon	Woolwich Twp	136,706
Delaware Twp - Sandbrook Headquarters District	Hunterdon	Bethlehem Twp	317,510
Holland Twp	Hunterdon	Delaware Twp	134,221
Raritan Twp - Southwest Project Area	Hunterdon	Holland Twp	1,200,000
Readington Twp - Phase I	Hunterdon	Raritan Twp	1,000,000
Readington Twp - Phase III	Hunterdon	Readington Twp	1,300,000
Tewksbury Twp - Northwest Area	Hunterdon	Tewksbury Twp	626,235
Tewksbury Twp - Oldwick Area East	Hunterdon	Tewksbury Twp	500,310
Tewksbury Twp - Oldwick Northwest Area	Hunterdon	Tewksbury Twp	250,000
Tewksbury Twp - Pottersville Project Area (#4)	Hunterdon	Tewksbury Twp	304,725

West Amwell Twp - Rocktown-Rte 179 Corridor	Hunterdon	West Amwell Twp	1,200,000
Monmouth County - Roosevelt Boro/ Millstone Twp	Monmouth	Roosevelt Boro	700,000
Holmdel Twp	Monmouth	Holmdel Twp	700,000
Howell Twp - Manasquan Reservoir Southeast Project Area Manasquan Reservoir West Project Area	Monmouth	Howell Twp	800,000
Howell Twp - North Central Project Area	Monmouth	Howell Twp	500,000
Millstone Twp - Battleground, Back Bone Hill, Spring Road, Rocky Brook, & Prodelin Way Greenway Project Areas	Monmouth	Millstone Twp	500,000
Upper Freehold Twp Morris County	Monmouth	Upper Freehold Twp	500,000
Morris County - Fairmount Black River Project Area	Morris	Chester Twp	1,000,000
Morris County - Long Valley Project Area	Morris	Washington Twp	500,000
Morris County - Mendham Valley Project Area	Morris	Washington Twp	699,819
Morris County - Rockaway Valley Project Area	Morris	Mendham Boro Mendham Twp	1,000,000
Pilesgrove Twp - ADA I Northern Project Area ADA II Route 40 East Project Area ADA III Commissioners Pike Southeast Project Area	Morris	Boonton Twp Denville Twp Rockaway Twp Pilesgrove Twp	1,000,000
Pittsgrove Twp - Buck-Porchtown Rd Project Area	Salem	Pittsgrove Twp	800,000
Bernards Twp	Somerset	Bernards Twp	1,500,000
Franklin Twp - Project Area 1 (Central)	Somerset	Franklin Twp	500,000

Hillsborough Twp - Mill Lane Project Area	Somerset	Hillsborough Twp	300,000
Montgomery Twp - Project Area 1	Somerset	Montgomery Twp	1,000,000
Blairstown Twp - North Project Area Central Project Area South Project Area	Warren	Blairstown Twp	600,000
Franklin Twp - Stage 1	Warren	Franklin Twp	1,000,000
Pohatcong Twp - Silver Hill ADA	Warren	Pohatcong Twp	185,938
White Twp - Stage 2	Warren	White Twp	860,000

2. Of the moneys appropriated or reappropriated pursuant to P.L.2000, c.78, P.L.2000, c.79, P.L.2000, c.168, P.L.2001, c.105, P.L.2001, c.185, P.L.2003, c.272, and P.L.2005, c.16 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), the sum of \$13,615,464 is canceled due to project withdrawals and canceled obligations.

3. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999, c.180 (C.4:1C-43.1 et seq.), as appropriate.

4. This act shall take effect July 1, 2005 or on the date of enactment, whichever is later.

Approved August 8, 2005.

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## CHAPTER 183

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund" and various Green Acres bond funds, and appropriating and reappropriating certain other moneys, to assist local government units to acquire or develop lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), and from the Green Trust funds established pursuant to the Green Acres bond acts, the sum of \$25,638,975 to provide grants or loans, or both, to assist local government units to develop lands for recreation and conservation purposes. The following projects to develop lands for recreation and conservation purposes, located in municipalities eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) either as of June 30, 2004 or the effective date of this act, or sponsored by densely populated counties, are eligible for funding with the moneys appropriated pursuant to this subsection:

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Garfield City	Bergen	Historic Dundee Dam Pedestrian Way and Preserve	\$800,000
Garfield City	Bergen	Garfield City Multiparks	800,000
Hackensack City	Bergen	Hackensack High School Athletic Field	800,000
Lodi Boro	Bergen	Memorial Park Improvements	488,250
Lodi Boro	Bergen	Kennedy Park Improvements	800,000
Camden County	Camden	Johnson Park Rehabilitation (Camden City)	500,000
Camden City	Camden	Yorkship Square Park	500,000
Gloucester Twp	Camden	Hickstown Road Dev	800,000
Winslow Twp	Camden	Peter Volpa Memorial Park II	250,000
Essex County	Essex	Multi-Parks Improvements (Bloomfield Twp East Orange City Irvington Twp Newark City Orange City Twp Verona Twp West Orange Twp)	1,200,000
Bloomfield Twp	Essex	Restoration of Upper Memorial Park	436,920
Irvington Twp	Essex	Playground Improvements	500,000

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Glassboro Boro	Gloucester	Glassboro Public Schools Playground	180,000
Woodbury City	Gloucester	Woodbury High School Stadium Complex	800,000
Woodbury City	Gloucester	Stewart Lake Park Dev	350,000
Hudson County	Hudson	Multi Parks Playgrounds Dev (Bayonne City Harrison Town Jersey City Kearny Town Union City)	800,000
Hoboken City	Hudson	Multi Parks Dev	800,000
Jersey City	Hudson	Owen Grundy Pier and York St. Park	800,000
Kearny Town	Hudson	Riverbank Skateboard Park	277,380
Kearny Town	Hudson	Reconstruction of Bell Playground	781,700
Union City	Hudson	47th Street Pool Improvements	800,000
Weehawken Twp	Hudson	Pier B Restoration	800,000
Weehawken Twp	Hudson	Pershing Road Nature Trail	250,000
Trenton City	Mercer	George Page Park Dev	800,000
Trenton City	Mercer	Hetzel Field Park Dev	800,000
Middlesex County	Middlesex	New Brunswick Landing (New Brunswick City)	1,000,000
Carteret Boro	Middlesex	Arthur Kill Waterfront Recreation Facility Ph II	800,000
Carteret Boro	Middlesex	Carteret Multipark Improvements	800,000
New Brunswick City	Middlesex	New Brunswick Landing	800,000
Perth Amboy City	Middlesex	Perth Amboy Bayview Park	500,000
Perth Amboy City	Middlesex	Patten Center Park Rehabilitation	800,000
Woodbridge Twp	Middlesex	Ferry Street and Riverwalk Park Improvements	800,000
Neptune Twp	Monmouth	Multi-Parks Dev	500,000
Passaic County	Passaic	Lambert Castle Observatory Tower Rehab (Paterson City West Paterson Boro)	250,000

Clifton City	Passaic	Athenia Steel Recreational Complex	800,000
Paterson City	Passaic	Paterson Great Falls and Pocket Parks - Phase 1	674,725
Paterson City	Passaic	Restoration and Revitalization of Pennington Park	800,000
Union County	Union	Esposito Park (Clark Twp)	1,000,000
<b>TOTAL</b>			<b>\$25,638,975</b>

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2005, c.184, P.L.2005, c.185, P.L.2005, c.186, or section 2, 3, or 4 of this act, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. For the purposes of this section:

"Densely populated county" means a county with a population density of at least 5,000 persons per square mile according to the latest federal decennial census; and

"Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

2. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), and from the Green Trust funds established pursuant to the Green Acres bond acts, the sum of \$8,250,100 to provide grants or loans, or both, to assist local government units to develop lands for recreation and conservation purposes. The following projects to develop lands for recreation and conservation purposes, located in densely or highly populated municipalities or sponsored by highly populated counties, are eligible for funding with the moneys appropriated pursuant to this subsection:

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Margate City	Atlantic	Upgrades to Jerome Ave Rec Facility	\$600,000
Ventnor City	Atlantic	Rehabilitation of Ventnor Fishing Pier	565,000
Edgewater Boro	Bergen	Veteran's Field Improvements	600,000
Edgewater Boro	Bergen	Grand Cove Marina Dredging	600,000
Maywood Boro	Bergen	Thoma Avenue Little League Field	250,000
Mount Laurel Twp	Burlington	Comprehensive Recreation Trail	600,000
Mercer County	Mercer	Baldpate Mountain Dev (Hopewell Twp)	1,000,000
Highland Park Boro	Middlesex	Centennial Park	120,000
Jamesburg Boro	Middlesex	Jamesburg Multipark Improvements	75,000
Keyport Boro	Monmouth	Keyport Waterfront Park Improvements	600,000
Marlboro Twp	Monmouth	Marlboro Twp Park Phase II	600,000
Middletown Twp	Monmouth	Banfield Park Dev	35,000
Berkeley Twp	Ocean	Bayview Park	346,500
Dover Twp	Ocean	Castle Park Playground Renovation	220,000
Point Pleasant Boro	Ocean	Riverfront Park Dev	600,000
Haledon Boro	Passaic	Roe Athletic Field Renovation Project	600,000
Wayne Twp	Passaic	Barbour Pond Park Athletic Field	600,000
Linden City	Union	Multi Park Playground Replacement/Upgrade	238,600
<b>TOTAL</b>			<b>\$8,250,100</b>

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropria-

tions act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2005, c.184, P.L.2005, c.185, P.L.2005, c.186, or section 1, 3, or 4 of this act, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. For the purposes of this section:

"Densely or highly populated municipality" means a municipality with a population density of at least 5,000 persons per square mile, or a population of at least 35,000 persons, according to the latest federal decennial census;

"Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354; and

"Highly populated county" means a county with a population density of at least 1,000 persons per square mile according to the latest federal decennial census.

3. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), and from the Green Trust funds established pursuant to the Green Acres bond acts, the sum of \$9,293,500 to provide grants or loans, or both, to assist local government units to acquire lands for recreation and conservation purposes. The following projects to acquire lands for recreation and conservation purposes located in municipalities eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), either as of June 30, 2004 or the effective date of this act, are eligible for funding with the moneys appropriated pursuant to this subsection:

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Camden City	Camden	New Roosevelt Park Acq	\$800,000
Bloomfield Twp	Essex	Bloomfield Township Acq	800,000
Orange City	Essex	Alden and Colgate Land Acq	800,000
Orange City	Essex	Military Park Expansion	800,000
Bayonne City	Hudson	North Street Community Park Acq	380,000
Hoboken City	Hudson	1600 Park Avenue Acq	800,000
Jersey City	Hudson	Harsimus Stem Embankment Acq	800,000



Union City	Hudson	44th Street Acq	800,000
Old Bridge Twp	Middlesex	Cedar Ridge II Acq	800,000
Long Branch City	Monmouth	Manahasset Creek Acq	800,000
Neptune Twp	Monmouth	South Riverside Drive Waterfront	800,000
Clifton City	Passaic	Dundee Island Acq	800,000
Rahway City	Union	Rahway River Greenway Acq	113,500
<b>TOTAL</b>			<b>\$9,293,500</b>

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2005, c.184, P.L.2005, c.185, P.L.2005, c.186, or section 1, 2, or 4 of this act, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

4. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), and from the Green Trust funds established pursuant to the Green Acres bond acts, the sum of \$22,639,500 to provide grants or loans, or both, to assist local government units to acquire lands for recreation and conservation purposes. The following projects to acquire lands for recreation and conservation purposes, located in densely or highly populated municipalities or sponsored by densely populated counties or highly populated counties, are eligible for funding with the moneys appropriated pursuant to this subsection:

*(1) Planning Incentive Acquisition Projects*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Bergen County	Bergen	Open Space Plan Acq	\$1,250,000

Evesham Twp	Burlington	Planning Incentive	600,000
Mount Laurel Twp	Burlington	Mt. Laurel Acq Plan	600,000
Camden County	Camden	Open Space Plan	1,000,000
Cherry Hill Twp	Camden	Planning Incentive Grant	600,000
West Orange Twp	Essex	West Orange Twp Open Space Acq	600,000
Hudson County	Hudson	Open Space Acq	1,200,000
Mercer County	Mercer	Mercer County Planning Incentive	1,000,000
Hamilton Twp	Mercer	Hamilton Twp Open Space Acq	600,000
Middlesex County	Middlesex	Middlesex County Open Space Acq	1,000,000
East Brunswick Twp	Middlesex	Open Space Plan	600,000
Edison Twp	Middlesex	Edison Acq Plan	600,000
Monroe Twp	Middlesex	Thompson Park III	200,000
North Brunswick Twp	Middlesex	North Brunswick Plan	600,000
South Brunswick Twp	Middlesex	Open Space Acq	600,000
Monmouth County	Monmouth	Planning Incentive Acq	1,000,000
Howell Twp	Monmouth	Howell Twp Planning Incentive	600,000
Middletown Twp	Monmouth	Middletown Twp Planning Incentive	600,000
Morris County	Morris	Morris County Planning Incentive	1,250,000
Parsippany-Troy Hills Twp	Morris	Parsippany-Troy Hills Open Space Acq	775,000
Berkeley Twp	Ocean	Planning Incentive	600,000
Dover Twp	Ocean	Open Space and Recreation Plan	600,000
Manchester Twp	Ocean	Planning Incentive	600,000
Passaic County	Passaic	Open Space Plan Acq	1,250,000
Bridgewater Twp	Somerset	Bridgewater Open Space Plan	600,000
Franklin Twp	Somerset	Open Space Plan Acq	600,000
Union County	Union	Union County Open Space and Recreation Plan	1,200,000
<b>SUBTOTAL</b>			<b>\$20,725,000</b>

*(2) Site Specific Incentive Acquisition Projects*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Wayne Twp	Passaic	St. Joseph's Hospital at Wayne Acq	\$600,000
<b>SUBTOTAL</b>			<b>\$600,000</b>

*(3) Standard Acquisition Projects*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Wallington Boro	Bergen	Open Space Corridor Acq	\$114,500
Piscataway Twp	Middlesex	Open Space Acq	600,000
South Amboy City	Middlesex	Open Space Acq	600,000
<b>SUBTOTAL</b>			<b>\$1,314,500</b>
<b>TOTAL</b>			<b>\$22,639,500</b>

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2005, c.184, P.L.2005, c.185, P.L.2005, c.186, or section 1, 2, or 3 of this act, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. For the purposes of this section:

"Densely or highly populated municipality" means a municipality with a population density of at least 5,000 persons per square mile, or a population of at least 35,000 persons, according to the latest federal decennial census;

"Densely populated county" means a county with a population density of at least 5,000 persons per square mile according to the latest federal decennial census;

"Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354; and

"Highly populated county" means a county with a population density of at least 1,000 persons per square mile according to the latest federal decennial census.

5. a. There is reappropriated to the Department of Environmental Protection the unexpended balances, due to project withdrawals, cancellations, or cost savings, of the amounts appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund to assist local government units to acquire or develop lands for recreation and conservation purposes, for the purposes of providing:

(1) grants or loans, or both, to assist local government units to acquire or develop lands for recreation and conservation purposes, for projects approved as eligible for such funding pursuant to P.L.2005, c.184, P.L.2005, c.185, P.L.2005, c.186, or sections 1 through 4 of this act; and

(2) additional funding, as determined by the Department of Environmental Protection, to any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes or that receives funding approved pursuant to P.L.2005, c.184, P.L.2005, c.185, P.L.2005, c.186, or sections 1 through 4 of this act, subject to the approval of the Joint Budget Oversight Committee or its successor. Any such additional funding provided from a Green Acres bond act may include administrative costs.

b. There is appropriated to the Department of Environmental Protection such sums as may be, or may become, available on or before June 30, 2006, due to interest earnings or loan repayments in any "Green Trust Fund" established pursuant to a Green Acres bond act or in the "Garden State Green Acres Preservation Trust Fund," for the purpose of providing:

(1) grants or loans, or both, to assist local government units to acquire or develop lands for recreation and conservation purposes, for projects approved as eligible for such funding pursuant to P.L.2005, c.184, P.L.2005, c.185, P.L.2005, c.186, or sections 1 through 4 of this act; and

(2) additional funding, as determined by the Department of Environmental Protection, to any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes or that receives funding approved pursuant to P.L.2005, c.184, P.L.2005, c.185, P.L.2005, c.186, or sections 1 through 4 of this act, subject to the approval of the Joint Budget Oversight Committee or its successor. Any such additional funding provided from a Green Acres bond act may include administrative costs.

c. For the purposes of this section:

"Garden State Green Acres Preservation Trust Fund" means the fund established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19); and

"Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

6. This act shall take effect July 1, 2005 or on the date of enactment, whichever is later.

Approved August 8, 2005.

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## CHAPTER 184

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund" and various Green Acres bond funds to assist local government units in northern New Jersey to acquire or develop lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), and from the Green Trust funds established pursuant to the Green Acres bond acts, the sum of \$25,389,500 to provide grants or loans, or both, to assist local government units in northern New Jersey to acquire or develop lands for recreation and conservation purposes. The following projects to acquire or develop lands for recreation and conservation purposes are eligible for funding with the moneys appropriated pursuant to this subsection:

*(1) Planning Incentive Acquisition Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Cresskill Boro	Bergen	Cresskill Open Space Acq	\$400,000
Mahwah Twp	Bergen	Open Space Acq	575,000
Montvale Boro	Bergen	Park Acq	400,000
Oakland Boro	Bergen	Boro of Oakland Open Space & Recreation Plan Acq	575,000

Park Ridge Boro	Bergen	Open Space Plan Acq	400,000
Ridgewood Village	Bergen	Open Space Project Acq	400,000
Fairfield Twp	Essex	Open Space Acq	400,000
Livingston Twp	Essex	Livingston Twp Open Space Acq	400,000
Boonton Twp	Morris	Open Space Acq	575,000
Chatham Twp	Morris	Chatham Open Space Acq	400,000
Chester Twp	Morris	Chester Twp Open Space Acq	575,000
Denville Twp	Morris	Denville Open Space Acq	575,000
East Hanover Twp	Morris	East Hanover Twp PI Acq	400,000
Florham Park Boro	Morris	Open Space Acq	400,000
Hanover Twp	Morris	Open Space Acq	575,000
Harding Twp	Morris	Harding Open Space Acq	575,000
Jefferson Twp	Morris	Jefferson Acq Plan	575,000
Kinnelon Boro	Morris	Open Space Acq	575,000
Madison Boro	Morris	Madison Boro Open Space Acq	400,000
Mendham Twp	Morris	Open Space Acq	575,000
Mine Hill Twp	Morris	Open Space Acq	575,000
Morris Twp	Morris	Morris Twp Open Space Acq	575,000
Mount Olive Twp	Morris	Mt. Olive Greenway Acq	575,000
Pequannock Twp	Morris	Planning Incentive Acq	575,000
Randolph Twp	Morris	Randolph Acq Program	575,000
Rockaway Twp	Morris	Open Space Acq	575,000
Roxbury Twp	Morris	Roxbury Open Space Plan Acq	575,000
Ringwood Boro	Passaic	Ringwood Boro Open Space Acq	575,000
Wanaque Boro	Passaic	Wanaque Boro Open Space Acq	500,000
Sussex County	Sussex	Planning Incentive Grant Acq	200,000
Byram Twp	Sussex	Byram Open Space Plan Acq	575,000
Frankford Twp	Sussex	Frankford Twp Planning Incentive Acq	400,000
Fredon Twp	Sussex	Fredon Twp Planning Incentive Acq	400,000

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Green Twp	Sussex	Green Twp Planning Incentive Acq	575,000
Vernon Twp	Sussex	Planning Incentive Acq	575,000
Allamuchy Twp	Warren	Allamuchy Twp Open Space Acq	500,000
Blairstown Twp	Warren	Planning Incentive Acq	400,000
Greenwich Twp	Warren	Planning Incentive Acq	575,000
Pohatcong Twp	Warren	Pohatcong Twp Acq	472,000
<b>SUBTOTAL</b>			<b>\$19,522,000</b>

*(2) Site Specific Incentive Acquisition Projects:*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
River Vale Twp	Bergen	Watershed Property Acq	\$400,000
Chester Boro	Morris	Chester Open Space Acq	575,000
Riverdale Boro	Morris	Van Ness House Acq	575,000
Pompton Lakes Boro	Passaic	Feinbloom and Sherman Acq	200,000
<b>SUBTOTAL</b>			<b>\$1,750,000</b>

*(3) Standard Acquisition Projects:*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Allendale Boro	Bergen	Orchard Park Acq	\$400,000
Alpine Boro	Bergen	Booth Tract Acq	300,000
Norwood Boro	Bergen	Central Woods Addition Acq	400,000
Oradell Boro	Bergen	Open Space Acq	275,000
Paramus Boro	Bergen	Paramus Open Space Purchase	400,000
Saddle Brook Twp	Bergen	Mayhill Street Acq	67,500
Berkeley Heights Twp	Union	Snyder Drive Acq Project	400,000
Summit City	Union	Glenside Avenue Woodlands Acq	400,000
Oxford Twp	Warren	Quentzel Property Acq	575,000

**SUBTOTAL** **\$3,217,500**

*(4) Development Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Vernon Twp	Sussex	Veterans Memorial Park Dev	\$250,000
Wantage Twp	Sussex	Woodbourne Park Phase IV Dev	250,000
Greenwich Twp	Warren	Greenwich Recreation Complex Dev	400,000
<b>SUBTOTAL</b>			<b>\$900,000</b>
<b>GRAND TOTAL ALL CATEGORIES</b>			<b>\$25,389,500</b>

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2005, c.183, P.L.2005, c.185, or P.L.2005, c.186, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

2. This act shall take effect July 1, 2005 or on the date of enactment, whichever is later.

Approved August 8, 2005.

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CHAPTER 185

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund" and various Green Acres bond funds to assist local



government units in central New Jersey to acquire or develop lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), and from the Green Trust funds established pursuant to the Green Acres bond acts, the sum of \$16,575,000 to provide grants or loans, or both, to assist local government units in central New Jersey to acquire or develop lands for recreation and conservation purposes. The following projects to acquire or develop lands for recreation and conservation purposes are eligible for funding with the moneys appropriated pursuant to this subsection:

*(1) Planning Incentive Acquisition Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Hunterdon County	Hunterdon	County Open Space Plan Acq	\$1,050,000
Bethlehem Twp	Hunterdon	Open Space Plan Implementation Acq	575,000
Clinton Twp	Hunterdon	Open Space Acq Plan	575,000
Delaware Twp	Hunterdon	Open Space Acq	400,000
Kingwood Twp	Hunterdon	Open Space Plan Acq	400,000
Lebanon Twp	Hunterdon	Open Space Plan Acq	575,000
Readington Twp	Hunterdon	Greenway Incentive Plan Acq	400,000
Tewksbury Twp	Hunterdon	Recreation and Open Space Plan Acq	575,000
Union Twp	Hunterdon	Union Township Open Space Plan Acq	575,000
East Windsor Twp	Mercer	East Windsor Open Space Acq	400,000
Hopewell Twp	Mercer	Hopewell Open Space Acq	400,000
Princeton Twp	Mercer	Princeton Open Space Acq	400,000
Washington Twp	Mercer	Green Links Program Acq	400,000

West Windsor Twp	Mercer	West Windsor Planning Inc. Acq	400,000
Cranbury Twp	Middlesex	Cranbury Twp Acq	400,000
Plainsboro Twp	Middlesex	Plainsboro Preservation Acq	400,000
Aberdeen Twp	Monmouth	Aberdeen Land Acq	400,000
Atlantic Highlands Boro	Monmouth	Atlantic Highlands Boro Open Space Acq	400,000
Freehold Twp	Monmouth	Freehold Acq Plan	400,000
Manasquan Boro	Monmouth	Manasquan Boro Open Space Acq	400,000
Millstone Twp	Monmouth	Millstone Planning Incentive Acq - Project Evergreen	400,000
Upper Freehold Twp	Monmouth	Upper Freehold Open Space Acq - 2000	400,000
Somerset County	Somerset	County Open Space Acq	1,050,000
Bedminster Twp	Somerset	Bedminster Parks Exp Acq	575,000
Branchburg Twp	Somerset	Branchburg Open Space and Greenway Acq	400,000
Montgomery Twp	Somerset	Open Space Acq 5	400,000
Peapack-Gladstone Boro	Somerset	Open Space Acq	575,000
Warren Twp	Somerset	Warren Twp Planning Incentive Acq	400,000
<b>SUBTOTAL</b>			<b>\$13,725,000</b>

*(2) Site Specific Incentive Acquisition Projects:*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Lambertville City	Hunterdon	Lambertville Open Space Project Acq	\$400,000
Hopewell Boro	Mercer	St. Michael's Orphanage Site Acq	400,000
Wall Twp	Monmouth	Ridge Road Sand Mine Acq	400,000
<b>SUBTOTAL</b>			<b>\$1,200,000</b>

*(3) Standard Acquisition Projects:*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Frenchtown Boro	Hunterdon	Nishisakawick Watershed Phase I Acq	\$400,000
Rumson Boro	Monmouth	Gunning Island Acq	400,000
Millstone Boro	Somerset	Rezem Land Acq	400,000
<b>SUBTOTAL</b>			<b>\$1,200,000</b>

*(4) Development Projects:*

<b>LOCAL GOVERNMENT UNIT</b>	<b>COUNTY</b>	<b>PROJECT</b>	<b>APPROVED AMOUNT</b>
Freehold Twp	Monmouth	Opatut Park Dev	\$100,000
Holmdel Twp	Monmouth	Cross Farm Park Dev	350,000
<b>SUBTOTAL</b>			<b>\$450,000</b>
<b>GRAND TOTAL ALL CATEGORIES</b>			<b>\$16,575,000</b>

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2005, c.183, P.L.2005, c.184, or P.L.2005, c.186, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

2. This act shall take effect July 1, 2005 or on the date of enactment, whichever is later.

Approved August 8, 2005.

## CHAPTER 186

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund" and various Green Acres bond funds to assist local government units in southern New Jersey to acquire or develop lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), and from the Green Trust funds established pursuant to the Green Acres bond acts, the sum of \$13,845,980 to provide grants or loans, or both, to assist local government units in southern New Jersey to acquire or develop lands for recreation and conservation purposes. The following projects to acquire or develop lands for recreation and conservation purposes are eligible for funding with the moneys appropriated pursuant to this subsection:

*(1) Planning Incentive Acquisition Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Atlantic County	Atlantic	Atlantic County Open Space Acq	\$800,000
Egg Harbor Twp	Atlantic	Park Expansion Acq	400,000
Burlington County	Burlington	Planning Incentive Acq	800,000
Bordentown Twp	Burlington	Bordentown Twp Open Space Acq	400,000
Eastampton Twp	Burlington	Planning Incentive Acq	400,000
Medford Twp	Burlington	Open Space Incentive Acq	400,000
Moorestown Twp	Burlington	Open Space Preservation Plan Acq	400,000
Clementon Boro	Camden	Clementon Open Space Acq	400,000
Gibbsboro Boro	Camden	Greenway Acq	400,000
Voorhees Twp	Camden	Planning Incentive Grant Acq	400,000

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Gloucester County	Gloucester	Open Space Plan Acq	800,000
Logan Twp	Gloucester	Open Space Plan Acq	400,000
Woolwich Twp	Gloucester	Open Space Plan Acq	400,000
Ocean County	Ocean	Planning Incentive Grant Acq	800,000
Ocean Twp	Ocean	Planning Incentive Acq	400,000
Stafford Twp	Ocean	Stafford Twp Planning Incentive Program Acq	400,000
Pittsgrove Twp	Salem	Open Space and Recreation Plan Acq	400,000
<b>SUBTOTAL</b>			<b>\$8,400,000</b>

*(2) Site Specific Incentive Acquisition Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Springfield Twp	Burlington	Golf Center Preservation Acq	\$400,000
<b>SUBTOTAL</b>			<b>\$400,000</b>

*(3) Standard Acquisition Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Brigantine City	Atlantic	Marina Acq	\$400,000
Galloway Twp	Atlantic	Pinehurst West Acq	238,250
Hamilton Twp	Atlantic	Liepe Tract Extension Acq	147,575
Palmyra Boro	Burlington	Park Acq	220,000
Somerdale Boro	Camden	Kiejdan Acq	400,000
Ocean City	Cape May	Park Acq	400,000
<b>SUBTOTAL</b>			<b>\$1,805,825</b>

*(4) Development Projects:*

LOCAL GOVERNMENT UNIT	COUNTY	PROJECT	APPROVED AMOUNT
Egg Harbor Twp	Atlantic	Bargaintown Park Dev	\$400,000

Hammonton Town	Atlantic	Hammonton Recreation Complex Dev	400,000
Berlin Twp	Camden	Township Recreational Park Dev	250,000
Avalon Boro	Cape May	Multi Park Improvements Dev	400,000
Lower Twp	Cape May	Multi Parks Dev	400,000
Middle Twp	Cape May	Fort Apache Recreation Dev	400,000
Deptford Twp	Gloucester	Fasola Park Dev	214,725
Woolwich Twp	Gloucester	Del Monte Park Project Dev	400,000
Little Egg Harbor Twp	Ocean	Municipal Recreation Complex VI Dev	250,000
Stafford Twp	Ocean	Doc Cramer Park II Dev	125,430
<b>SUBTOTAL</b>			<b>\$3,240,155</b>
<b>GRAND TOTAL ALL CATEGORIES</b>			<b>\$13,845,980</b>

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

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a local government unit that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, or that receives funding approved pursuant to P.L.2005, c.183, P.L.2005, c.184, or P.L.2005, c.185, shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354.

2. This act shall take effect July 1, 2005 or on the date of enactment, whichever is later.

Approved August 8, 2005.

## CHAPTER 187

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund" to provide grants to assist qualifying tax exempt nonprofit organizations to acquire or develop lands for recreation and conservation purposes.

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

1. a. (1) There is appropriated from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), to the Department of Environmental Protection the sum of \$16,066,500 for the purpose of providing grants to assist qualifying tax exempt nonprofit organizations to acquire lands for recreation and conservation purposes. The following projects are eligible for funding with the moneys appropriated pursuant to this paragraph:

<b>Nonprofit Organization</b>	<b>Project</b>	<b>County</b>	<b>Municipality</b>	<b>Approved Amount</b>
(a) Bergen SWAN	Hackensack Watershed Preservation	Bergen	Closter Boro Emerson Boro Haworth Boro Hillsdale Boro Montvale Boro Northvale Boro Norwood Boro Old Tappan Boro Oradell Boro Park Ridge Boro River Vale Twp Rockleigh Boro Washington Twp Woodcliff Lake Boro	\$400,000
(b) Canal Society of New Jersey	Morris Canal Greenway	Morris	All municipalities	500,000
(c) Delaware and Raritan Greenway Land Trust	Greenway Acq	Sussex	Stanhope Boro	800,000
	Central Stony Brook Greenway	Hunterdon	Delaware Twp East Amwell Twp	
		Mercer	Hopewell Twp Lawrence Twp Pennington Boro Princeton Twp	

	Delaware River Tributaries Acq	Middlesex Burlington	Cranbury Twp Bordentown City Bordentown Twp Chesterfield Twp	
	Mercer		Hamilton Twp Hopewell Twp Lawrence Twp Washington Twp West Windsor Twp Trenton City Monroe Twp	
	Griggstown Canal Acq	Middlesex Monmouth Middlesex	Upper Freehold Twp Highland Park Boro	
	Sourlands Mountain Acq	Somerset Hunterdon	Franklin Twp Rocky Hill Boro East Amwell Twp Lambertville City West Amwell Twp	
	Upper Millstone Greenway	Mercer Somerset	Hopewell Twp Branchburg Twp Hillsborough Twp Montgomery Twp West Windsor Twp	
		Middlesex	Cranbury Twp Highland Park Boro Monroe Twp Plainsboro Twp South Brunswick Twp	
(d) Friends of Hopewell Valley Open Space	Hopewell Valley Park Acq	Monmouth Mercer	Millstone Twp Hopewell Boro Hopewell Twp Lawrence Twp	400,000
(e) Friends of Princeton Open Space	Millstone River Watershed	Mercer	Princeton Twp	400,000
(f) Friends of West Windsor Open Space	Duck Pond Run- Greenway Initiative	Mercer	West Windsor Twp	400,000
(g) Great Swamp Watershed Association	Great Swamp Watershed Additions	Morris	Chatham Twp Harding Twp	500,000
(h) Harding Land Trust	Open Spaces & Natural Places of Harding Twp	Morris	Harding Twp	575,000
(i) Helping People Help Themselves	Open Space Acq	Bergen Monmouth Ocean Passaic	Paramus Boro Howell Twp Wall Twp Jackson Twp South Toms River Boro Clifton City Paterson City	350,000



(j) Hunterdon Land Trust Alliance	Hunterdon Open Space	Hunterdon	Pompton Lakes Boro West Milford Twp All municipalities	575,000
(k) Ironbound Community Corporation	Riverfront Property Acq	Essex	Newark City	400,000
(l) Izaak Walton League Save Barnegat Bay	Marina Acq	Ocean	Brick Twp	400,000
(m) Lawrence Twp Conservation Foundation	Lawrence Twp Watershed Acq	Mercer	Lawrence Twp	400,000
(n) Monmouth Conservation Foundation	Open Space Plans 2	Monmouth	All municipalities	400,000
(o) Montgomery Friends of Open Space	Montgomery Conservation Plan	Somerset	Montgomery Twp	400,000
(p) Morris Land Conservancy	Priority Areas Acq	Bergen Essex Morris  Passaic Somerset Sussex  Warren	Mahwah Twp Oakland Boro Livingston Twp West Orange Twp Chatham Boro Chatham Twp Denville Twp East Hanover Twp Florham Park Boro Hanover Twp Jefferson Twp Kinnelon Boro Madison Boro Mine Hill Twp Montville Twp Morris Twp Mount Olive Twp Parsippany-Troy Hills Twp Pequannock Twp Randolph Twp Rockaway Twp Roxbury Twp Washington Twp Ringwood Boro Peapack-Gladstone Boro Byram Twp Frankford Twp Fredon Twp Green Twp Hampton Twp Vernon Twp Greenwich Twp	575,000

(q) Mountain Lakes Conservancy	Mountain Lakes Acq	Morris	Mountain Lakes Boro	500,000
(r) National Biodiversity Parks, Inc.	Priority Areas Acq			575,000
	Hamburg Foothills Pine Barrens Northern Fringe Area	Sussex Burlington	Franklin Boro Hardyston Twp New Hanover Twp North Hanover Twp	
		Ocean	Jackson Twp Plumsted Twp Commercial Twp Downe Twp Maurice River Twp Millville City Stow Creek Twp Alloway Twp Lower Alloways Creek Twp Quinton Twp Montclair Twp	400,000
(s) Natural Lands Trust	Delaware Estuaries Acq	Cumberland		
		Salem		
(t) New Jersey Audubon Society	Montclair Hawk Watch Addition	Essex		160,500
(u) New Jersey Conservation Foundation	Priority Area Acquisitions			975,000
	Appalachian Trail Buffers Arthur Kill Greenway	Sussex Middlesex Union	Wantage Twp Edison Twp Linden City Springfield Twp Union Twp East Amwell Twp Clinton Twp Lebanon Boro Lebanon Twp Readington Twp Tewksbury Twp Chester Boro Chester Twp Mendham Boro Mendham Twp Mine Hill Twp Mount Arlington Boro Randolph Twp Roxbury Twp Washington Twp Bedminster Twp Bernards Twp Bernardsville Boro Branchburg Twp Bridgewater Twp	
	Back Brook Black River Greenway	Hunterdon Hunterdon Morris Somerset		

		Far Hills Boro
		Hillsborough Twp
		Peapack-Gladstone Boro
		Raritan Boro
Burden Hill	Cumberland	Greenwich Twp
Forest Protection		Hopewell Twp
Initiative	Salem	Stow Creek Twp
		Alloway Twp
		Lower Alloways Creek Twp
		Quinton Twp
Camden	Camden	Camden City
Greenway		
Ellwood	Atlantic	Buena Vista Twp
Corridor		Egg Harbor City
		Egg Harbor Twp
		Estell Manor City
		Folsom Boro
		Hamilton Twp
		Hammonton Twp
		Mullica Twp
		Weymouth Twp
Forked River	Ocean	Lacey Twp
Mountain Add		Ocean Twp
Four Mile Circle	Burlington	Bass River Twp
		Burlington Twp
		Pemberton Twp
		Tabernacle Twp
		Washington Twp
		Woodland Twp
Greater Kettle	Burlington	Evesham Twp
Run		Medford Twp
Highlands Region		
Arcadia	Passaic	West Milford Twp
Lake/Newark		
Watershed		
Musconetcong	Warren	Franklin Twp
Valley		Greenwich Twp
		Mansfield Twp
		Washington Twp
Scotts Mountain	Warren	Harmony Twp
Acq		Lopatcong Twp
		White Twp
Vernon Marsh	Sussex	Vernon Twp
Kittatinny	Sussex	Frankford Twp
Forest Area		Hampton Twp
Pyramid	Morris	Boonton Twp
Mountain Addition		Kinnelon Boro
		Montville Twp
Sparta	Morris	Jefferson Twp
Mountain		
Greenway	Sussex	Byram Twp
		Hopatcong Boro
		Sparta Twp

	Western Piedmont Sourland Mtn	Hunterdon	East Amwell Twp West Amwell Twp	
		Mercer Somerset	Princeton Twp Hillsborough Twp Montgomery Twp	
	Wickecheoke Creek Acq	Hunterdon	Delaware Twp Franklin Twp Kingwood Twp Raritan Twp Stockton Boro Deptford Twp	
(v) Old Pine Farm Natural Lands Trust	Old Pine Farm Greenway	Gloucester		400,000
(w) P.A.R.K.S. Corp	Secure Park Project	Passaic	Paterson City	106,000
(x) Passaic River Coalition	Passaic River Preservation Project			575,000
		Bergen	Allendale Boro Elmwood Park Boro Fair Lawn Boro Garfield City Hohokus Boro Lyndhurst Twp Mahwah Twp Oakland Boro Ridgewood Village Rutherford Boro Saddle River Boro Upper Saddle River Boro Wallington Boro	
		Essex	Cedar Grove Twp Fairfield Twp Livingston Twp Newark City Roseland Boro Verona Twp West Caldwell Twp	
		Morris	Butler Boro Chatham Boro Chatham Twp Denville Twp East Hanover Twp Florham Park Boro Hanover Twp Jefferson Twp Kinnelon Boro Lincoln Park Boro Long Hill Twp	

			Mendham Boro	
			Mendham Twp	
			Montville Twp	
			Morris Twp	
			Parsippany-Troy Hills Twp	
			Pequannock Twp	
			Riverdale Boro	
			Rockaway Boro	
		Passaic	Bloomington Boro	
			Clifton City	
			Hawthorne Boro	
			Little Falls Twp	
			Mahwah Twp	
			Passaic City	
			Paterson City	
			Pompton Lakes Boro	
			Totowa Boro	
			Wanaque Boro	
			Wayne Twp	
			West Milford Twp	
			West Paterson Boro	
		Somerset	Bernards Twp	
			Bernardsville Boro	
			Warren Twp	
		Sussex	Hardyston Twp	
			Sparta Twp	
		Union	Berkeley Heights Twp	
			New Providence Boro	
			Summit City	
(y) Phillipsburg Riverview Organization	Warren & Hunterdon County Greenway Acq	Hunterdon	Alexandria Twp	500,000
			Holland Twp	
		Warren	Alpha Boro	
			Franklin Twp	
			Greenwich Twp	
			Harmony Twp	
			Lopatcong Twp	
			Phillipsburg Town	
			Pohatcong Twp	
			Washington Boro	
			Washington Twp	
			White Twp	
(z) Ridge and Valley Conservancy	Open Space Conservation Plan	Sussex	Andover Boro	500,000
			Andover Twp	
			Frankford Twp	
			Fredon Twp	
			Green Twp	
			Hampton Twp	
			Hardyston Twp	
			Lafayette Twp	
			Sandyston Twp	
			Stillwater Twp	
			Wantage Twp	

Congress Hall Lawn Acq	Cape May	Cape May City
Delaware River Inland	Burlington	Mansfield Twp Mount Laurel Twp Springfield Twp
Essex Co. Open Space	Essex	All municipalities
Hardyston Twp Open Space	Sussex	Hardyston Twp
Harbor Estuary Acq	Bergen	East Rutherford Boro
	Hudson	Jersey City Secaucus Town
	Middlesex	Carteret Boro Old Bridge Twp Woodbridge Twp
	Monmouth	Aberdeen Twp Atlantic Highlands Boro Fair Haven Boro Hazlet Twp Highlands Boro Keansburg Boro Keyport Boro Matawan Boro Middletown Twp Rumson Boro Union Beach Boro
	Union	Linden City Rahway City
Hudson Co. Open Space	Hudson	All municipalities
Hunterdon Co. Open Space Partnership	Hunterdon	Alexandria Twp Bethlehem Twp Califon Boro Clinton Town Clinton Twp Glen Gardner Boro Hampton Boro High Bridge Boro Holland Twp Lebanon Boro Lebanon Twp Readington Twp Tewksbury Twp Union Twp Washington Twp
Long Valley Open Space Acq	Morris	
Metedeconk Watershed Protection	Monmouth	Freehold Twp Howell Twp Millstone Twp Wall Twp
	Ocean	Brick Twp

	Morris Open Space Acq	Morris	Jackson Twp Lakewood Twp Harding Twp Jefferson Twp Mount Olive Twp Rockaway Twp Roxbury Twp Sparta Twp	
	Sparta Open Space	Sussex		
	Upper Delaware River Watershed	Hunterdon	Alexandria Twp Bethlehem Twp Bloomsbury Boro Hampton Boro Holland Twp Lebanon Boro Lebanon Twp	
		Morris	Mount Arlington Boro Mount Olive Twp Netcong Boro Roxbury Twp Washington Boro	
		Sussex	Andover Boro Andover Twp Branchville Boro Byram Twp Frankford Twp Fredon Twp Green Twp Hampton Twp Hardyston Twp Hopatcong Boro Lafayette Twp Montague Twp Newton Town Sandyston Twp Sparta Twp Stanhope Boro Stillwater Twp Walpack Twp Wantage Twp	
	Wanaque Gap Acq	Warren Bergen	All municipalities Mahwah Twp	
(ee) Unexpected Wildlife Refuge	Refuge Expansion	Passaic Atlantic	Ringwood Boro Buena Boro Buena Vista Twp	400,000
(ff) Washington Twp Land Trust	Schooley's Mtn Corridor & Vicinity	Gloucester Morris	Franklin Twp Washington Twp	575,000
<b>TOTAL</b>				<b>\$16,066,500</b>

(2) There is appropriated from the Garden State Green Acres Preservation Trust Fund to the Department of Environmental Protection the sum of \$10,677,025 to provide grants to assist qualifying tax exempt nonprofit organizations to develop lands for recreation and conservation purposes. The following projects are eligible for funding with the moneys appropriated pursuant to this paragraph:

<b>Nonprofit Organization</b>	<b>Project</b>	<b>County</b>	<b>Municipality</b>	<b>Approved Amount</b>
Bayshore Economic Dev. Corp.	Popamora Point	Monmouth	Atlantic Highlands Boro	\$160,000
Becker Park Conservancy	Becker Park Improvements	Essex	Roseland Boro	400,000
Boys and Girls Clubs of Newark	West Side Park Rehabilitation	Essex	Newark City	200,000
Branch Brook Park Alliance	Southern Division Renovations	Essex	Newark City	400,000
Congregation Ahavas Shalom	Newton Street School Playground	Essex	Newark City	100,000
Cooper's Ferry Development Association	Johnson Park Rehabilitation	Camden	Camden City	400,000
Delaware and Raritan Greenway Land Trust	Hamilton-Trenton - Bordentown Marsh	Mercer	Bordentown City Hamilton Twp Trenton City	250,000
Down Neck Sports Community Group	Independence Park Improvements	Essex	Newark City	200,000
Essex County Parks Foundation	Belleville Park Improvements	Essex	Belleville Twp	400,000
Friends of Essex County Parks	South Mountain Reservation Improvements	Essex	Maplewood Twp Millburn Twp South Orange Village Twp West Orange Twp Maplewood Twp	400,000
Friends of Maplewood Recreation, Inc	Maplewood Playing Fields Improvement	Essex	Maplewood Twp	400,000
Groundwork Elizabeth	Appletree Pocket Park	Union	Elizabeth City	36,725
Grover Cleveland Park Conservancy	Grover Cleveland Park Restoration Project	Essex	Caldwell Boro Essex Fells Twp	400,000
Irvington Amateur Radio Team	Irvington Park Rehabilitation Project	Essex	Irvington Twp	400,000



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Ivy Hill Neighborhood Association	Ivy Hill Park Improvements	Essex	Newark City	400,000
Lincoln Park Coast Cultural District	Lincoln Park/Coast Cultural Revitalization Greenway	Essex	Newark City	250,000
Montclair Grass Roots, Inc.	Glenfield Park Improvements	Essex	Glen Ridge Twp Boro	400,000
Montclair United Soccer Club	Brookdale Park Phase II - Athletic Fields	Essex	Montclair Twp Bloomfield Twp Montclair Twp	400,000
New Canaan Community Development	Vailsburg Park Improvements	Essex	Newark City	400,000
New Jersey Performing Arts Center	NJ Performing Arts Center Waterfront Park	Essex	Newark City	400,000
North Ward Center	Branch Brook Park Ext. Rehabilitation	Essex	Newark City	400,000
P.A.R.K.S. Corp.	Secure Park Project Dev.	Passaic	Paterson City	80,000
Passaic River Coalition	Restoration of Mary Ellen Kramer Park	Passaic	Paterson City	215,300
Roberto Clemente League	Branch Brook Park Ext. Rehabilitation	Essex	Newark City	400,000
Teaneck Creek Conservancy	Outdoor Classroom & Boardwalk	Bergen	Teaneck Twp	185,000
The Green Fields Foundation	Brookdale Park Improvements	Essex	Bloomfield Twp Montclair Twp	400,000
Tri-City Peoples Corporation	West Side Park Rehabilitation	Essex	Newark City	200,000
Trust for Public Land	Multi Park Improvements	Essex	Newark City	400,000
Trustees of the Morristown Green, Inc.	Morristown Green in Perpetuity	Morris	Morristown Town	400,000
United Community Corporation	West Side Park Rehabilitation	Essex	Newark City	200,000
Verona Park Conservancy	Verona Park Improvements	Essex	Verona Twp	400,000
Watsessing Park Conservancy	Watsessing Park Improvements	Essex	Bloomfield Twp East Orange City	400,000
West Side Park Conservancy	West Side Park Rehabilitation	Essex	Newark City	200,000
Zoological	Turtle Back Zoo	Essex	West Orange Twp	400,000

Society of NJ, Exhibits  
Inc.

**TOTAL**

**\$10,677,025**

(3) Any transfer of any funds, or change in project sponsor, site, or type, listed in this subsection shall require the approval of the Joint Budget Oversight Committee or its successor.

b. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any project of a qualifying tax exempt nonprofit organization that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

c. There is reappropriated to the Department of Environmental Protection the unexpended balances, due to project withdrawals, cancellations, or cost savings, of the amounts appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund to assist qualifying tax exempt nonprofit organizations to acquire or develop lands for recreation and conservation purposes, for the purpose of providing additional funding, as determined by the Department of Environmental Protection, to any project of a qualifying tax exempt nonprofit organization that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes, subject to the approval of the Joint Budget Oversight Committee or its successor. Any such additional funding provided from a Green Acres bond act may include administrative costs.

d. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1989, c.183.

2. This act shall take effect immediately.

Approved August 8, 2005.

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CHAPTER 188

AN ACT appropriating moneys from the "Garden State Green Acres Preservation Trust Fund" to provide grants to assist qualifying tax exempt

nonprofit organizations to develop lands for recreation and conservation purposes.

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

1. a. (1) There is appropriated from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), to the Department of Environmental Protection the sum of \$150,000 for the purpose of providing grants to assist qualifying tax exempt nonprofit organizations to develop lands for recreation and conservation purposes. The following project is eligible for funding with the moneys appropriated pursuant to this paragraph:

<b>Nonprofit Organization</b>	<b>Project</b>	<b>County</b>	<b>Municipality</b>	<b>Approved Amount</b>
Save Ellis Island, Inc.	Pedestrian Walkway Restoration	Hudson	Jersey City	\$150,000
<b>TOTAL</b>				<b>\$150,000</b>

(2) Any transfer of any funds, or change in project sponsor, site, or type, listed in this subsection shall require the approval of the Joint Budget Oversight Committee or its successor.

b. To the extent that moneys remain available after the project listed in subsection a. of this section is offered funding pursuant thereto, any project of a qualifying tax exempt nonprofit organization that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor. For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1989, c.183.

2. This act shall take effect immediately.

Approved August 8, 2005.

## CHAPTER 189

AN ACT concerning the monitoring of certain sex offenders, 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.30:4-123.80 Short title.**

1. This act may be known and shall be cited as the "Sex Offender Monitoring Pilot Project Act."

**C.30:4-123.81 Findings, declarations relative to monitoring of sex offenders.**

2. The Legislature finds and declares:

a. Offenders who commit serious and violent sex crimes have demonstrated high recidivism rates and, according to some studies, are four to five times more likely to commit a new sex offense than those without such prior convictions, thereby posing an unacceptable level of risk to the community.

b. Intensive supervision of serious and violent sex offenders is a crucial element in both the rehabilitation of the released inmate and the safety of the surrounding community.

c. Technological solutions currently exist to provide improved supervision and behavioral control of sex offenders following their release.

d. These solutions also provide law enforcement and correctional professionals with new tools for electronic correlation of the constantly updated geographic location of supervised sex offenders following their release with the geographic location of reported crimes, to possibly link released offenders to crimes or to exclude them from ongoing criminal investigations.

e. Continuous 24 hours per day, seven days per week, monitoring is a valuable and reasonable requirement for those offenders who are determined to be a high risk to reoffend, were previously committed as sexually violent predators and conditionally discharged, or received or are serving a special sentence of community or parole supervision for life. A pilot program should be established to study its effectiveness.

**C.30:4-123.82 Definitions relative to monitoring of sex offenders.**

3. a. As used in this act:

"Chairman" means the Chairman of the State Parole Board.

"Monitored subject" means:

(1) a person whose risk of reoffense has been determined to be high pursuant to section 3 of P.L.1994, c.128 (C.2C:7-8); and

(2) a person who the chairman deems appropriate for continuous satellite-based monitoring pursuant to the provisions of this act and who:

(a) was subject to civil commitment as a “sexually violent predator” in accordance with the provisions of P.L.1998, c.71 (C.30:4-27.24 et seq.) and has been conditionally discharged or discharged pursuant to section 13 of P.L.1998, c.71 (C.30:4-27.36);

(b) has been sentenced to a term of community or parole supervision for life pursuant to section 2 of P.L.1994, c.130 (C.2C:43-6.4); or

(c) has been convicted of or adjudicated delinquent for a sex offense enumerated in subsection b. of section 2 of P.L.1994, c. 133 (C.2C:7-2) and the victim of the offense was under 18 years of age or 60 years of age or older, regardless of the date of conviction.

b. In addition to those offenders whose risk of reoffense has been determined to be high pursuant to section 3 of P.L.1994, c.128 (C.2C:7-8), the chairman, in exercising his discretion in determining subjects to monitor through time correlated or continuous tracking of their geographic location under the pilot program authorized by this act, shall consider the risk to the public posed by the subject, based on relevant risk factors such as the seriousness of the offense, the age of the victim or victims, the degree of force and contact, and any other factors the chairman deems appropriate. Time correlated or continuous tracking of the offender's geographic location shall not be provided during the time a monitored subject is in custody due to arrest, incarceration or civil commitment.

c. Nothing in this act shall be construed to preclude a judge from ordering time correlated or continuous tracking of the person's geographic location or other electronic monitoring as a condition of discharge of a person committed pursuant to P.L.1998, c.71 (C.30:4-27.24 et seq.), or as a condition or requirement of supervision for any other person sentenced pursuant to N.J.S.2C:45-1 or sentenced to a term of community or parole supervision for life pursuant to section 2 of P.L. 1994, c. 130 (2C:43-6.4).

**C.30:4-123.83 Establishment of two-year pilot program.**

4. a. The chairman, in consultation with the Attorney General, shall establish a two-year pilot program for the continuous, satellite-based monitoring of not more than 250 subjects. The system shall provide for the capability of active and passive monitoring, or a combination of both.

b. The monitoring system, at a minimum, shall provide:

(1) Time-correlated or continuous tracking of the geographic location of the monitored subject using a global positioning system based on satellite and other location technology; and

(2) An automated monitoring system that can be used to permit law enforcement agencies to compare the geographic positions of monitored subjects with reported crime incidents and whether the subject was in the proximity of such reported crime incidents.

c. The State Parole Board shall develop procedures to determine, investigate, and report on a 24 hours per day basis a monitored subject's noncompliance with the terms and conditions of the pilot program. All reports of noncompliance shall be investigated immediately by a parole or law enforcement officer.

d. The chairman may promulgate guidelines to effectuate the provisions of this act.

**C.30:4-123.84 Sharing of criminal incident information by law enforcement agencies.**

5. Notwithstanding any provision of law, rule or regulation to the contrary, the chairman, Attorney General, Superintendent of State Police and, federal, State, county and municipal law enforcement agencies may share criminal incident information with each other and the vendor selected by the chairman to provide the monitoring equipment for the pilot program. The chairman may direct the vendor to use data obtained pursuant to this act in preparing correlation reports for distribution and use by federal, State, county and municipal law enforcement agencies.

**C.30:4-123.85 Failure to comply with monitoring, third degree crime.**

6. A person who is monitored under the pilot program established pursuant to this act and who fails to comply with its requirements is guilty of a crime of the third degree. Nothing in this act shall be construed to preclude a person who violates any condition of a special sentence of community or parole supervision for life from being subjected to the provisions of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65) pursuant to the provisions of subsection c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b). Nothing in this act shall be construed to preclude a person on conditional discharge pursuant to P.L.1998, c. 71 (C.30:4-27.24 et seq.) who violates any condition of discharge imposed by the court from being subjected to the provisions of paragraph (3) of subsection c. of section 9 of P.L.1998, c.71 (C.30:4-27.32).

**C.30:4-123.86 Interference with device, third degree crime.**

7. Any person who tampers with, removes or vandalizes a device worn or utilized by a monitored subject pursuant to this act is guilty of a crime of the third degree.

**C.30:4-123.87 Report to Governor, Legislature.**

8. The chairman shall submit a report evaluating the effectiveness of the pilot program to the Governor and the Legislature within 90 days upon completion of the pilot program. The report shall recommend whether the pilot program should be continued as a Statewide program.

9. There is appropriated \$3,000,000 from the General Fund to the State Parole Board for the purposes of implementing the two-year pilot program established pursuant to this act.

**C.30:4-123.88 Polygraph exams of offenders, conditions, use, cost.**

10. The State Parole Board, on at least an annual basis, may administer to all offenders serving a special sentence of community or parole supervision for life, imposed pursuant to section 2 of P.L.1994, c.130 (C.2C:43-6.4), polygraph examinations in order to obtain information necessary for risk management and treatment and to reduce the offender's denial mechanisms. A polygraph examination shall be conducted by a polygrapher trained specifically in the use of the polygraph for the monitoring of sex offenders, where available, and shall be paid for by the offender. The results of the polygraph examination shall not be used as evidence in court to prove that a violation of the special sentence of community or parole supervision for life or condition of discharge has occurred.

11. This act shall take effect immediately, and sections 1 through 9 shall expire two years after enactment.

Approved August 11, 2005.

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CHAPTER 190

AN ACT concerning group life insurance, supplementing Title 17B of the New Jersey Statutes and repealing parts of the statutory law.

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

**C.17B:27-68 Conditions for issuance, delivery of group life insurance.**

1. Except as provided in section 2 of this act, no policy of group life insurance shall be delivered or issued for delivery in this State unless it meets one of the descriptions in subsections a. through h. of this section:

a. A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, including the funding of employee benefit plans, subject to the following requirements:

(1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class thereof. The policy may provide that the term "employees" shall include the employees of one or

more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of the affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term "employees" may include retired employees, former employees and directors of a corporate employer.

(2) The premium for the policy shall be remitted by the policyholder either from the employer's funds or from funds contributed by the insured employees, or from both. Except as provided in paragraph (3) of this subsection, a policy on which no part of the premium is to be derived from funds contributed by the insured employees shall insure all eligible employees, except those who reject the coverage in writing.

(3) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

b. A policy issued to a creditor or its parent holding company or to a trustee or agent designated by two or more creditors, which creditor, holding company, affiliate, trustee or agent shall be deemed the policyholder, to insure debtors of the creditor subject to the following requirements:

(1) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor, or all of any class thereof. The policy may provide that the term "debtors" shall include:

(a) Borrowers of money or purchasers or lessees of goods, services or property for which payment is arranged through a credit transaction;

(b) The debtors of one or more subsidiary corporations; and

(c) The debtors of one or more affiliated corporations, proprietorships or partnerships if the business of the policyholder and of the affiliated corporations, proprietorships or partnerships is under common control.

(2) The premium for the policy shall be remitted by the policyholder either from the creditor's funds, or from charges collected from the insured debtors, or from both. Except as provided in paragraph (3) of this subsection, a policy on which no part of the premium is to be derived from the funds contributed by insured debtors specifically for their insurance shall insure all eligible debtors.

(3) An insurer may exclude any debtors as to whom evidence of individual insurability is not satisfactory to the insurer.

(4) The amount of the insurance on the life of any debtor shall at no time exceed the greater of the scheduled or actual amount of unpaid indebtedness to the creditor, except that insurance written in connection with open-end credit having a credit limit exceeding \$10,000 may be in an amount not exceeding the credit limit.



(5) The insurance may be payable to the creditor or any successor to the right, title and interest of the creditor. The payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of the payment and any excess of the insurance shall be payable to the estate of the insured.

(6) Notwithstanding the provisions of paragraphs (1) through (5) of this subsection, insurance on agricultural credit transaction commitments may be written up to the amount of the loan commitment on a non-decreasing or level term plan. Insurance on educational credit transactions commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan.

c. A policy issued to a labor union, or similar employee organization, which shall be deemed to be the policyholder, to insure members of the union or organization for the benefit of persons other than the union or organization or any of its officials, representatives or agents, shall be subject to the following requirements:

(1) The members eligible for insurance under the policy shall be all of the members of the union or organization, or all of any class or classes thereof.

(2) The premium for the policy shall be remitted by the policyholder either from funds of the union or organization, or from funds contributed by the insured members specifically for their insurance, or from both. Except as provided in paragraph (3) of this subsection, a policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance shall insure all eligible members, except those who reject the coverage in writing.

(3) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

d. A policy issued to a trust or to the trustees of a fund established or adopted by two or more employers, or by one or more labor unions or similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, which trust or trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions or organizations for the benefit of persons other than the employers or the unions or organizations, subject to the following requirements:

(1) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions or organizations, or all of any class thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of the affiliated corporations, proprietorships or partnerships is under

common control. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term "employees" shall include retired employees, former employees and directors of a corporate employer. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with the trusteeship.

(2) The premium for the policy shall be remitted by the policyholder from funds contributed by the employer of the insured persons, or by the union or similar employee organizations, or by both, or from funds contributed by the insured persons or from both the insured persons and the employers or unions or similar employee organizations. Except as provided in paragraph (3) of this subsection, a policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance shall insure all eligible persons, except those who reject the coverage in writing.

(3) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

e. (1) A policy issued to an association or to a trust or to the trustees of a fund established, created or maintained for the benefit of members of one or more associations. The association shall have at the outset a minimum of 100 persons; shall have been organized and maintained in good faith for purposes other than that of obtaining insurance; shall have been in active existence for at least two years; and shall have a constitution and by-laws which provide that the association hold regular meetings not less than annually to further purposes of the members; except for credit unions, the association, collect dues or solicit contributions from members; and the members have voting privileges and representation on the governing board and committees.

(2) The policy shall be subject to the following requirements:

(a) The policy may insure members of the association, employees thereof or employees of members, or one or more of the preceding or all of any class thereof for the benefit of persons other than the employee's employer. The policy may provide that the term "employees" may include retired employees, former employees and directors of a corporate member of the association.

(b) The premium for the policy shall be remitted by the policyholder from funds contributed by the association, or by employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the associations, or employer members.

(c) Except as provided in subparagraph (d) of this paragraph, a policy on which no part of the premium is to be derived from funds contributed by

the covered persons specifically for the insurance shall insure all eligible persons, except those who reject the coverage in writing.

(d) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

f. A policy issued to a credit union or to a trustee or agent designated by two or more credit unions, which credit union, trustee or agent shall be deemed the policyholder, to insure members of the credit union for the benefit of persons other than the credit union, trustee or agent, or any of their officials, subject to the following requirements:

(1) The members eligible for insurance shall be all of the members of the credit union, or all of any class thereof.

(2) The premium for the policy shall be remitted by the policyholder from the credit union's funds and, except as provided in paragraph (3) of this section, shall insure all eligible members.

(3) An insurer may exclude or limit the coverage on any member as to whom evidence of individual insurability is not satisfactory to the insurer.

g. A policy issued to a bank, savings and loan association, or other regulated financial institution or to a trustee or agent designated by two or more such financial institutions, or to a regulated issuer of a credit card, charge card or payment card used to buy goods or services, which shall be deemed policyholders, to insure the depositors, account holders or card holders of such policyholders. Such insurance shall be for the benefit of persons other than the policyholders or any of their officials. The insurance shall be subject to the following requirements:

(1) Those eligible for insurance shall be all of the depositors, account holders or card holders of the policyholder, or all of any class or classes thereof.

(2) The premium for the policy shall be remitted by the policyholder from funds contributed by the policyholder, or contributed by the insured persons, or contributed by both. Except as provided in paragraph (3) of this subsection, a policy on which no part of the premium is to be derived from funds contributed by the insured persons, shall insure all eligible persons, except those who reject the coverage in writing.

(3) An insurer may exclude or limit the coverage on any member as to whom evidence of individual insurability is not satisfactory to the insurer.

h. A policy issued to a duly incorporated State Policemen's Benevolent Association or Fraternal Order of Police, which association or order shall be deemed the policyholder, to insure members of the association or order for the benefit of persons other than the association, order or any of its officials, subject to the following requirements:

(1) The persons eligible for insurance under the policy shall be all of the members of the association or order or all of any class thereof determined

by conditions pertaining to their employment, or the membership in the association, order or both.

(2) The premium for the policy shall be remitted by the policyholder wholly from the association's or order's funds. No policy may be issued on which any part of the premium is to be derived from funds contributed by the insured members specifically for their insurance. The policy must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(3) The policy must cover at least 10 members at date of issue.

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or the association or order.

**C.17B:27-69 Conditions for issuance, delivery of group life insurance to groups not included in C.17B:27-68.**

2. a. Group life insurance offered to a resident of this State under a group life insurance policy issued to a group other than one described in section 1 of this act shall be subject to the requirements of this section.

b. A group life insurance policy shall not be delivered or issued for delivery in this State unless the commissioner finds that:

(1) The issuance of the group policy is not contrary to the best interest of the public;

(2) The issuance of the group policy would result in economies of acquisition or administration; and

(3) The benefits are reasonable in relation to the premiums charged.

c. Group life insurance coverage may not be offered in this State by an insurer under a policy issued in another state unless this State or another state having requirements substantially similar to those included in paragraphs (1), (2) and (3) of subsection b. of this section has made a determination that those requirements have been met.

d. The premium for the policy shall be remitted by the policyholder either from the policyholder's funds or from funds contributed by the covered persons, or from both.

e. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

**C.17B:27-70 Written notice to prospective insureds of noncompliance with C.17B:27-68; definitions.**

3. a. With respect to a program of insurance which, if issued on a group basis, does not meet the requirements of section 1 of this act, the insurer shall cause to be distributed to prospective insureds a written notice that compensation shall or may be paid, if compensation of any kind shall or may be paid to:

(1) A policyholder or sponsoring or endorsing entity in the case of a group policy; or

(2) A sponsoring or endorsing entity in the case of individual, blanket or franchise policies marketed by means of direct response solicitation.

b. The notice shall be distributed:

(1) Whether compensation is direct or indirect; and

(2) Whether the compensation is paid to or retained by the policyholder or sponsoring or endorsing entity, or paid to or retained by a third party at the direction of the policyholder or sponsoring or endorsing entity, or an entity affiliated therewith by way of ownership, contract or employment.

c. The notice required by this section shall be placed on or accompany an application or enrollment form provided to prospective insureds.

d. For the purposes of this section:

(1) "Direct response solicitation" means a solicitation through a sponsoring or endorsing entity through the mails, telephone or other mass communications media; and

(2) "Sponsoring or endorsing entity" means an organization that has arranged for the offering of a program of insurance in a manner that communicates that eligibility for participation in the program is dependent upon affiliation with the organization or that it encourages participation in the program.

**C.17B:27-71 Extension to dependents of group life insurance policy.**

4. Except for a policy issued under subsection b. of section 1 of this act, a group life insurance policy may be extended to insure the employees or members against loss due to the death of their spouses, domestic partners and dependent children, and any other persons dependent upon the insured employees or members, or any class thereof, subject to the following:

a. The premium for the insurance shall be remitted by the policyholder either from funds contributed by the employer, union, association or other person to whom the policy has been issued, or from funds contributed by the covered persons, or from both. Except as provided in subsection b. of section 1 of this act, a policy on which no part of the premium for the spouse's, domestic partner's, dependent child's and other dependent's coverage is to be derived from funds contributed by the covered persons shall insure all eligible employees or members with respect to their spouses, domestic partners, dependent children and other dependents, or any class thereof.

b. An insurer may exclude or limit the coverage on any spouse, domestic partner, dependent child or any other person dependent upon the insured employee or member as to whom evidence of individual insurability is not satisfactory to the insurer.

c. The amounts of insurance for any covered spouse, domestic partner, dependent child or any other person dependent upon the insured employee or member under the policy may not exceed 100% of the amount of insurance for which the employee or member is insured.

**C.17B:27-72 Required provisions for delivery, issuance of group life insurance policy.**

5. a. No policy of group life insurance shall be delivered or issued for delivery in this State unless it contains in substance the following provisions, or provisions which in the opinion of the Commissioner of Banking and Insurance are more favorable to the persons insured, or at least as favorable to the persons insured and more favorable to the policyholder. However, subsections g. through l. of this section shall not apply to policies insuring the lives of debtors; the standard provisions required for individual life insurance policies shall not apply to group life insurance policies; and if the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision which, in the opinion of the commissioner, is equitable to the insured persons and to the policyholder. Nothing herein shall be construed to require that group life insurance policies contain the same nonforfeiture provisions as are required for individual life insurance policies.

b. The policy shall contain a provision that the policyholder is entitled to a grace period of 31 days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder gives the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during the grace period.

c. The policy shall contain a provision that the validity of the policy shall not be contested except for nonpayment of premiums after it has been in force for two years from its date of issue; and that no statement made by any person insured under the policy relating to the person's insurability shall be used in contesting the validity of the insurance with respect to which the statement was made after the insurance has been in force prior to the contest for a period of two years during the person's lifetime or unless it is contained in a written instrument signed by the person.

d. The policy shall contain a provision that a copy of the application of the policyholder, if any, shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to the person or, in

the event of death or incapacity of the insured person, to the insured person's beneficiary or personal representative.

e. The policy shall contain a provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage.

f. The policy shall contain a provision specifying an equitable adjustment of premiums or benefits, or both, to be made in the event the age of a person insured has been misstated. The provision shall contain a clear statement of the method of adjustment to be made.

g. The policy shall contain a provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, except that, where the policy contains conditions pertaining to family status, the beneficiary may be the family member specified by the policy terms, subject to the provisions of the policy in the event there is no designated beneficiary, as to all or any part of the sum, living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of the sum not exceeding \$2,000 to any person appearing to the insurer to be equitably entitled to it by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

h. The policy shall contain a provision that the insurer will issue to the policyholder, for delivery to each person insured, a certificate setting forth a statement as to the insurance protection to which the person is entitled, to whom the insurance benefits are payable, a statement as to any dependent's coverage included in the certificate, and the rights and conditions set forth in subsections i., j., k., and l. of this subsection.

i. The policy shall contain a provision that, if the insurance, or any portion of it, on a person covered under the policy or on the dependent of a person covered, ceases because of termination of employment or of membership in the class eligible for coverage under the policy or change to a class eligible for a smaller amount of insurance, the person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within 31 days after termination and provided further that:

(1) The individual policy shall, at the option of the person, be on any one of the forms then customarily issued by the insurer at the age and for the amount applied for, except that the group policy may exclude the option to elect term insurance;

(2) The individual policy shall be in an amount not in excess of the amount of life insurance that ceases because of termination, less the amount of any life insurance for which the person becomes eligible under the same or any other group policy within 31 days after termination, provided that any amount of insurance that shall have matured on or before the date of termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount that is considered to cease because of termination; and

(3) The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which the person then belongs, and to the individual age attained on the effective date of the individual policy. Subject to the conditions established in paragraphs (1) and (2) of this subsection, the conversion privilege shall be available:

(a) To a surviving dependent, if any, at the death of the employee or member, with respect to the coverage under the group policy that terminates by reason of the death; and

(b) To the dependent of the employee or member upon termination of coverage of the dependent, while the employee or member remains insured under the group policy, by reason of the dependent ceasing to be a qualified family member under the group policy.

j. The policy shall contain a provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of termination whose insurance terminates, including the insured dependent of a covered person, and who has been so insured under a group policy for at least five years prior to the termination date, shall be entitled to have issued by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by subsection i. of this section, except that the group policy may provide that the amount of the individual policy shall not exceed the smaller of:

(1) The amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which the person is or becomes eligible under a group policy issued or reinstated by the same or another insurer within 31 days after termination; or

(2) \$10,000.

k. The policy shall contain a provision that, if a person insured under the group policy, or the insured dependent of a covered person, dies during the period within which the individual would have been entitled to have an individual policy issued in accordance with subsection i. or j. of this section



and before the individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued under the individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor had been made.

l. Where active employment is a condition of insurance, the policy shall contain a provision that an insured may continue coverage during the insured's total disability by timely payment to the policyholder of that portion, if any, of the premium that would have been required from the insured had total disability not occurred. The continuation shall be on a premium paying basis for a period of six months from the date on which the total disability started, but not beyond the earlier of:

(1) Approval by the insurer of continuation of the coverage under any disability provision which the group insurance policy may contain; or

(2) The discontinuance of the group insurance policy.

m. In the case of a policy insuring the lives of debtors, the policy shall contain a provision that the insurer shall furnish to the policyholder for delivery to each debtor insured under the policy a certificate of insurance describing the coverage and specifying that the death benefit shall first be applied to reduce or extinguish the indebtedness.

n. In participating policies, there shall be a provision that the policy shall participate in the divisible surplus of the insurer as determined by the insurer and that the insurer shall determine annually the extent of such participation, if any; and that the policyholder shall have the right to any dividend arising from the participation paid in cash unless another dividend option contained in the policy has been elected.

o. In the case of a policy which provides that each insured debtor whose protection under the group insurance policy terminates by reason of absolute assignment by the creditor of the insured debtor's indebtedness for the discharge of which the debtor had agreed upon installment payments over a period of more than 10 years, there shall be a provision that each insured debtor shall be entitled to have issued to him by the insurer, without evidence of insurability, upon application made to the insurer and upon the payment of the premium applicable to the class of risk to which he belongs and to the form and amount of the policy at his then attained age within 31 days after that assignment of the indebtedness, an individual policy of life insurance; provided, the individual policy of life insurance so issued shall be in any one of the level premium forms customarily issued by the insurer, except term insurance, in an amount equal to the amount of his protection terminated under the group insurance policy because of the assignment, less the amount of insurance for which the insured debtor may become eligible and qualify under any group insurance policy in effect with the assignee at

the date of the assignment or issued to the assignee within that period of 31 days; and provided further, that in the event that the assignment of the indebtedness shall have been made by the creditor at the request of the insured debtor, the insurer may require satisfactory evidence of the debtor's insurability before making the individual policy of life insurance effective. If the insured debtor dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with this provision and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under that individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

**C.17B:27-73 Issuance, delivery of individual policy of life insurance.**

6. If an individual insured under a group insurance policy hereafter delivered or issued for delivery in this State becomes entitled under the terms of the policy to have an individual policy of life insurance issued without evidence of insurability, subject to making application and payment of the first premium within the period specified in the policy, and if the individual is not given notice of the existence of the right at least 15 days prior to the expiration date of the period, then the individual shall have an additional period within which to exercise the right, but nothing herein contained shall be construed to continue any insurance beyond the period provided in the policy. This additional period shall expire 15 days after the individual is given notice but in no event shall the additional period extend beyond 60 days after the expiration date of the period provided in the policy. Written notice presented to the individual or mailed by the policyholder to the last known address of the individual or mailed by the insurer to the last known address of the individual as furnished by the policyholder shall constitute notice for the purpose of this section.

**C.17B:27-74 Filing of form required for delivery, issuance of group life insurance.**

7. a. No group life insurance policy, or application, if a written application is required and is to be made a part of the policy, certificate, printed rider or endorsement for use with the policy, shall be delivered or issued for delivery in this State unless the form has been filed with the Commissioner of Banking and Insurance for approval in accordance with the provisions of section 16 of P.L.1995, c.73 (C.17B:25-18.2).

b. If a form is disapproved for filing by the commissioner during the 60-day period provided in section 16 of P.L.1995, c.73 (C.17B:25-18.2), it may not be delivered or issued for delivery unless it is resubmitted and approved in accordance with the provisions of subsections b., c., and d., of section 16 of P.L.1995, c.73 (C.17B:25-18.2). Such disapproval shall be

subject to review in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. Any form which is filed by the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), becomes final in accordance therewith.

d. This section shall not apply to documents which relate only to the manner of distribution of benefits or to the reservation of rights and benefits under group life insurance policies and which are used at the request of the individual insured or policyholder.

e. The disapproval by the commissioner of any form may be on the grounds that the form contains provisions which are unjust, unfair, inequitable, misleading, or contrary to law or to the public policy of this State.

**C.17B:27-75 Payment of benefits.**

8. a. Notwithstanding any policy provision to the contrary, benefits under a group life insurance policy subject to this act shall become payable by reason of the death of the insured within 60 days after the receipt of due proof of death and, at the insurer's option, proof of the interest of the claimant.

b. If a claim or a portion of a claim for benefits under a policy requires additional investigation or is denied by the insurer, the claimant shall be notified in writing no later than 45 days following receipt by the insurer of due proof of death, proof of the interest of the claimant, or any other document or information requested by the insurer under the terms of the policy, that the claim, or a portion thereof, is subject to additional investigation or denied, and the reason the claim is being investigated or denied. Notwithstanding the provisions of this subsection b. to the contrary, the notice to the claimant for any claim which the insurer concludes, based upon its investigation and which conclusion is reasonably based upon the contents of the insurer's claim file, constitutes probable cause for fraud shall not be required to contain the specific reasons for the investigation. A conclusion of fraud that is not reasonably based upon the contents of the insurer's claim file shall be a violation of section 1 of P.L.1975, c.101 (C.17B:30-13.1), notwithstanding that the violation did not occur with such frequency as to indicate a general business practice. Any uncontested portion of a claim shall be paid no later than 60 days following receipt of due proof of death, proof of the interest of the claimant, or any other document or information requested by the insurer under the terms of the policy.

c. The insurer, upon receipt of any document or information requested relating to a claim or portion of a claim under investigation, shall pay the

benefits for which the claim is made, or deny the claim no later than 90 days following the receipt of the document or information.

d. Payment of a claim or a portion thereof that is not under investigation by the insurer shall be overdue if not remitted to the claimant by the insurer on or before 60 days following receipt of due proof of death, proof of the interest of the claimant, or any other document or information requested by the insurer pursuant to the policy. Payment of a claim, or a portion of a claim under investigation, or denied, that becomes eligible for payment shall be overdue if not remitted to the claimant by the insurer on or before 90 days following receipt of due proof of death, proof of the interest of the claimant, or any other document or information requested by the insurer. Overdue payments shall bear an annual rate of interest equal to the average rate of return of the State of New Jersey Cash Management Fund, established pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4), for the preceding fiscal year, rounded to the nearest one-half percent.

**Repealer.**

9. The following are repealed:  
N.J.S.17B:27-1 through N.J.S.17B:27-25, inclusive;  
Section 1 of P.L.1975, c.197 (C.17B:27-1.1); and  
Section 3 of P.L.2001, c.91 (C.17B:27-10.1).

10. This act shall take effect on January 1, 2005

Approved August 18, 2005.

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CHAPTER 191

AN ACT concerning certain contract bidding requirements and amending various parts of statutory law.

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

1. N.J.S.18A:18A-21 is amended to read as follows:

**Advertisement for bids; bids; general requirements; notice of revisions.**

18A:18A-21. a. Except as provided in section 5 of P.L.1985, c.490 (C.18A:18A-55), all advertisements for bids shall be published in an official newspaper sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but in no event less than 10 days prior to such date.

b. The advertisement shall designate the manner of submitting and of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the board of education shall be sealed and shall be opened only for examination at such time and place as all bids received are unsealed and announced. At such time and place the purchasing agent of the board of education shall publicly receive the bids and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents who are then and there present. A proper record of the prices and terms shall be made in the minutes of the board. No bids shall be received after the time designated in the advertisement.

c. Notice of revisions or addenda to advertisements or bid documents shall be provided as follows:

(1) For all contracts except those for construction work, notice shall be published no later than seven days, Saturdays, Sundays, and holidays excepted, prior to the date for acceptance of bids, in an official newspaper of the board of education and be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: (a) in writing by certified mail or (b) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or (c) by a delivery service that provides certification of delivery to the sender.

(2) For all contracts for construction work, notice shall be provided no later than seven days, Saturdays, Sundays, or holidays excepted, prior to the date for acceptance of bids, to any person who has submitted a bid or who has received a bid package in any of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender.

d. Failure of the board of education to advertise for the receipt of bids or to provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the board of education from accepting the bids and require the readvertisement for bids pursuant to subsection a. of this section. Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the board of education shall not be considered failure by the board of education to provide notice.

2. Section 14 of P.L.1986, c.43 (C.18A:64-65) is amended to read as follows:

**C.18A:64-65 Advertisements for bids; notice of revisions.**

14. a. All advertisements for bids shall be published in a legal newspaper sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding but in no event less than 10 days prior to that date for any construction projects or any other contract or purchase. The advertisement shall designate the manner of submitting and of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the State college shall be sealed and shall be opened only at such time and place as all bids received are unsealed and announced. At that time and place, the contracting agent of the State college shall publicly receive the bids and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents who are then and there present. A proper record of the prices and terms shall be made. No bids shall be received after the time designated in the advertisement.

b. Notice of revisions or addenda to advertisements or bid documents relating to bids shall be published in a legal newspaper or newspapers no later than seven days, Saturdays, Sundays and holidays excepted, prior to the bid due date. The notice shall be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: (a) in writing by certified mail or (b) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or (c) by a delivery service that provides certification of delivery to the sender. Failure to advertise or provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the acceptance of bids and require the readvertisement for bids.

Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the State college shall not be considered failure by the State college to provide notice.

3. Section 14 of P.L.1982, c.189 (C.18A:64A-25.14) is amended to read as follows:

**C.18A:64A-25.14 Advertisements for bids; bids; general requirements; notice of revisions.**

14. a. All advertisements for bids shall be published in a legal newspaper sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding but in no event less than 10 days prior to such date. The advertisement shall designate the manner of submitting and of receiving the bids and the time and place at which the bids will be received. If the pub-

lished specifications provide for receipt of bids by mail, those bids which are mailed to the county college shall be sealed and shall be opened only at such time and place as all bids received are unsealed and announced. At such time and place, the contracting agent of the county college shall publicly receive the bids and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents who are then and there present. A proper record of the prices and terms shall be made. No bids shall be received after the time designated in the advertisement.

b. Notice of revisions or addenda to advertisements or bid documents relating to bids shall be published in a legal newspaper no later than seven days, Saturdays, Sundays and holidays excepted, prior to the bid due date. The notice shall be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: (a) in writing by certified mail or (b) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or (c) by a delivery service that provides certification of delivery to the sender. Failure to advertise or provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the acceptance of bids and require the readvertisement for bids. Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the county college shall not be considered failure by the county college to provide notice.

4. Section 52 of P.L.2000, c.72 (C.34:1B-5.7) is amended to read as follows:

**C.34:1B-5.7 Preparation of separate plans, specifications; bids; advertisements; notice of revisions.**

52. a. In undertaking any school facilities projects where the cost of construction, reconstruction, rehabilitation or improvement will exceed \$25,000, the authority may prepare, or cause to be prepared, separate plans and specifications for: (1) the plumbing and gas fitting and all work and materials kindred thereto, (2) the steam and hot water heating and ventilating apparatus, steam power plants and all work and materials kindred thereto, (3) the electrical work, (4) structural steel and miscellaneous iron work and materials, and (5) all general construction, which shall include all other work and materials required to complete the building.

b. The authority shall advertise and receive (1) separate bids for each of the branches of work specified in subsection a. of this section; or (2) bids for all the work and materials required to complete the school facilities project to be included in a single overall contract, in which case there shall

be set forth in the bid the name or names of all subcontractors to whom the bidder will subcontract for the furnishing of any of the work and materials specified in branches (1) through (4) in subsection a. of this section; or (3) both.

c. Contracts shall be awarded as follows: (1) if bids are received in accordance with paragraph (1) of subsection b. of this section, the authority shall determine the responsible bidder for each branch whose bid, conforming to the invitation for bids, will be most advantageous to the authority, price and other factors considered; (2) if bids are received in accordance with paragraph (2) of subsection b. of this section, the authority shall determine the responsible bidder for the single overall contract whose bid, conforming to the invitation for bids, will be the most advantageous to the authority, price and other factors considered; or (3) if bids are received in accordance with paragraph (3) of subsection b. of this section, the authority shall award separate contracts for each branch of work specified in subsection a. of this section if the sum total of the amounts bid by the responsible bidders for each branch, as determined pursuant to paragraph (1) of this subsection, is less than the amount bid by the responsible bidder for all of the work and materials, as determined pursuant to paragraph (2) of this subsection; but if the sum total of the amounts bid by the responsible bidder for each branch, as determined pursuant to paragraph (1) of this subsection is not less than the amount bid by the responsible bidder for all of the work and materials, as determined pursuant to paragraph (2) of this subsection, the authority shall award a single over-all contract to the responsible bidder for all of the work and materials as determined pursuant to paragraph (2) of this subsection.

d. For the purposes of this section, "other factors" means the evaluation by the authority of the ability of the single contractor or the abilities of the multiple contractors to complete the contract in accordance with its requirements and includes requirements relating to the experience and qualifications of the contractor or contractors and their key personnel in projects of similar type and complexity; the performance of the contractor or contractors on prior contracts with the authority or the State; the experience and capability of the contractor or contractors and their key personnel in respect to any special technologies, techniques or expertise that the project may require; the contractor's understanding of the means and methods needed to complete the project on time and within budget; the timetable to complete the project; the contractor's plan for quality assurance and control; and other similar types of factors. The "other factors" to be considered in evaluating bids and the weights assigned to price and these "other factors" shall be determined by the authority prior to the advertisement for bids for school facilities projects. In its evaluation of bids, the consideration given to price by the authority



shall be at least equal to the consideration given to the combination of all "other factors."

e. The authority shall require from all contractors to which it awards contracts pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.), the delivery of a payment performance bond issued in accordance with N.J.S.2A:44-143 et seq.

f. The authority shall adopt regulations to implement this section which shall include, but not be limited to, the procedural requirements for: (1) the evaluation and weighting of price and "other factors" in the awarding of contracts; and (2) the appealing of a prequalification classification and rating, a bid rejection and a contract award recommendation.

g. Each evaluation committee selected by the authority to review and evaluate bids shall, at a minimum, contain a representative from the district in which the school facilities project is located if such district elects to participate.

h. All advertisements for bids shall be published in a legal newspaper sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding but in no event less than 10 days prior to such date. Notice of revisions or addenda to advertisements or bid documents relating to bids shall be advertised to best give notice to bidders no later than seven days, Saturdays, Sundays and holidays excepted, prior to the bid due date. The notice shall be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: (a) in writing by certified mail or (b) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or (c) by a delivery service that provides certification of delivery to the sender. Failure to advertise or provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the acceptance of bids and require the readvertisement for bids. Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the authority shall not be considered failure by the authority to provide notice.

5. Section 23 of P.L.1971, c.198 (C.40A:11-23) is amended to read as follows:

**C.40A:11-23 Advertisements for bids; bids; general requirements.**

23. a. All advertisements for bids shall be published in an official newspaper of the contracting unit sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but in no event less than 10 days prior to such date; except that all advertisements for bids on

contracts for the collection and disposal of municipal solid waste shall be published in an official newspaper of the contracting unit circulating in the county or municipality, and in at least one newspaper of general circulation published in the State, sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but not less than 60 days prior to that date.

b. The advertisement shall designate the manner of submitting and the method of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the contracting unit shall be sealed and shall only be opened for examination at such time and place as all bids received are unsealed and announced. At such time and place the contracting agent of the contracting unit shall publicly receive the bids, and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents, who are then and there present, and shall also make proper record of the prices and terms, upon the minutes of the governing body, if the award is to be made by the governing body of the contracting unit, or in a book kept for that purpose, if the award is to be made by other than the governing body, and in such latter case it shall be reported to the governing body of the contracting unit for its action thereon, when such action thereon is required. No bids shall be received after the time designated in the advertisement.

c. Notice of revisions or addenda to advertisements or bid documents shall be provided as follows:

1) For all contracts except those for construction work and municipal solid waste collection and disposal service, notice shall be published no later than seven days, Saturdays, Sundays, and holidays excepted, prior to the date for acceptance of bids, in an official newspaper of the contracting unit and be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender.

2) For all contracts for construction work, notice shall be provided no later than seven days, Saturdays, Sundays, or holidays excepted, prior to the date for acceptance of bids, to any person who has submitted a bid or who has received a bid package in any of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of

transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender.

3) For municipal solid waste collection and disposal contracts, notice shall be published in an official newspaper of the contracting unit and in at least one newspaper of general circulation published in the State no later than seven days, Saturdays, Sundays, and holidays excepted, prior to the date for acceptance of bids.

d. Failure of the contracting unit to advertise for the receipt of bids or to provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the contracting unit from accepting the bids and require the readvertisement for bids pursuant to subsection a. of this section. Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the contracting unit shall not be considered failure by the contracting unit to provide notice.

6. Section 7 of P.L.1954, c.48 (C.52:34-12) is amended to read as follows:

**C.52:34-12 State advertisement for bids.**

7. Whenever advertising is required: (a) specifications and invitations for bids shall permit such full and free competition as is consistent with the procurement of supplies and services necessary to meet the requirements of the using agency and shall, wherever practicable, include such factors as life-cycle costs, sliding percentage preference scales, or other similar analysis as shall be deemed effective by the Director of the Division of Purchase and Property, hereinafter referred to as the director, (b) the advertisement for bids shall be in such newspaper or newspapers selected by the State Treasurer as will best give notice thereof to bidders and shall be sufficiently in advance of the purchase or contract to promote competitive bidding; (c) the advertisement shall designate the time and place when and where sealed proposals shall be received and publicly opened and read, the amount of the cash or certified check, if any, which must accompany each bid, and such other terms as the State Treasurer may deem proper; (d) notice of revisions or addenda to advertisements or bid documents relating to bids shall be published in a newspaper or newspapers as selected by the State Treasurer to best give notice to bidders and sent to the prospective bidder no later than seven days, Saturdays, Sundays and holidays excepted, prior to the bid due date; (e) failure to advertise for the receipt of bids or to provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by subsection (d) of this section shall prevent the acceptance of bids and require the readvertisement for bids; (f) for any procurement, the

State Treasurer or the director may negotiate with bidders, after bid opening, the final terms and conditions of any procurement, including price; such ability to so negotiate must be expressly set forth in the applicable invitation to bid; (g) award shall be made with reasonable promptness, after negotiation with bidders where authorized, by written notice to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the State, price and other factors considered. Any or all bids may be rejected when the State Treasurer or the Director of the Division of Purchase and Property determines that it is in the public interest so to do. The State Treasurer or designee may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement the provisions of this section.

This section shall apply to all bids received on and after the date of enactment of P.L.1999, c.440.

7. This act shall take effect immediately but shall be inoperative until the 90th day after enactment.

Approved August 18, 2005.

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## CHAPTER 192

AN ACT prohibiting the sale of gasoline containing Methyl Tertiary Butyl Ether, and supplementing P.L.1954, c.212 (C.26:2C-1 et seq.).

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

**C.26:2C-8.22 Findings, declarations relative to MTBE.**

1. The Legislature finds and declares that methyl tertiary butyl ether, more commonly referred to as MTBE, may threaten drinking water supplies in the State and nationwide due to the properties of MTBE that make it highly soluble and rapidly transported into groundwater; that, although MTBE has become the most commonly used additive to fulfill the State's requirements pursuant to the federal "Clean Air Act Amendments of 1990," 42 U.S.C.s.7403 et seq., it is not the only additive available to meet the federal requirements; that the Department of Environmental Protection began detecting trace amounts of MTBE in drinking water around the State in 1990 and, in 1996, the Department of Environmental Protection began requiring the testing of levels of MTBE in drinking water, even though it was not a federal requirement; and that, after serious study, in July 1999, the United States Environmental Protection Agency proposed that Congress authorize the reduction or elimination of the use of MTBE as a component

of gasoline because it is found as a contaminant in drinking water supplies nationwide.

The Legislature therefore determines that in addition to the water testing currently conducted in the State and the investigation of remediation methods for existing contamination, it is of vital importance that contamination of drinking water from MTBE not occur in the State, and that the sale of gasoline containing MTBE must be prohibited in the State.

**C.26:2C-8.23 Definitions relative to MTBE.**

2. As used in this act:

"Department" means the Department of Environmental Protection;

"MTBE" means methyl tertiary butyl ether.

**C.26:2C-8.24 Prohibitions against sale in State of gasoline containing MTBE.**

3. a. No person shall distribute in commerce for sale in the State, gasoline which contains more than 0.5% MTBE by volume.

b. Any person who violates this act, or any rule or regulation adopted pursuant thereto, shall be subject to the provisions of section 10 of P.L.1977, c.74 (C.58:10A-10).

c. Nothing in this act shall prohibit the manufacture, processing, or importation within the State of gasoline that contains more than 0.5% MTBE by volume for distribution in commerce outside the State.

**C.26:2C-8.25 Rules, regulations.**

4. The department 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. This act shall take effect immediately, except that section 3 of this act shall take effect on January 1, 2009

Approved August 18, 2005.

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CHAPTER 193

AN ACT concerning the investment powers of domestic insurers and amending N.J.S.17B:20-1 and 17B:20-2 and repealing N.J.S. 17B:28-13.

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

1. N.J.S.17B:20-1 is amended to read as follows:

**Investments of domestic insurers.**

17B:20-1. Any domestic insurer may invest its capital, surplus and other funds, or any part thereof, in:

a. Bonds, notes, or other evidences of indebtedness or public stock issued, created, insured or guaranteed by the United States, any territory or possession thereof, this or any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Canada, or any of the provinces thereof, or any instrumentality, agency or political subdivision of one or more of the foregoing.

b. Real estate which may be improved or which is unimproved but acquired in accordance with a definite plan for development within not more than five years, and in the improvement, development, operation or leasing thereof; provided, that if the commissioner shall determine that the interest of such insurer's policyholders requires that any specific real estate so acquired be disposed of, then such insurer shall dispose of such real estate within such reasonable time as the commissioner shall direct; and provided further, that the sum of (1) the aggregate amount invested in such real estate (including real estate held pursuant to N.J.S.17B:18-45 of this title) and (2) the aggregate amount invested in capital stock of any subsidiary of the insurer pursuant to N.J.S.17B:20-4, engaged in a business primarily involving the owning, improving, developing, operating or leasing of real estate, shall not exceed 10% of the total admitted assets of such insurer as of December 31 next preceding. Real estate used primarily for agricultural, horticultural, ranching, mining, forestry or recreational purposes shall be deemed improved within the meaning of this subsection b. The term "real estate" as used in this chapter shall include any real property and any interest therein, including, without limitation, any interest on, above or below the surface of the land, any leasehold estate therein, and any such interest held or to be held by the insurer in cotenancy with one or more other persons and any partnership interest held by the insurer in any general or limited partnership engaged in a business primarily involving the owning, improving, developing, operating or leasing of real estate. Income produced by investment in any such leasehold shall be applied in a manner calculated to amortize the amount invested in such leasehold within a period not exceeding eight-tenths of the unexpired term of the leasehold, inclusive of enforceable options, or within 40 years, whichever is the lesser, or where the peculiar nature of the leasehold involved so dictates, within such period and subject to such other reasonable limitations as the commissioner shall by regulation impose. For the purposes of this subsection b., a mortgage loan shall not be deemed to be an investment in real estate, notwithstanding the mortgagor is an institution in which such insurer has an ownership interest as share-

holder, partner, or otherwise. The commissioner may promulgate a regulation in connection with investments under this subsection b. which shall, as far as practicable, be consistent with those regulations of the department which treat with securities supported by such interests in real estate.

c. Mortgage loans on unencumbered real estate, located within the United States, any territory or possession thereof, the Commonwealth of Puerto Rico or Canada. The amount of any such loan shall not exceed 80% of the value of the real estate mortgaged unless (1) the loan is also secured by the mortgagor's interest in a lease or leases whose aggregate rentals shall be sufficient, after payment of operating expenses and fixed charges, to repay 90% of the loan with interest thereon during the initial term or terms of such lease or leases and shall be payable directly or indirectly by any governmental units, instrumentalities, agencies or political subdivisions or an institution or institutions which meet the credit standards of the insurer for an unsecured loan to such institution or institutions or (2) the loan is secured by a purchase money mortgage or like security received by the insurer upon the sale or exchange of real estate acquired pursuant to any provision of this title or (3) the excess over such 80% is insured or guaranteed or to be insured or guaranteed by the United States, any territory or possession thereof, this or any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Canada or any of the provinces thereof, or any instrumentality, agency or political subdivision of one or more of the foregoing. Any mortgage loan so insured or guaranteed or to be insured or guaranteed shall not be subject to the provisions of any law of this State prescribing or limiting the interest which may be charged or taken upon any such loan.

Any such insurer may hold a participation in any such mortgage loan if (1) such participation is senior and gives the holder substantially the rights of a first mortgagee or (2) the interest of such insurer in the evidence or evidences of indebtedness is of equal priority, to the extent of such interest, with other interests therein.

Any such mortgage loan which exceeds two-thirds of the value of the real estate mortgaged shall provide for such payments of principal, whatever the period of the loan, that at no time during the period of the loan shall the aggregate payments of principal theretofore required to be made under the terms of the loan be less than would have been necessary to reduce the loan to two-thirds of such value by the end of 35 years through payments of interest only for five years and equal payments applicable first to interest and then to principal at the end of each year thereafter. The commissioner may promulgate such supplemental regulations as he deems necessary with regard to particular classes of such investments, taking into consideration the type of security and the ratio of the loan to the value of the real estate mortgaged. No loan may be made on leasehold real estate unless the terms of such loan

provide for payments to be made by the borrower on the principal thereof in amounts sufficient to completely repay the loan within a period not exceeding nine-tenths of the term of the leasehold, inclusive of the term or terms which may be provided by any enforceable option or options of extension or of renewal, which is unexpired at the time the loan is made.

Real estate shall not be deemed to be encumbered within the meaning of this subsection c. by reason of the existence of taxes or assessments that are not delinquent, or encumbrances that do not adversely affect the salability of the property to a material extent or as to which the insurer is insured against loss by title insurance, or any prior mortgage or mortgages held by such insurer if the aggregate of the mortgages held shall not exceed the amount hereinbefore set forth, nor when such real estate is subject to lease in whole or in part; provided, that the security created by the mortgage on such real estate is a first lien thereon. Real estate shall not be deemed to be encumbered and the security of the mortgage thereon shall be deemed a first lien within the meaning of this subsection c., notwithstanding the mortgagor is an institution in which such insurer has an ownership interest as shareholder, partner or otherwise.

No such insurer shall, pursuant to this subsection c., invest more than 2% of its total admitted assets as of December 31 next preceding in any mortgage loan secured by any one property, nor shall its total mortgage investments pursuant to this subsection c., exclusive of any mortgage loans secured by a purchase money mortgage or like security received by the insurer upon the sale or exchange of real estate acquired pursuant to any provision of this title or insured or guaranteed or to be insured or guaranteed as hereinbefore provided, exceed 60% of such admitted assets.

d. Tangible personal property, equipment trust obligations or other instruments evidencing an ownership interest or other interest in tangible personal property where there is a right to receive determined portions of rental, purchase or other fixed obligatory payments for the use or purchase of such personal property, provided, that the aggregate of such payments, together with the estimated salvage value of such property at the end of its minimum useful life and the estimated tax benefits to the insurer resulting from ownership of such property, is adequate to return the cost of the investment in such property, and provided further, that the aggregate net investments therein shall not exceed 10% of the total admitted assets of such insurer as of December 31 next preceding; or certificates of receivers of any institution where such purchase is necessary to protect an investment in the securities of such institution theretofore made under authority of this chapter; or the capital stock, beneficial shares or other instruments evidencing an ownership interest, bonds, securities or evidences of indebtedness issued, assumed or guaranteed by any institution created or existing under the laws



of the United States, any territory or possession thereof, this or any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Canada or any of the provinces thereof; provided, that no purchase of any evidence of indebtedness which is in default as to interest shall be made by such insurer unless such purchase is necessary to protect an investment theretofore made under statutory authority.

The term "institution" as used in this chapter shall include any corporation, joint stock association, business trust, business joint venture, business partnership, savings and loan association, credit union or other mutual savings institution or limited liability company, limited liability partnership or any other similar entity. No purchase shall be made of the stock of any class of any corporation, except a subsidiary of the insurer pursuant to N.J.S.17B:20-4, unless (1) such corporation has paid cash dividends on such class of stock during each of the past five years preceding the time of purchase or (2) such corporation shall have earned during the period of such five years an aggregate sum available for dividends upon such stock which would have been sufficient, after all fixed charges and obligations, to pay dividends upon all shares of such class of stock outstanding during such period averaging 4% per annum computed upon the par value (or in the case of stock having no par value, upon the stated capital in respect thereof) of such stock. In the case of the stock of a corporation resulting from or formed by merger, consolidation, acquisition or otherwise less than five years prior to such purchase, each consecutive year next preceding the effective date of such merger, consolidation or acquisition during which dividends or other distributions of profits shall have been paid by any one or more of its constituent or predecessor institutions shall be deemed a year during which dividends have been paid on such class of stock and the earnings of such constituent or predecessor institutions available for dividends during each of such years may be included as earnings of the existing corporation whose stock is to be purchased for each of such years; provided, however, that nothing herein contained shall prohibit the purchase of stock of any class which is preferred, as to dividends, over any class the purchase of which is not prohibited by this section; and provided further, that no purchase of its own stock shall be made by any insurer except for the purpose of the retirement of such stock or except as specifically permitted by any law of this State applicable by its terms only to insurers.

e. Securities, properties and other investments in foreign countries, in addition to those specified in N.J.S.17B:20-5, which are substantially of the same character as prescribed for authorized investments for funds of the insurer under the preceding subsections of this section, to an amount valued at cost, not exceeding in the aggregate at any one time 20% of the total admitted assets of such insurer as of December 31 next preceding; provided,

however, that the amount invested pursuant to this subsection e. in authorized investments, other than qualified foreign investments, shall not exceed in the aggregate, at any one time, 3% of such admitted assets; and provided further that the amount invested in authorized investments in any one foreign country pursuant to this subsection e. shall not exceed in the aggregate, at any one time, 10% of such admitted assets. For the purposes of this subsection e., Canada shall not be deemed to be a foreign country.

The term "qualified foreign investment" as used in this subsection e. shall include any investment in a foreign country where: (1) the issuer or obligor is (a) a jurisdiction which is rated in one of the two highest rating categories by an independent, nationally recognized United States rating agency, (b) any political subdivision or other governmental unit of any such jurisdiction, or any agency or instrumentality of any such jurisdiction, political subdivision or other governmental unit, or (c) an institution which is organized under the laws of any such jurisdiction, or, in the case of investments which are substantially of the same character as prescribed for investments under subsections b. and c. of this section, the real property is located in any such jurisdiction; and (2) if the investment is denominated in any currency other than United States dollars, the investment is effectively hedged, substantially in its entirety, against the United States dollar pursuant to contracts or agreements which are (a) issued by or traded on a securities exchange or board of trade regulated under the laws of the United States or Canada or a province thereof, (b) entered into with a United States banking institution which has assets in excess of \$5,000,000,000 and which has obligations outstanding, or has a parent corporation which has obligations outstanding, which are rated in one of the two highest rating categories by an independent, nationally recognized United States rating agency, or with a broker-dealer registered with the Securities and Exchange Commission which has net capital in excess of \$250,000,000, or (c) entered into with any other banking institution which has assets in excess of \$5,000,000,000 and which has obligations outstanding, or has a parent corporation which has obligations outstanding, which are rated in one of the two highest rating categories by an independent, nationally recognized United States rating agency and which is organized under the laws of a jurisdiction which is rated in one of the two highest rating categories by an independent, nationally recognized United States rating agency.

Any investment qualified pursuant to paragraph (2) of the preceding definition of "qualified foreign investment" shall remain so qualified only at such time or times that the hedging requirements of paragraph (2) are met.

f. Bonds, notes, or other evidences of indebtedness, issued, insured or guaranteed or to be insured or guaranteed by the International Bank for Reconstruction and Development, or by the International Finance Corpora-

tion, or by the Inter-American Development Bank, or by the Asian Development Bank, or by the African Development Bank.

g. Collateral loans secured by a pledge of capital stock, beneficial shares or other instruments evidencing an ownership interest, bonds, securities or evidences of indebtedness qualified or permitted for investment under any of the preceding subsections of this section. The amount of any such loan shall not exceed 80% of the market value of the security pledged at the date of the loan.

h. Loans or investments which are not qualified or permitted under any of the preceding subsections of this section or which are not otherwise expressly authorized by law; provided, that the aggregate amount of such loans and investments, valued at cost, shall not exceed at any one time 10% of the total admitted assets of such insurer as of December 31 next preceding.

For the purposes of subsection c. and this subsection h., the portion of a mortgage loan on unencumbered real estate which does not exceed 80% of the value of the real estate mortgaged shall be deemed to be a permitted investment under subsection c. and the remainder of said loan may be deemed to be made under this subsection h. Any investment originally made under this subsection h. which would subsequently, if it were being made, qualify as a permitted investment under another subsection of this section shall thenceforth be deemed to be a permitted investment under such other subsection.

2. N.J.S.17B:20-2 is amended to read as follows:

**Limitation of investments.**

17B:20-2. The amount (excluding amounts invested in the common stock of any corporation pursuant to N.J.S.17B:20-3 and N.J.S.17B:20-4) invested by a domestic insurer (a) in the common stock of any one corporation shall not exceed 2% of the total admitted assets of such insurer as of December 31 next preceding, or (b) in the common stock of all corporations valued at cost shall not exceed 15% of such assets except that to the extent that such aggregate investment in common stock exceeds 10% of such assets, further investments shall be subject to regulation by the commissioner under a formula which shall take into consideration the actual mandatory securities valuation reserve, as defined by the Subcommittee on Valuation of Securities of the National Association of Insurance Commissioners, held by a company which is applicable to such common stock in the corresponding annual statement filed with the department. The term "common stock" shall mean any voting stock of any class of a corporation which shall not be limited to a fixed sum or percentage of par value in respect to the rights of the holders thereof to participate in dividends or in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding up of

the corporation. Neither shall the amount invested in the beneficial shares or other ownership interests (other than common stock), evidences of indebtedness (excluding amounts invested in mortgage loans pursuant to subsection c. of N.J.S.17B:20-1), preferred stock and certificates of receivers of any one institution exceed 5% of such assets of the insurer. Nothing herein contained shall prevent any such insurer from purchasing, or in any other way acquiring the voting stock of, or otherwise investing in certain corporations as hereinafter provided in N.J.S.17B:20-3 and N.J.S.17B:20-4.

The total amount of admitted assets invested in the types of investments authorized by subsections b. and c. of N.J.S.17B:20-1 shall not, in the aggregate, exceed 60% of the domestic insurer's total admitted assets.

All investments made by any such insurer shall be authorized or approved by the board of directors, or by a committee designated by the board of directors and charged with the duty of supervising such investment, or shall be made in conformity with standards or investment objectives approved by such board of directors or such committee.

No such insurer shall jointly or severally enter into any agreement to purchase the unsold amount of securities which are the subject of an offering for sale to the public or otherwise to guarantee the sale of such securities.

Nothing contained in this section shall prevent any such insurer from distributing shares of an investment company within the meaning of the Investment Company Act of 1940 for which such insurer or its subsidiary is the investment manager or investment adviser.

The term "Investment Company Act of 1940" as used in this section shall mean an Act of Congress entitled "Investment Company Act of 1940," 54 Stat. 847 (15 U.S.C. s.80a-1 et seq.) as amended from time to time, or any similar statute enacted in substitution therefor.

**Repealer.**

3. N.J.S.17B:28-13 is repealed.
4. This act shall take effect immediately.

Approved August 18, 2005.