ACTS

OF THE

First Annual Session

OF THE

Two Hundred and Eleventh Legislature

OF THE

STATE OF NEW JERSEY

2004

CHAPTER 93

AN ACT concerning defibrillators in nursing homes and supplementing Title 26 of the Revised Statutes.

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

C.26:2H-12.26 Nursing homes, defibrillator, trained personnel; required.

1. A nursing home that is licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall, no later than one year after the effective date of this act:

a. acquire at least one defibrillator as defined in section 2 of P.L.1999, c.34 (C.2A:62A-24), which shall be maintained in a central location within the nursing home that shall be made known and available to the employees of the nursing home for the purposes of this act;

b. ensure that the defibrillator is tested and maintained, and provide notification to the appropriate first aid, ambulance or rescue squad or other appropriate emergency medical services provider regarding the defibrillator, the type acquired and its location, pursuant to section 3 of P.L.1999, c.34 (C.2A:62A-25);

c. arrange and pay for training in cardio-pulmonary resuscitation and the use of a defibrillator for employees of the nursing home in accordance with the provisions of section 3 of P.L.1999, c.34 (C.2A:62A-25); and

d. ensure that the employees of the nursing home comply with the provisions of section 4 of P.L.1999, c.34 (C.2A:62A-26) concerning the use of the defibrillator.

2. 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.

3. This act shall take effect immediately.

Approved July 9, 2004.

CHAPTER 94

AN ACT increasing the membership of the Amistad Commission and amending P.L.2002, c.75.

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

1. Section 2 of P.L.2002, c.75 (C.52:16A-87) is amended to read as follows:

C.52:16A-87 Amistad Commission established.

2. a. The Amistad Commission, so named in honor of the group of enslaved Africans led by Joseph Cinque who, while being transported in 1839 on a vessel named the Amistad, gained their freedom after overthrowing the crew and eventually having their case successfully argued before the United States Supreme Court, is created and established in the Executive Branch of the State Government. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is allocated within the Department of State.

The commission shall consist of 23 members, including the Secretary of State or a designee, the Commissioner of Education or a designee and the chair of the executive board of the Presidents' Council or a designee, serving ex officio, two members of the Senate, no more than one of whom shall be of the same political party, appointed by the President of the Senate to serve as non-voting members for the two-year legislative term during which they are appointed, two members of the General Assembly, no more than one of whom shall be of the same political party, appointed by the Speaker of the General Assembly to serve as non-voting members for the two-year legislative term during which they are appointed, and 16 public members.

Public members shall be appointed as follows: four public members, no more than two of whom shall be of the same political party, shall be appointed by the President of the Senate; four public members, no more than two of whom shall be of the same political party, shall be appointed by the Speaker of the General Assembly; and eight public members, no more than four of whom shall be of the same political party, shall be appointed by the Governor. The public members shall be residents of this State, chosen with due regard to broad geographic representation and ethnic diversity, who have an interest in the history of the African slave trade and slavery in America and the contributions of African-Americans to our society.

b. Each public member of the commission shall serve for a term of three years, except that of the initial members so appointed: one member appointed by the President of the Senate, one member appointed by the Speaker of the General Assembly, and two members appointed by the Governor shall serve for terms of one year; one member appointed by the President of the Senate, one member appointed by the Speaker of the General Assembly, and three members appointed by the Governor shall serve for terms of two years; and two members appointed by the President of the Senate, two members appointed by the Speaker of the General Assembly, and three members appointed by the Governor shall serve for terms of three

years. Public members shall be eligible for reappointment. They shall serve until their successors are appointed and qualified, and the term of the successor of any incumbent shall be calculated from the expiration of the term of that incumbent. A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. The members of the commission shall serve without compensation but shall be entitled to reimbursement for all necessary expenses incurred in the performance of their duties.

d. The Secretary of State, or a designee, shall serve as the chair and the Commissioner of Education, or a designee, shall serve as the vice-chair of the commission. The presence of a majority of the authorized membership of the commission shall be required for the conduct of official business.

e. The New Jersey Historical Commission shall serve as staff for the Amistad Commission. The New Jersey Historical Commission may, subject to the availability of appropriations, hire additional staff and consultants to carry out the duties and responsibilities of the Amistad Commission.

f. The Department of Education shall:

(1) assist the Amistad Commission in marketing and distributing to educators, administrators and school districts in the State educational information and other materials on the African slave trade, slavery in America, the vestiges of slavery in this country and the contributions of African-Americans to our society;

(2) conduct at least one teacher workshop annually on the African slave trade, slavery in America, the vestiges of slavery in this country and the contributions of African-Americans to our society;

(3) assist the Amistad Commission in monitoring the inclusion of such materials and curricula in the State's educational system; and

(4) consult with the Amistad Commission to determine ways it may survey, catalog, and extend slave trade and American slavery education presently being incorporated into the Core Curriculum Content Standards and taught in the State's educational system.

2. This act shall take effect immediately.

Approved July 9, 2004.

CHAPTER 95

AN ACT concerning municipal prosecutors and supplementing Title 2B of the New Jersey Statutes.

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

C.2B:25-5.1 Municipal prosecutors, review of motor vehicle abstracts of DWI offenders; transmission to judge.

1. Whenever a person is charged with a violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), a municipal prosecutor shall contact the New Jersey Motor Vehicle Commission by electronic or other means, for the purpose of obtaining an abstract of the person's driving record. In every such case, the prosecutor shall:

a. Determine, on the basis of the record, if the person shall be charged with enhanced penalties as a repeat offender; and

b. Transmit the abstract to the appropriate municipal court judge prior to the imposition of sentence.

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

Approved July 9, 2004.

CHAPTER 96

AN ACT concerning the sale or distribution of cigarettes, and amending and supplementing P.L.1948, c.65.

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

C.54:40A-4.2 Sale of single, less than packs of 20; violations, fine.

1. a. A person shall not sell, offer for sale, give away or deliver single cigarettes, as defined in section 102 of P.L.1948, c.65 (C.54:40A-2) or cigarettes in packs of less than 20 cigarettes from a vending machine or in a retail establishment.

b. A person who owns a vending machine that dispenses, sells, offers for sale, gives away or delivers single cigarettes or cigarettes in packs of less than 20 cigarettes shall be fined not less than $100 or more than $500 for each day that the vending machine is determined to be in violation of subsection a. of this section.

c. A person, either acting directly or indirectly through an agent, who, at retail, sells or offers for sale, gives away, delivers or otherwise furnishes to a person a single cigarette or cigarettes in packs of less than 20 cigarettes

shall be fined $250 for a first offense and $500 for a second or subsequent offense.

C.54:40A-4.3 Enforcement of single, less than packs of 20 sale violations.

2. A penalty imposed under this act shall be collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the municipal court having jurisdiction. An official authorized by statute or ordinance to enforce the State or local health codes or a law enforcement officer having enforcement authority in that municipality may issue a summons for a violation of the provisions of this act, and may serve and execute all process with respect to the enforcement of this section consistent with the Rules of Court. A penalty recovered under the provisions of this subsection shall be recovered by and in the name of the State by the local health agency. The penalty shall be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

3. Section 102 of P.L.1948, c.65 (C.54:40A-2) is amended to read as follows:

C.54:40A-2 Cigarette tax definitions.

102. For the purposes of this act and unless otherwise required by the context:

a. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. A "single cigarette" is a cigarette sold or offered for sale individually.

b. "Director" means the Director of the Division of Taxation, in the Department of the Treasury.

c. "Distributor" means and includes any person, wherever resident or located, who brings or causes to be brought into this State unstamped cigarettes purchased directly from the manufacturers thereof and stores, sells or otherwise disposes of the same after they shall reach this State.

d. "Wholesale dealer" shall include any person, wherever resident or located, other than a distributor, as defined herein, who:

(1) Purchases cigarettes from any other person who purchases from the manufacturer and who acquires such cigarettes solely for the purpose of bona fide resale to retail dealers or to other persons for the purposes of resale only; or

(2) Services retail outlets by the maintenance of an established place of business for the purchase of cigarettes, including, but not limited to, the

maintenance of warehousing facilities for the storage and distribution of cigarettes.

e. "Retail dealer" means any person who is engaged in this State in the business of selling cigarettes at retail. Any person placing a cigarette vending machine at, on or in any premises shall be deemed to be a retail dealer for each such vending machine.

f. "Consumer" means any person except a distributor or a manufacturer who acquires for consumption, storage or use in this State cigarettes to which New Jersey revenue stamps have not been attached.

g. "Place of business" means and includes any place where cigarettes are sold or where cigarettes are brought or kept for the purpose of sale or consumption, including so far as applicable any vessel, vehicle, airplane, train or cigarette vending machine.

h. "Licensed distributor" means any distributor, as defined in this act, licensed under the provisions of this act.

I. "Licensed wholesale dealer" means any wholesale dealer, as defined in this act, licensed under the provisions of this act.

j. "Licensed retail dealer" means any retail dealer, as defined in this act, licensed under the provisions of this act.

k. "Licensed consumer" means any consumer, as defined in this act, licensed under the provisions of this act.

l. "Person" means any individual, firm, corporation, copartnership, joint venture, association, receiver, trustee, guardian, executor, administrator, or any other person acting in a fiduciary capacity, or any estate, trust or group or combination acting as a unit, the State Government and any political subdivision thereof, and the plural as well as the singular, unless the intention to give a more limited meaning is disclosed by the context.

m. "Rules and regulations" means those made and promulgated by the director in the administration of this act.

n. "Sale" means any sale, transfer, exchange, theft, barter, gift, or offer for sale and distribution, in any manner or by any means whatsoever.

o. "Stamp" means any impression, device, stamp, label or print manufactured, printed or made as prescribed by the director.

p. "Taxpayer" means any person subject to a tax imposed by this act, or any person required to be licensed under this act.

q. "Treasurer" means the State Treasurer.

r. "Use" means the exercise of any right or power incidental to the ownership of cigarettes.

s. "Manufacturer" means and includes any person, wherever resident or located, who manufactures or produces, or causes to be manufactured or produced, cigarettes and sells, uses, stores or distributes the same regardless

of whether they are intended for sale, use or distribution within or without this State.

t. "Manufacturer's representative" means and includes any person, employed by a manufacturer, who, for promotional purposes, sells, stores, handles or distributes cigarettes, within this State, limited exclusively to cigarettes manufactured by the employing manufacturer.

u. "Licensed manufacturer" means any manufacturer, as defined in this act, licensed under the provisions of this act.

v. "Licensed manufacturer's representative" means any manufacturer's representative, as defined in this act, licensed under the provisions of this act.

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

Approved July 9, 2004.

CHAPTER 97

AN ACT concerning hours of service of certain commercial motor vehicles operating in intrastate commerce and amending Title 39 of the Revised Statutes.

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

1. Section 3 of P.L. 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.

2. R.S.39:9-2 is amended to read as follows:

Hours of duty limited; hours off duty; emergencies.

39:9-2. It shall be unlawful for any person to operate, or to require or permit any person to operate, any commercial motor vehicle weighing 26,000 pounds or less that is operated exclusively in intrastate commerce after the operator has been continuously on duty for a longer period than 12 hours, or after the operator has been on duty for more than 12 hours in the aggregate during any 16 consecutive hours. When the operator has been

continuously on duty for 12 hours or has been on duty for 12 hours in the aggregate during any 16 consecutive hours, that person shall have at least 10 consecutive hours off duty. The periods of release from duty provided for in this section shall be spent at a place and under circumstances where rest and relaxation from the strain of the duties of driving may be obtained; provided, however, that in case of accident or emergency, the operator of a commercial motor vehicle may complete his run or tour of duty, and neither the operator nor the person who requires or permits that person to drive for a longer period shall be deemed to have violated the provisions of this chapter.

Nothing in this section shall apply to a vehicle designed to transport 16 or more passengers, including the driver, or a vehicle used in the transportation of hazardous materials and required to be placarded in accordance with 49 CFR s.172.500 et seq., or a vehicle that displays a hazardous materials placard.

3. This act shall take effect immediately.

Approved July 12, 2004.

CHAPTER 98

AN ACT appropriating the unappropriated balance of the moneys available in the "Natural Resources Fund" for grants to local governments for planning, designing, acquiring and constructing sewage treatment facilities, and amounts heretofore appropriated to the Department of Environmental Protection for sewerage treatment facilities, and authorizing the utilization of a portion of the unexpended balances from a prior appropriation to the department for grants made pursuant to the aforementioned act, for a grant to a local government for a clean water project.

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 "Natural Resources Fund" created pursuant to section 14 of the "Natural Resources Bond Act of 1980," P.L.1980, c.70, as amended by P.L.1998, c.66, the sum of $302,500, which constitutes the unappropriated balance of the moneys available in the "Natural Resources Fund" for grants to local governments for planning, designing, acquiring and constructing sewage treatment facilities as provided in subsection b. of section 4 of

P.L.1980, c.70, for the purpose of providing a grant to the following local government for a clean water project, as follows:

Local Government	County
Carteret Borough	Middlesex

b. To the extent that the balance of the moneys available in the "Natural Resources Fund" that have not been previously appropriated pursuant to law is insufficient to support the sum appropriated pursuant to subsection a. of this section, the following shall be made available from the "Natural Resources Fund" to support the remainder of the appropriation made in that subsection as required:

(1) moneys returned to the "Natural Resources Fund" due to project withdrawals, cancellations, or cost savings involving projects previously funded by law; or

(2) moneys previously appropriated pursuant to law from the "Natural Resources Fund" to fund projects deemed by the Department of Environmental Protection as of the date of enactment of this act to be otherwise no longer active.

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1980, c.70 and P.L.1998, c.66, and any regulations adopted by the department pursuant thereto.

3. This act shall take effect immediately.

Approved July 12, 2004.

CHAPTER 99

AN ACT concerning the New Jersey State Firemen's Association and amending R.S.43:17-3.

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

1. R.S.43:17-3 is amended to read as follows:

Objects of association.

43:17-3. a. The object of associations incorporated under this article shall be to establish, provide for and maintain a fund for the relief, support or burial of:

(1) needy firefighters and their families;

(2) any persons and the families of any persons who are injured or die in the course of doing public fire duty, or who may become needy or disabled or die as the result of doing such duty or be prevented by the injury or by illness arising from doing such duty, from attending to their usual occupation or calling; and

(3) the families of any persons doing public fire duty who die as the result of an act of terrorism committed against the United States of America while such persons were serving as federal, State or local law enforcement officers.

b. In addition to any other benefits provided, the associations incorporated under this article which provide line of duty death benefits also shall provide these benefits to the families of any qualified persons who die under the circumstances set forth in paragraph (3) of subsection a. of this section.

c. The relief, support or burial benefit shall be granted in accordance with the rules and regulations adopted by the New Jersey State Firemen's Association.

2. This act shall take effect immediately, and shall be retroactive to September 11, 2001.

Approved July 13, 2004.

CHAPTER 100

AN ACT concerning county college capital projects and amending P.L.1971, c.12.

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

1. Section 1 of P.L.1971, c.12 (C.18A:64A-22.1) is amended to read as follows:

C.18A:64A-22.1 County college capital project aid.

1. Whenever the funds appropriated are insufficient to satisfy the State's share of capital projects for county colleges pursuant to N.J.S.18A:64A-22, additional State support for such projects shall be made available to counties in which county colleges are located for the payment of interest and principal on bonds and notes entitled to the benefits of this act and interest on notes issued in anticipation thereof and entitled to the benefits of the "County College Capital Projects Fund Act," P.L.1997, c.360

(C.18A:72A-12.2 et seq.), provided that the total principal amount of such bonds and notes shall not exceed $265,000,000.

2. This act shall take effect immediately.

Approved July 13, 2004.

CHAPTER 101

AN ACT concerning the payment of prevailing wages for custom fabrication work in public work and amending P.L.1963, c.150.

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

1. Section 2 of P.L.1963, c.150 (C.34:11-56.26) is amended to read as follows:

C.34:11-56.26 Definitions.

2. As used in this act:

(1) "Department" means the Department of Labor and Workforce Development of the State of New Jersey.

(2) "Locality" means any political subdivision of the State, combination of the same or parts thereof, or any geographical area or areas classified, designated and fixed by the commissioner from time to time, provided that in determining the "locality" the commissioner shall be guided by the boundary lines of political subdivisions or parts thereof, or by a consideration of the areas with respect to which it has been the practice of employers of particular crafts or trades to engage in collective bargaining with the representatives of workers in such craft or trade.

(3) "Maintenance work" means the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased.

(4) "Public body" means the State of New Jersey, any of its political subdivisions, any authority created by the Legislature of the State of New Jersey and any instrumentality or agency of the State of New Jersey or of any of its political subdivisions.

(5) "Public work" means construction, reconstruction, demolition, alteration, custom fabrication, or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program. "Public work" shall also mean construction, recon-

struction, demolition, alteration, custom fabrication, or repair work, done on any property or premises, whether or not the work is paid for from public funds, if, at the time of the entering into of the contract:

(a) Not less than 55% of the property or premises is leased by a public body, or is subject to an agreement to be subsequently leased by the public body; and

(b) The portion of the property or premises that is leased or subject to an agreement to be subsequently leased by the public body measures more than 20,000 square feet.

(6) "Commissioner" means the Commissioner of Labor and Workforce Development or his duly authorized representatives.

(7) "Workman" or "worker" includes laborer, mechanic, skilled or semi-skilled, laborer and apprentices or helpers employed by any contractor or subcontractor and engaged in the performance of services directly upon a public work, regardless of whether their work becomes a component part thereof, but does not include material suppliers or their employees who do not perform services at the job site. For the purpose of P.L.1963, c.150 (C.34:11-56.25 et seq.), contractors or subcontractors engaged in custom fabrication shall not be regarded as material suppliers.

(8) "Work performed under a rehabilitation program" means work arranged by and at a State institution primarily for teaching and upgrading the skills and employment opportunities of the inmates of such institutions.

(9) "Prevailing wage" means the wage rate paid by virtue of collective bargaining agreements by employers employing a majority of workers of that craft or trade subject to said collective bargaining agreements, in the locality in which the public work is done.

(10) "Act" means the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) and the rules and regulations issued hereunder.

(11) "Prevailing wage contract threshold amount" means:

(a) In the case of any public work paid for in whole or in part out of the funds of a municipality in the State of New Jersey or done on property or premises leased or to be leased by the municipality, the dollar amount established for the then current calendar year by the commissioner through rules and regulations promulgated pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which amount shall be equal to $9,850 on July 1, 1994 and which amount shall be adjusted on July 1 every five calendar years thereafter in direct proportion to the rise or fall in the average of the Consumer Price Indices for Urban Wage Earners and Clerical Workers for the New York metropolitan and the Philadelphia metropolitan regions as reported by the United States Department of Labor during the last full calendar year preceding the date upon which the adjustment is made; and

(b) In the case of any public work other than a public work described in paragraph (a) of this subsection, an amount equal to $2,000.

(12) "Custom fabrication" means the fabrication of plumbing, heating, cooling, ventilation or exhaust duct systems, and mechanical insulation.

2. This act shall take effect immediately.

Approved July 14, 2004.

CHAPTER 102

AN ACT concerning the shipment of alcoholic beverages, amending R.S.33:1-10 and repealing sections 1 through 4 of P.L.1982, c.176 (C.33:1-28.1 through 33:1-28.4).

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

1. R.S.33:1-10 is amended to read as follows:

Class A licenses; subdivisions; fees.

33:1-10. Class A licenses shall be subdivided and classified as follows:

Plenary brewery license. 1a. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be $10,625.

Limited brewery license. 1b. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages in a quantity to be expressed in said license, dependent upon the following fees and not in excess of 300,000 barrels of 31 fluid gallons capacity per year and to sell and distribute this product to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be graduated as follows: to so brew not more than 50,000 barrels of 31 fluid gallons capacity per annum, $1,250; to so brew not more than 100,000 barrels of 31 fluid gallons capacity per annum, $2,500; to so brew not more than 200,000 barrels of 31 fluid gallons capacity per annum, $5,000; to so brew not more than 300,000 barrels of 31 fluid gallons capacity per annum, $7,500.

Restricted brewery license. 1c. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic bever-

ages in a quantity to be expressed in such license not in excess of 3,000 barrels of 31 fluid gallons capacity per year. Notwithstanding the provisions of R.S.33:1-26, the director shall issue a restricted brewery license only to a person or an entity which has identical ownership to an entity which holds a plenary retail consumption license issued pursuant to R.S.33:1-12, provided that such plenary retail consumption license is operated in conjunction with a restaurant regularly and principally used for the purpose of providing meals to its customers and having adequate kitchen and dining room facilities, and that the licensed restaurant premises is immediately adjoining the premises licensed as a restricted brewery. The holder of this license shall only be entitled to sell or deliver the product to that restaurant premises. The fee for this license shall be $1,250, which fee shall entitle the holder to brew up to 1,000 barrels of 31 fluid gallons per annum. The licensee also shall pay an additional $625 for every additional 1,000 barrels of 31 fluid gallons produced. No more than two restricted brewery licenses shall be issued to a person or entity which holds an interest in a plenary retail consumption license. If the governing body of the municipality in which the licensed premises will be located should file a written objection, the director shall hold a hearing and may issue the license only if the director finds that the issuance of the license will not be contrary to the public interest. All fees related to the issuance of both licenses shall be paid in accordance with statutory law.

Plenary winery license. 2a. Provided that the holder is engaged in growing and cultivating grapes or fruit used in the production of wine on at least three acres on, or adjacent to, the winery premises, the holder of this license shall be entitled, subject to rules and regulations, to produce any fermented wines, and to blend, fortify and treat wines, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter and to churches for religious purposes, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse, and to sell his products at retail to consumers on the licensed premises of the winery for consumption on or off the premises and to offer samples for sampling purposes only. The fee for this license shall be $938. The holder of this license shall also have the right to sell such wine at retail in original packages in six salesrooms apart from the winery premises for consumption on or off the premises and for sampling purposes for consumption on the premises, at a fee of $250 for each salesroom. Additionally, subject to rules and regulations, one salesroom per county may be jointly controlled and operated by at least two plenary or farm winery licensees for the sale of the products of any plenary or farm winery licensee for consumption on or off the premises and for consumption on the licensed premises for sampling purposes at an

additional fee of $625 per county salesroom. For the purposes of this subsection, "sampling" means the selling at a nominal charge or the gratuitous offering of an open container not exceeding one and one-half ounces of any wine.

For the purposes of this subsection, "product" means any wine that is produced, blended, fortified, or treated by the licensee on its licensed premises situated in the State of New Jersey.

Any holder of a plenary winery license who sold wine which was produced, bottled, and labelled by that holder in a place other than its licensed New Jersey premises between July 1, 1992 and June 30, 1993, may continue to sell that wine provided no more than 25,000 cases, each case consisting of 12 750 milliliter bottles or the equivalent, are sold in any single license year. This privilege shall terminate upon, and not survive, any transfer of the license to another person or entity subsequent to the effective date of this 1993 amendatory act or any transfer of stock of the licensed corporation other than to children, grandchildren, parents, spouses or siblings of the existing stockholders.

Farm winery license. 2b. The holder of this license shall be entitled, subject to rules and regulations, to manufacture any fermented wines and fruit juices in a quantity to be expressed in said license, dependent upon the following fees and not in excess of 50,000 gallons per year and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter and to churches for religious purposes and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse and to sell at retail to consumers for consumption on or off the licensed premises and to offer samples for sampling purposes only. The license shall be issued only when the winery at which such fermented wines and fruit juices are manufactured is located and constructed upon a tract of land exclusively under the control of the licensee, provided that the licensee is actively engaged in growing and cultivating an area of not less than three acres on or adjacent to the winery premises and on which are growing grape vines or fruit to be processed into wine or fruit juice; and provided, further, that for the first five years of the operation of the winery such fermented wines and fruit juices shall be manufactured from at least 51% grapes or fruit grown in the State and that thereafter they shall be manufactured from grapes or fruit grown in this State at least to the extent required for labeling as "New Jersey Wine" under the applicable federal laws and regulations. The containers of all wine sold to consumers by such licensee shall have affixed a label stating such information as shall be required by the rules and regulations of the Director of the Division of Alcoholic Beverage Control. The fee for this license shall be graduated as follows: to so manufacture between 30,000 and 50,000 gallons

per annum, $375; to so manufacture between 2,500 and 30,000 gallons per annum, $250; to so manufacture between 1,000 and 2,500 gallons per annum, $125; to so manufacture less than 1,000 gallons per annum, $63. No farm winery license shall be held by the holder of a plenary winery license or be situated on a premises licensed as a plenary winery.

The holder of this license shall also have the right to sell his products in original packages at retail to consumers in six salesrooms apart from the winery premises for consumption on or off the premises, and for sampling purposes for consumption on the premises, at a fee of $250 for each salesroom. Additionally, subject to rules and regulations, one salesroom per county may be jointly controlled and operated by at least two plenary or farm winery licensees for the sale of the products of any plenary or farm winery licensee for consumption on or off the premises and for consumption on the licensed premises for sampling purposes only, at an additional fee of $625 per county salesroom. For the purposes of this subsection, "sampling" means the selling at a nominal charge or the gratuitous offering of an open container not exceeding one and one-half ounces of any wine.

Unless otherwise indicated, for the purposes of this subsection, with respect to farm winery licenses, "manufacture" means the vinification, aging, storage, blending, clarification, stabilization and bottling of wine or juice from New Jersey fruit to the extent required by this subsection.

Wine blending license. 2c. The holder of this license shall be entitled, subject to rules and regulations, to blend, treat, mix, and bottle fermented wines and fruit juices with non-alcoholic beverages, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be $625.

Plenary distillery license. 3a. The holder of this license shall be entitled, subject to rules and regulations, to manufacture any distilled alcoholic beverages and rectify, blend, treat and mix, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be $12,500.

Limited distillery license. 3b. The holder of this license shall be entitled, subject to rules and regulations, to manufacture and bottle any alcoholic beverages distilled from fruit juices and rectify, blend, treat, mix, compound with wine and add necessary sweetening and flavor to make cordial or liqueur, and to sell and distribute to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to

any persons pursuant to the laws of the places of such sale and distribution and to warehouse these products. The fee for this license shall be $3,750.

Supplementary limited distillery license. 3c. The holder of this license shall be entitled, subject to rules and regulations, to bottle and rebottle, in a quantity to be expressed in said license, dependent upon the following fees, alcoholic beverages distilled from fruit juices by such holder pursuant to a prior plenary or limited distillery license, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be graduated as follows: to so bottle and rebottle not more than 5,000 wine gallons per annum, $313; to so bottle and rebottle not more than 10,000 wine gallons per annum, $625; to so bottle and rebottle without limit as to amount, $1,250.

Rectifier and blender license. 4. The holder of this license shall be entitled, subject to rules and regulations, to rectify, blend, treat and mix distilled alcoholic beverages, and to fortify, blend, and treat fermented alcoholic beverages, and prepare mixtures of alcoholic beverages, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be $7,500.

Bonded warehouse bottling license. 5. The holder of this license shall be entitled, subject to rules and regulations, to bottle alcoholic beverages in bond on behalf of all persons authorized by federal and State law and regulations to withdraw alcoholic beverages from bond. The fee for this license shall be $625. This license shall be issued only to persons holding permits to operate Internal Revenue bonded warehouses pursuant to the laws of the United States.

The provisions of section 21 of P.L.2003, c.117 amendatory of this section shall apply to licenses issued or transferred on or after July 1, 2003, and to license renewals commencing on or after July 1, 2003.

Repealer.

2. Sections 1 through 4 of P.L.1982, c.176 (C.33:1-28.1 through 33:1-28.4) are hereby repealed.

3. This act shall take effect immediately.

Approved July 14, 2004.

CHAPTER 103

AN ACT concerning payment for emergency care provided in certain hospitals and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.2000, c.71 (C.30:4J-1 et seq.).

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

C.30:4D-6g Findings, declarations relative to emergency care.

1. The Legislature finds and declares that:

a. In accordance with the "Health Care Reform Act," P.L.1992, c.160 (C.26:2H-18.51 et al.), it has been and continues to be of paramount public interest for the State to take all necessary and appropriate actions to ensure access to, and the provision of, cost-effective and high-quality hospital care to its citizens. Consistent with these goals, it is and has been the policy of this State that reimbursement for emergency services and related screening and hospitalization be reasonable, in order to promote access to such care without overburdening the health care payment system. These imperative public policies continue to apply equally to both public and private payers of health care services;

b. In light of the provisions of section 14 of the "Health Care Reform Act," P.L.1992, c.160 (C.26:2H-18.64), which prohibits hospitals from denying admission or appropriate services to a patient on the basis of that patient's ability to pay or source of payment, questions have arisen as to the rates at which emergency services should be reimbursed when they are provided to enrollees in Medicaid and NJ FamilyCare managed care plans by non-participating hospitals. In order to ensure that the goal of cost-efficient access to emergency services is furthered, it is necessary to clarify the rates that have been and continue to be deemed reasonable reimbursement; and

c. It is necessary that the reimbursement clarification be understood as reaffirming the paramount public health and welfare purpose of promoting cost-efficiency in the delivery of emergency services and related screening and hospitalization.

C.30:4D-6h Definitions relative to emergency care.

2. As used in this act:

"Contractor" means a health maintenance organization authorized to operate in this State which contracts with the Department of Human Services for the provision of health care services to recipients of Medicaid and enrollees of NJ FamilyCare.

"Medicaid" means the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

"NJ FamilyCare" means the Children's Health Care Coverage Program established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.) and the FamilyCare Health Coverage Program established pursuant to P.L.2000, c.71 (C.30:4J-1 et seq.).

"Non-participating hospital" means a hospital with which the contractor does not have a written provider agreement that complies with applicable State law and regulations, including N.J.A.C.8:38-15.2 and 10:74-2.1.

C.30:4D-6i Non-participating hospital, payment for emergency treatment for Medicaid recipient.

3. A non-participating hospital that provides emergency health care services to a Medicaid recipient enrolled in a managed care plan shall accept, as payment in full, the amount that the non-participating hospital would otherwise receive from the Medicaid program for the emergency services and any related hospitalization if the recipient were a participant in fee-for-service Medicaid.

C.30:4J-4.1 Non-participating hospital, payment for emergency treatment for NJ FamilyCare enrollee.

4. a. A non-participating hospital that provides emergency health care services to an enrollee in NJ FamilyCare who is enrolled in a managed care plan shall accept, as payment in full, the amount that the non-participating hospital would otherwise receive from the Medicaid program for the emergency services and any related hospitalization if the recipient were a participant in fee-for-service Medicaid.

b. As used in this section, "contractor" and "non-participating hospital" have the same meaning as provided in section 2 of P.L.2004, c.103 (C.30:4D-6h).

5. This act shall take effect immediately.

Approved July 14, 2004.

CHAPTER 104

AN ACT concerning the review and appeal of disciplinary actions against State employees and amending N.J.S. 11A:2-13 and N.J.S 11A:2-14.

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

1. N.J.S. 11A:2-13 is amended to read as follows:

Opportunity for appointing authority hearing, alternative procedures.

Except as otherwise provided herein, before any disciplinary action in subsection a. (1), (2) and (3) of N.J.S.11A:2-6 is taken against a permanent employee in the career service or a person serving a working test period, the employee shall be notified in writing and shall have the opportunity for a hearing before the appointing authority or its designated representative. The hearing shall be held within 30 days of the notice of disciplinary action unless waived by the employee. Both parties may consent to an adjournment to a later date.

When the State of New Jersey and the majority representative have agreed pursuant to the New Jersey Employer-Employee Relations Act, section 7 of P.L.1968, c.303 (C.34:13A-5.3), to a procedure for appointing authority review before disciplinary action in subsection a. (1), (2) and (3) of N.J.S.11A: 2-6, which would be otherwise appealable to the board under N.J.S.11A:2-14, is taken against a permanent employee in the career service or a person serving a working test period, such procedure shall be the exclusive procedure for review before the appointing authority.

This section shall not prohibit the immediate suspension of an employee without a hearing if the appointing authority determines that the employee is unfit for duty or is a hazard to any person if allowed to remain on the job or that an immediate suspension is necessary to maintain safety, health, order or effective direction of public services. In addition, where a suspension is based on a formal charge of a crime of the first, second or third degree, or a crime of the fourth degree if committed on the job or directly related to the job, the suspension may be immediate and continue until a disposition of the charge. The board shall establish, by rule, procedures for hearings and suspensions with or without pay.

2. N.J.S.11A:2-14 is amended to read as follows:

Notice to employee of right to appeal, alternative procedures.

Except as otherwise provided herein, within 20 days of the hearing provided in N.J.S.11A:2-13, the appointing authority shall make a final disposition of the charges against the employee and shall furnish the employee with written notice. If the appointing authority determines that the employee is to be removed, demoted or receive a suspension or a fine greater than five days, the employee shall have a right to appeal to the board. The suspension or fine of an employee for five days or less shall be appealable if an employee's aggregate number of days suspended or fined in any one calendar year is 15 days or more. Where an employee receives more than

three suspensions or fines of five or less days in a calendar year, the last suspension or fine is appealable.

When the State of New Jersey and the majority representative have agreed pursuant to the New Jersey Employer-Employee Relations Act, section 7 of P.L.1968, c.303 (C.34:13A-5.3), to a disciplinary review procedure that provides for binding arbitration of disputes involving disciplinary action in subsection a. (1), (2) and (3) of N.J.S. 11A:2-6, which would be otherwise appealable to the board under N.J.S.11A:2-14, being taken against a permanent employee in the career service or a person serving a working test period, such procedure shall be the exclusive procedure for any appeal of such disciplinary action.

3. This act shall take effect immediately.

Approved July 14, 2004.

CHAPTER 105

AN ACT concerning alternate members of municipal zoning boards of adjustment and amending P.L.1975, c.291.

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

1. Section 56 of P.L.1975, c.291 (C.40:55D-69) is amended to read as follows:

C.40:55D-69 Zoning board of adjustment.

56. Zoning board of adjustment. Upon the adoption of a zoning ordinance, the governing body shall create, by ordinance, a zoning board of adjustment unless the municipality is eligible for, and exercises, the option provided by subsection c. of section 16 of P.L.1975, c.291 (C.40:55D-25). A zoning board of adjustment shall consist of seven regular members and may have not more than four alternate members. All regular members and any alternate members shall be municipal residents. Notwithstanding the provisions of any other law or charter heretofore adopted, such ordinance shall provide the method of appointment of all such members. Alternate members shall be designated at the time of appointment by the authority appointing them as "Alternate No. 1" and "Alternate No. 2," and, in the case of a municipality in which more than two alternates have been appointed, "Alternate No. 1," "Alternate No. 2," "Alternate No. 3," and "Alternate No.

4," as appropriate. The terms of the members first appointed under P.L.1975, c.291 (C.40:55D-1 et seq.) shall be so determined that to the greatest practicable extent, the expiration of such terms shall be distributed, in the case of regular members, evenly over the first four years after their appointment, and in the case of alternate members, evenly over the first two years after their appointment; provided that the initial term of no regular members shall exceed four years and that the initial term of no alternate member shall exceed two years. Thereafter, the term of each regular member shall be four years, and the term of each alternate member shall be two years. In any municipality in which more than two alternates have been appointed, the terms of not more than two alternate members shall expire in any one year. No member may hold any elective office or position under the municipality. No member of the board of adjustment shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest. A member may, after public hearing if he requests it, be removed by the governing body for cause. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.

The board of adjustment shall elect a chairman and vice chairman from its regular members and select a secretary, who may or may not be a member of the board of adjustment or a municipal employee.

Alternate members may participate in all matters but may not vote except in the absence or disqualification of a regular member. Participation of alternate members shall not be deemed to increase the size of the zoning board of adjustment established by ordinance of the governing body pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69). A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, alternate members shall vote in the order of their numerical designations.

2. This act shall take effect immediately.

Approved July 14, 2004.

CHAPTER 106

AN ACT concerning cable television service termination notices and supplementing P.L.1972, c.186 (C.48:5A-1 et seq.).

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

C.48:5A-36.1 CATV service termination notices, designation of third parties to receive.

1. a. Every cable television company which provides cable television reception service shall permit a residential subscriber who receives such service to designate a third party to whom the cable television company shall transmit a copy of any notice of termination of service. The subscriber shall notify the cable television company that a third party has been so designated. Such notification shall be authorized on an appropriate form for recording this designation, and shall be effective not later than 10 business days from the date of receipt by the cable television company. The notification shall contain, in writing, an acceptance by the third party designee to receive copies of any notices of termination of service of the subscriber's cable television reception service.

b. The transmission to the third party designee of a copy of the termination of service notice shall be in addition to the original document transmitted to the subscriber. The copy of the termination of service notice transmitted to the third party shall be governed by the same law and policy provisions which govern the notice being transmitted to the subscriber.

c. Designation as a third party shall not constitute acceptance of any liability on the part of the third party for payment of the cable television bill.

d. The cable television company shall notify every residential subscriber annually in writing of the availability of the third party designee notice procedures and provide information on how the subscriber can commence this procedure, except that notice need not be provided once a subscriber has made a designation. A cable television company may provide this required annual notice to its residential subscribers in any manner that the cable television company determines.

2. The board shall promulgate, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to effectuate the purposes of this act.

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

Approved July 14, 2004.

CHAPTER 107

AN ACT concerning speed humps on certain streets and roads and supplementing Title 39 of the Revised Statutes.

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

C.39:4-8.9 Definitions relative to speed humps.

1. As used in this act:

"Department" means the Department of Transportation.

"Private roads" means semipublic or private roads, streets, driveways, parkways, parking areas, or other roadways owned by a private person, corporation or institution open to or used by the public for the purposes of vehicular travel by permission of such persons, corporations or institutions and not as a matter of public right.

"Speed hump" means a physical alteration to the horizontal and vertical alignment of a road surface used as a traffic calming measure and conforming to the technical standards established by the Department of Transportation.

C.39:4-8.10 Construction of speed humps by municipality.

2. Pursuant to the provisions of section 3 of this act, a municipality may construct a speed hump on totally self-contained two-lane residential streets and on totally self-contained one-way residential streets under municipal jurisdiction which have no direct connection with any street in any other municipality, have fewer than 3,000 vehicles per day, with a posted speed of 30 mph or less, and on one-way streets connecting to county roads. The board of directors of any corporation, or the board of trustees of any corporation or other institution of a public or semipublic nature not for pecuniary profit, having control over private roads, may construct or provide for the construction of a speed hump on any private road subject to the provisions of Title 39 of the Revised Statutes, pursuant to P.L.1945, c.284 (C.39:5A-1 et seq.).

C.39:4-8.11 Conformance of speed humps to DOT standards.

3. Any speed hump constructed by a municipality or a board of directors or trustees shall conform in design and construction to the technical standards established by the Department of Transportation.

A municipality or board shall provide advance warning, including but not limited to, the erection of appropriate signs giving notice of the presence of speed humps before the first speed hump in a series of speed humps and provide for a pavement marker to be placed at the location of the first speed hump. The signing and pavement markings for a speed hump shall conform to the current standards prescribed in the Manual of Uniform Traffic Control Devices for Streets and Highways as adopted by the Commissioner of Transportation.

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

Approved July 14, 2004.

CHAPTER 108

AN ACT concerning funding the County Corrections Information System through the bail filing fee and an increase in the bail filing fee, amending N.J.S.22A:2-29 and supplementing Title 2B of the New Jersey Statutes.

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

C.2B:6-6 Statewide County Corrections Information System.

1. a. The Statewide County Corrections Information System (CCIS) funded in accordance with section 2 of P.L.2004, c.108 (C.2B:6-7), shall serve as the Statewide automated information system for the entry, retrieval and exchange of data related to the management of county jail populations. The counties shall be afforded access to and use the Statewide CCIS and shall not be required to bear any portion of the cost of administration, operation, development or maintenance of the Statewide system. Nothing in this subsection shall prevent a county, at its own expense, from maintaining or obtaining and using an autonomous automated information system for the management of its jail population and related inventories, provided that any such autonomous system is interconnected with the Statewide CCIS in accordance with the requirements of subsection b. of this section.

b. A county that elects to maintain or use an autonomous automated information system for the management of its jail population and related inventories shall take all necessary and appropriate steps to ensure that such system is compatible with all Statewide CCIS technical interconnection requirements, standardized data definitions and functionality necessary to perform the following tasks: fully automated county jail operations; provide the on-line capacity to update the standardized Statewide database; and enable Statewide on-line inquiry and exchange of automated data. A county that elects to maintain and operate an autonomous automated information system shall be responsible for all costs of the interconnection between its system and the Statewide CCIS.

c. Nothing in this section shall preclude, in an emergency situation, the immediate termination, without notice, of any interconnection with an autonomous automated information system if the continued operation of such system at any time threatens or has compromised the security or data integrity of the Statewide CCIS, any of its components or any of the public and quasi-public agencies that exchange automated information with the Statewide CCIS, pursuant to subsection b. of this section. Any county whose interconnection is so terminated shall immediately be provided with written reasons for the termination, which shall continue until the threats to security and data integrity have been removed.

C.2B:6-7 "Statewide CCIS Operations Account;" funding.

2. a. There is established in the General Fund a separate, non-lapsing, dedicated account to be known as the "Statewide CCIS Operations Account."

b. Each fiscal year, the State Treasurer shall credit to the Statewide CCIS Operations Account $12 from each fee for filing papers related to recognizance or civil bail collected pursuant to N.J.S. 22A:2-29.

c. Monies in the Statewide CCIS Operations Account, including interest thereon, shall be available exclusively for the administration, operation, development and maintenance of the statewide CCIS.

3. N.J.S.22A:2-29 is amended to read as follows:

County clerk, deputy clerk of Superior Court, fees.

22A:2-29. Upon the filing, indexing, entering or recording of the following documents or papers in the office of the county clerk or deputy clerk of the Superior Court, such parties, filing or having the same recorded or indexed in the county clerk's office or with the deputy clerk of the Superior Court in the various counties in this State in all civil or criminal causes, shall pay the following fees in lieu of
the fees heretofore provided for the filing, recording or entering of such documents or papers:

In general--

Issuing county clerk's certificate, any instrument	$5.00
Comparing and making copies, per sheet.	$2.00
Copies of all papers, typing and comparing of photostat, per page	$2.00
Marking as a true copy, any instrument	$2.00
Exemplification, any instrument	$10.00
Plus $1.00 per page of instrument.	
Recording or filing all instruments not herein stated.	$7.50

Bonds, bail, recognizances--

Recording all official bonds with acknowledgment and proof of the execution thereof	$9.00
Filing all papers related to recognizance or civil bail	$ 30.00
Filing discharge, attachment bond	$9.00
Filing and recording filiation bond	$9.00
Filing satisfaction of or order discharging filiation bond	$9.00
Recording or discharging sheriff's bond	$9.00

Nonbusiness corporation, recording:

Certificates of incorporation of churches, religious societies and congregations	$25.00

Amendments to certificates of incorporation of churches, religious societies and congregations, recording	$25.00
Bank merger agreements, recording:	
First sheet	$25.00
Each additional sheet, Certificates, each	$5.00
Tradenames, firms, partnerships:	
Certificate of name, filing (see R.S.56:1-1 et seq.)	$50.00
Certificate of dissolution of tradename (see R.S.56:1-6 et seq.)	$25.00
Partnership agreement (see R.S.42:1-1 et seq.)	$50.00
Building and loan or savings and loan associations:	
Change of name	$25.00
Dissolution	$25.00
Certificates for limited-dividend housing associations, recording:	
First page	$20.00
Each additional page	$5.00
Certificates for urban renewal associations, recording:	
First page	$20.00
Each additional page	$5.00
Judgments, et cetera--	
Recording judgments	$15.00
Filing, entering and recording judgment on bond and warrant by attorney	$37.50
Certificate for docketing Superior Court transcript	$9.00
Recording assignment of judgment	$15.00
Issuing transcript of judgment	$7.50
Filing or entering on the record of discharge, cancellation, release or satisfaction of a judgment by satisfaction piece, execution returned satisfied or otherwise	$15.00
For recording and indexing postponement of the lien of judgment.	$20.00
Filing, indexing and recording mechanic's lien claim	$9.00
Recording, filing and noting on the record the discharge, release or satisfaction of a mechanic's lien claim	$9.00
Extension of lien claim	$3.00
Filing statement in mechanic's lien proceeding	$9.00
Filing, recording and indexing mechanic's notice of intention	$4.50
Filing a certificate discharging a mechanic's notice of intention and noting the discharge on the record thereof	$4.50
Filing certificate from court of commencement of suit	$4.50
Filing a court order amending a mechanic's notice of intention	$9.00

Construction lien $15.00
Notice of unpaid balance, discharge $15.00
Notation $5.00
Bond $25.00
Filing a court order to discharge notice of intention and noting the discharge on the record thereof $15.00
Filing, recording and indexing stop notice $4.50
Filing a certificate discharging a stop notice and noting the discharge on the record thereof. $4.50
Filing a court order discharging a stop notice and noting the discharge on the record thereof $9.00
Filing building contract $25.00
Filing discharge of building contract $15.00
Notation $5.00
Filing building specifications. $25.00
Filing building plans $25.00
Filing each notice of physician's lien $15.00
Entering upon the record the discharge of a physician's lien $15.00
Filing each hospital lien claim $15.00
Discharge of hospital lien $15.00
Filing satisfaction or order for discharge of attachment $15.00
Recording collateral inheritance waiver or receipt $15.00
Recording inheritance tax waiver. $15.00
Subordination, release, partial release or postponement of a lien to lien of mortgage $20.00
Notation $5.00

Commissions and oaths--
Administering oaths to notaries public and commissioners of deeds $15.00
For issuing certificate of authority of notary to take proof, acknowledgment of affidavit $5.00
For issuing each certificate of the commission and qualification of notary public for filing with other county clerks $15.00
For filing each certificate of the commission and qualification of notary public, in office of county clerk of county other than where such notary has qualified $15.00

Miscellaneous--Filing and recording proceedings for laying out, vacating or dedicating roads $25.00
Recording firemen's certificates. . . . . No charge.
Registering physician $25.00

Issuing of nonalcoholic beverage identification card to persons under twenty-one years of age $10.00

4. This act shall take effect immediately.

Approved July 14, 2004.

CHAPTER 109

AN ACT appropriating moneys to the Department of Environmental Protection for the purpose of making zero interest loans to project sponsors to finance a portion of the costs of construction of environmental infrastructure projects.

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

1. a. (1) There is appropriated to the Department of Environmental Protection from the Clean Water Fund - State Revolving Fund Accounts (hereinafter referred to as the "Clean Water State Revolving Fund Accounts") an amount equal to the federal fiscal year 2004 capitalization grant made available to the State for clean water projects pursuant to the "Water Quality Act of 1987" (33 U.S.C.s.1251 et seq.), and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Clean Water Act").

(2) There is appropriated to the Department of Environmental Protection from the Drinking Water State Revolving Fund an amount equal to the federal fiscal year 2004 capitalization grant made available to the State for drinking water projects pursuant to the "Safe Drinking Water Act Amendments of 1996" Pub.L.104-182, and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Safe Drinking Water Act").

The Department of Environmental Protection is authorized to transfer from the Clean Water State Revolving Fund Accounts to the Drinking Water State Revolving Fund an amount up to the maximum amount authorized to be transferred pursuant to the Federal Safe Drinking Water Act to meet present and future needs for the financing of eligible drinking water projects, and an amount equal to said maximum amount is hereby appropriated to the department for those purposes.

(3) There is appropriated to the Department of Environmental Protection the unappropriated balances from the "Wastewater Treatment Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985," (P.L.1985, c.329).

(4) There is appropriated to the Department of Environmental Protection the sum of $20,000,000 from the "2003 Water Resources and Wastewater Treatment Fund" established pursuant to subsection a. of section 19 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003," (P.L.2003, c.162).

(5) Of the sums appropriated to the Department of Environmental Protection from the "Water Supply Fund" established pursuant to section 14 of the "Water Supply Bond Act of 1981" (P.L.1981, c.261) pursuant to P.L.2001, c.222, the department is authorized to transfer such amounts as needed to the Drinking Water State Revolving Fund for the purpose of providing the State match as required or will be required for the award of the capitalization grants made available to the State for drinking water projects pursuant to the Federal Safe Drinking Water Act.

(6) Of the sums appropriated to the Department of Environmental Protection from the "1992 Wastewater Treatment Fund" established pursuant to section 27 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," (P.L.1992, c.88) pursuant to P.L.1996, c.85, P.L.1997, c.221, P.L.1998, c.84, P.L.1999, c.174, P.L.2000, c.92, P.L.2001, c.222 and P.L.2002, c.70, the department is authorized to transfer any unexpended balances and any repayments of loans therefrom in such amounts as needed to the Clean Water State Revolving Fund Accounts for the purpose of providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(7) Of the sums appropriated to the Department of Environmental Protection from the "2003 Water Resources and Wastewater Treatment Fund" established pursuant to subsection a. of section 19 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003," (P.L.2003, c.162) pursuant to P.L.2004, c.109, the department is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund Accounts for the purpose of providing the State match as required or will be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

Any such amounts shall be for the purpose of making zero interest loans, to the extent sufficient funds are available, to or on behalf of local government units or public water utilities (hereinafter referred to as "project sponsors") to finance a portion of the cost of construction of clean water projects and drinking water projects listed in sections 2 and 3 of this act, and for the purpose of implementing and administering the provisions of this act, to the extent permitted by the Federal Clean Water Act, and any amendatory and supplementary acts thereto, the "Wastewater Treatment Bond Act of 1985"

(P.L.1985, c.329), the "Water Supply Bond Act of 1981," (P.L.1981, c.261), the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989" (P.L.1989, c.181), the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," (P.L.1992, c.88), the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003," (P.L.2003, c.162), the Federal Safe Drinking Water Act, and any amendatory and supplementary acts thereto, and State law.

b. The department is authorized to make zero interest loans to or on behalf of the project sponsors for the environmental infrastructure projects listed in subsection a. of section 2 and subsection a. of section 3 of this act for clean water projects, and subsection b. of section 2 and subsection b. of section 3 of this act for drinking water projects, up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the Commissioner of Environmental Protection pursuant to section 6 of this act, or if a project fails to meet the requirements of section 4 of this act.

c. The department is authorized to make zero interest loans to or on behalf of the project sponsors for the environmental infrastructure projects listed in sections 2 and 3 of this act under the same terms, conditions and requirements as set forth in this section from any unexpended balances of the amounts appropriated pursuant to section 1 of P.L.1987, c.200, section 2 of P.L.1988, c.133, section 1 of P.L.1989, c.189, section 1 of P.L.1990, c.99, section 1 of P.L.1991, c.325, section 1 of P.L.1992, c.38, section 1 of P.L.1993, c.193, section 1 of P.L.1994, c.106, section 1 of P.L.1995, c.219, section 1 of P.L.1996, c.85, section 1 of P.L.1997, c.221, section 2 of P.L.1998, c.84, section 2 of P.L.1999, c.174, or section 2 of P.L.2000, c.92, including amounts resulting from the final building cost reductions authorized pursuant to section 6 of P.L.1987, c.200, section 7 of P.L.1988, c.133, section 6 of P.L.1989, c.189, section 6 of P.L.1990, c.99, section 6 of P.L.1991, c.325, section 6 of P.L.1992, c.38, section 6 of P.L.1993, c.193, section 6 of P.L.1994, c.106, section 6 of P.L.1995, c.219, section 6 of P.L.1996, c.85, section 6 of P.L.1997, c.221, section 7 of P.L.1998, c.84, section 6 of P.L.1999, c.174, section 6 of P.L.2000, c.92, section 6 of P.L.2001, c.222, section 6 of P.L.2002, c.70 and section 6 of P.L.2003, c.158, and from any repayments of loans from the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," or amounts deposited therein during State fiscal year 2004 pursuant to the provisions of section 16 of P.L.1985, c.329, including any Clean Water State Revolving Fund Accounts contained within the "Wastewater Treatment Fund," and from any repayment of loans from the Drinking Water State Revolving Fund.

2. a. (1) The department is authorized to expend funds for the purpose of making supplemental zero interest loans to or on behalf of the project sponsors listed below for the following clean water environmental infrastructure projects:

Project Number	Project Sponsor	Estimated Allowable Loan Amount
340385-02-1	Berkeley Heights Township	$340,000
340641-02-1	Camden City	$3,710,000
340536-05-1	Mercer County Improvement Authority	$150,000
340321-01-1	Montclair State University	$822,000
340750-05-1	Ocean Township SA	$1,815,000
340547-07/09-1	Rahway Valley SA	$1,890,000
343046-01-1	Middle Township	$198,000
343043-01-1	Old Bridge Township	$6,183,000
	TOTAL	$15,108,000

(2) The loans authorized in this subsection shall be made for the difference between the allowable loan amounts required by these projects based upon final building costs pursuant to section 6 of this act and the loan amounts certified by the commissioner in State fiscal years 2002, 2003 and 2004 and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the department pursuant to section 4 of P.L.1985, c.329. The loans authorized in this subsection shall be made to or on behalf of the project sponsors listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 4 of this act.

(3) The zero interest loans for the projects authorized in this subsection shall have priority over projects listed in subsection a. of section 3 of this act.

b. (1) The department is authorized to expend funds for the purpose of making supplemental loans to or on behalf of the project sponsors listed below for the following drinking water environmental infrastructure projects:

Project Number	Project Sponsor	Estimated Allowable Loan Amount
0408001-012-1	Camden City	$1,357,000
0720001-002-1	Verona Township	$1,200,000
0818004-001-1	Washington Township MUA	$1,751,000
	TOTAL	$4,308,000

(2) The loans authorized in this subsection shall be made for the difference between the allowable loan amounts required by these projects based upon final building costs pursuant to subsection a. of section 7 of this act and

the loan amounts certified by the commissioner in State fiscal years 2002 and 2003, and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the department pursuant to section 5 of P.L.1981, c.261. The loans authorized in this subsection shall be made to or on behalf of the project sponsors listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 4 of this act.

(3) The loans authorized in this subsection shall have priority over the environmental infrastructure projects listed in subsection b. of section 3 of this act.

3. a. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2005 Clean Water Project Priority List":

Project Number	**Project Sponsor**	**Estimated Allowable Loan Amount**
340815-05	Newark City	$11,396,000
340259-02	Kearny Town	$9,972,000
340952-03	North Hudson SA	$12,000,000
340547-10	Rahway Valley SA	$69,340,000
340928-04	Jersey City MUA	$1,761,000
340926-02	Paterson City	$5,270,000
340848-01	East Newark Borough	$375,000
340381-06	Roxbury Township	$973,000
340416-13	Trenton City	$1,114,000
343045-01	Cape May City	$3,819,000
343037-01	Burlington County BCF	$3,164,000
340815-07	Newark City	$10,401,000
340815-08	Newark City	$1,691,000
340809-05	Atlantic County UA	$4,026,000
343051-01	Hamilton Township	$1,155,000
340366-07	Camden City	$ 4,821,000
343058-01	Voorhees Township	$5,198,000
343010-02	Brick Township	$1,585,000
343021-02	Middletown Township	$2,958,000
343055-01	New Jersey Water Supply Authority - Manasquan Basin	$825,000
343055-01A	New Jersey Water Supply Authority/Howell Township	$2,944,000
343023-02	Evesham Township	$495,000
342005-01/ 340679-01	Linden City	$5,686,000
343054-01	New Jersey Water Supply Authority - Raritan Basin	$1,677,000
343054-01A	New Jersey Water Supply Authority/Clinton Township/	

	Lebanon Township/ Bethlehem Township/ Readington Township	$12,916,000
343056-01	Ridgewood Village	$2,968,000
340029-02	Secaucus Township	$3,564,000
343034-03	Readington Township	$572,000
340620-05	Barnegat Township	$1,320,000
343012-01	Clinton Township	$7,875,000
343047-01	Byram Township	$1,382,000
343052-01	Milltown Borough	$3,349,000
343053-01	Mine Hill Township	$990,000
343057-01	Stockton Borough	$212,000
340366-05	Camden City	$2,926,000
340103-01	South Orange Village	$825,000
340372-25	Ocean County UA	$6,385,000
340801-05	Somerset Raritan Valley SA	$5,357,000
340364-03	Gloucester Township MUA	$2,277,000
340377-02	South Monmouth Regional SA	$3,460,000
340969-04	Berkeley Township SA	$1,493,000
340837-01	Montclair Township	$479,000
340888-01	North Brunswick Township	$639,000
340858-02	Cranford Township	$1,135,000
340858-03	Cranford Township	$2,920,000
340947-02	West Deptford Township	$5,435,000
340881-03	Hawthorne Borough	$992,000
340170-02	Cinnaminson SA	$1,108,000
340698-01	Middlesex Borough	$930,000
340873-01	Clinton Township SA	$296,000
340778-05	West Paterson Borough	$544,000
340569-03	Byram Township	$150,000
340110-01	Bergen County Improvement Authority	$100,000,000
340108-01	Edgewater Park SA	$250,000
340391-07	Ewing Lawrence SA	$4,671,000
340109-01	Pohatcong Township	$315,000
	TOTAL	$340,380,000

b. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2005 Drinking Water Project Priority List":

Project Number	**Project Sponsor**	**Estimated Allowable Loan Amount**
2119001-005	Aqua New Jersey Inc.	$1,437,000
1613001-013	North Jersey District Water Supply Commission	$28,378,000
1011001-004	New Jersey American Water Company - Frenchtown	$487,000
0613001-001	Seabrook Water Corporation	$318,000
1505004-001	Berkeley Township MUA	$4,402,000
0408001-014	Camden City	$706,000

0408001-013	Camden City	$12,292,000
1518001-001/002	Cedar Glen Homes Inc.	$452,000
0604001-004	Bayview Water Company/ Middlesex Water Company	$339,000
0324001-005	Mount Laurel Township MUA	$8,893,000
0319001-003	Maple Shade Township	$1,923,000
1111001-003	Trenton City	$7,623,000
1339001-002	Shorelands Water Company, Inc.	$3,025,000
1216001-004	Perth Amboy City	$596,000
0221001-001/002	Garfield City	$3,355,000
0820001-001	West Deptford Township	$1,063,000
1225001-008	Middlesex Water Company	$3,575,000
1225001-017	Middlesex Water Company	$5,079,000
0808001-002	South Jersey Water Supply Company	$195,000
2101001-002	Allamuchy Township	$500,000
1616001-002/003	West Paterson Borough	$650,000
1415001-003	Fayson Lake Water Company	$237,000
0103001-007	Brigantine City	$2,512,000
0424001-002	Merchantville-Pennsauken Water Commission	$1,636,000
1530004-001	Stafford Township	$5,868,000
1504001-002	Beachwood Borough	$304,000
0324001-003	Mount Laurel Township MUA	$776,000
0713001-008	Montclair Township	$556,000
1415001-007	Fayson Lake Water Company	$160,000
	TOTAL	$91,481,000

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

a. The commissioner has certified that the project is in compliance with the provisions of P.L.1977, c.224, P.L.1985, c.329, P.L.1992, c.88, P.L.1997, c.223 or P.L.1997, c.225, and any rules and regulations adopted pursuant thereto;

b. The loan amount shall not exceed 50% of the allowable project cost of the environmental infrastructure facility, except that for (1) projects serving a designated Urban Center or Urban Complex; (2) projects that eliminate, reduce or improve combined sewer overflows; or (3) open space land acquisition projects, the loan amount shall not exceed 75% of the allowable project cost of the environmental infrastructure facility;

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

d. The loan shall be conditioned upon approval of a loan from the New Jersey Environmental Infrastructure Trust pursuant to P.L.2004, c.110;

e. The loan shall be subject to any other terms and conditions as may be established by the commissioner and approved by the State Treasurer, which may include, notwithstanding any other provision of law to the contrary, subordination of a loan authorized in this act to loans made by the

trust pursuant to P.L.2004, c.110, or to administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5).

5. The priority lists and authorization for the making of loans pursuant to sections 2 and 3 of this act shall expire on July 1, 2005, and any project sponsor which has not executed and delivered a loan agreement with the department for a loan authorized in this act shall no longer be entitled to that loan.

6. The Commissioner of Environmental Protection is authorized to reduce or increase the individual amount of loan funds made available to or on behalf of project sponsors pursuant to sections 2 and 3 of this act based upon final building costs defined in and determined in accordance with rules and regulations adopted by the commissioner pursuant to section 4 of P.L.1985, c.329, section 11 of P.L.1977, c.224 (C.58:12A-11) or section 5 of P.L.1981, c.261, provided that the total loan amount does not exceed the original loan amount.

7. The expenditure of the funds appropriated by this act is subject to the provisions and conditions of P.L.1977, c.224, P.L.1985, c.329, P.L.1992, c.88, P.L.1997, c.223 or P.L.1997, c.225, and the rules and regulations adopted by the commissioner pursuant thereto, and the provisions of the Federal Clean Water Act or the Federal Safe Drinking Water Act, as appropriate.

8. The Department of Environmental Protection shall provide general technical assistance to any project sponsor requesting assistance regarding environmental infrastructure project development or applications for funds for a project.

9. a. Prior to repayment to the "Wastewater Treatment Fund" pursuant to the provisions of section 16 of P.L.1985, c.329, prior to repayment to the "1992 Wastewater Treatment Fund" pursuant to the provisions of section 28 of P.L.1992, c.88, prior to repayment to the Drinking Water State Revolving Fund, prior to repayment to the "Stormwater Management and Combined Sewer Overflow Abatement Fund" pursuant to the provisions of section 15 of P.L.1989, c.181, prior to repayment to the "2003 Water Resources and Wastewater Treatment Fund" pursuant to the provisions of section 20 of P.L.2003, c.162, or prior to repayment to the "Water Supply Fund" pursuant to the provisions of section 15 of P.L.1981, c.261, repayments of loans made pursuant to these acts may be utilized by the New Jersey Environmental Infrastructure Trust established pursuant to P.L.1985,

c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224, under terms and conditions established by the commissioner and trust, and approved by the State Treasurer, and consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and federal tax, environmental or securities law, to the extent necessary to secure repayment of trust bonds issued to finance loans approved pursuant to P.L.2004, c.110, and to secure the administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors receiving trust loans.

b. Prior to repayment to the "Wastewater Treatment Fund" pursuant to the provisions of section 16 of P.L.1985, c.329, prior to repayment to the "1992 Wastewater Treatment Fund" pursuant to the provisions of section 28 of P.L.1992, c.88, prior to repayment to the "Water Supply Fund" pursuant to the provisions of section 15 of P.L.1981, c.261, prior to repayment to the Drinking Water State Revolving Fund, prior to repayment to the "2003 Water Resources and Wastewater Treatment Fund" pursuant to the provisions of section 20 of P.L.2003, c.162, or prior to repayment to the "Stormwater Management and Combined Sewer Overflow Abatement Fund" pursuant to the provisions of section 15 of P.L.1989, c.181, the trust is further authorized to utilize repayments of loans made pursuant to P.L.1989, c.189, P.L.1990, c.99, P.L.1991, c.325, P.L.1992, c.38, P.L.1993, c.193, P.L.1994, c.106, P.L.1995, c.219, P.L.1996, c.85, P.L.1997, c.221, P.L.1998, c.84, P.L.1999, c.174, P.L.2000, c.92, P.L.2001, c.222, P.L.2002, c.70, P.L.2003, c.158 or P.L.2004, c.110 to secure repayment of trust bonds issued to finance loans approved pursuant to P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159 or P.L.2004, c.110, and to secure the administrative fees payable to the trust under these loans pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5).

c. To the extent that any loan repayment sums are used to satisfy any trust bond repayment or administrative fee payment deficiencies, the trust shall repay such sums to the department for deposit into the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the Drinking Water State Revolving Fund, the "2003 Water Resources and Wastewater Treatment Fund," or the "Stormwater Management and Combined Sewer Overflow Abatement Fund," as appropriate, from amounts received by or on behalf of the trust from project sponsors causing any such deficiency.

10. The Commissioner of Environmental Protection is authorized to enter into capitalization grant agreements as may be required pursuant to the Federal Clean Water Act or the Federal Safe Drinking Water Act.

11. There is appropriated to the New Jersey Environmental Infrastructure Trust established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) from repayments of loans deposited in any account, including the Clean Water State Revolving Fund Accounts contained within the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund," or the Drinking Water State Revolving Fund, as appropriate, and from any net earnings received from the investment and reinvestment of such deposits, such sums as the chairman of the trust shall certify to the Commissioner of Environmental Protection to be necessary and appropriate for deposit into one or more reserve funds established by the trust pursuant to section 11 of P.L.1985, c.334 (C.58:11B-11).

12. a.There is appropriated to the New Jersey Environmental Infrastructure Trust established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) from repayments of loans deposited in any account, including the Clean Water State Revolving Fund Accounts contained within the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund," or the Drinking Water State Revolving Fund, as appropriate, and from any net earnings received from the investment and reinvestment of such deposits, the sum of $100,000,000, consisting of:

(1) the unexpended balance of $50,000,000 currently on deposit in the special fund (hereinafter referred to as the "Interim Financing Program Fund") created and established by the trust for the short-term or temporary loan financing or refinancing program (hereinafter referred to as the "Interim Financing Program") authorized pursuant to subsection d. of section 9 of P.L.1985, c.334 (C.58:11B-9), which balance previously had been appropriated to the trust for such purpose pursuant to section 12 of P.L.2001, c.222, and

(2) $50,000,000 to be deposited in the Interim Financing Program Fund, provided that the amount so reappropriated and appropriated to the trust for deposit in the Interim Financing Program Fund shall be utilized by the trust to make short-term or temporary loans pursuant to the Interim Financing Program to any one or more of the project sponsors, for the respective projects thereof, identified in the interim financing project priority list (hereinafter referred to as the "Interim Financing Program Eligibility List") in the form provided to the Legislature by the Commissioner of Environmental Protection.

b. The Interim Financing Program Eligibility List shall be submitted to the Legislature on or before June 17, 2004 on a day when both Houses are meeting. The President of the Senate and the Speaker of the General Assem-

bly shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. Any environmental infrastructure project or the project sponsor thereof not identified in the Interim Financing Program Eligibility List shall not be eligible for a short-term or temporary loan from the Interim Financing Program Fund.

13. This act shall take effect immediately.

Approved July 23, 2004.

CHAPTER 110

AN ACT authorizing the expenditure of funds by the New Jersey Environmental Infrastructure Trust for the purpose of making loans to eligible project sponsors to finance a portion of the cost of construction of environmental infrastructure projects, supplementing P.L.1985, c.334 (C.58:11B-1 et seq.), and making an appropriation.

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

1. a. The New Jersey Environmental Infrastructure Trust, established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224, is authorized to expend the aggregate sum of up to $350,000,000, and any unexpended balance of the aggregate expenditures authorized pursuant to section 1 of P.L.2000, c.93, section 1 of P.L.2001, c.224 and section 1 of P.L.2002, c.71 for the purpose of making loans, to the extent sufficient funds are available, to or on behalf of local government units or public water utilities (hereinafter referred to as "project sponsors") to finance a portion of the cost of construction of environmental infrastructure projects listed in sections 2 and 4 of this act.

b. The trust is authorized to increase the aggregate sums specified in subsection a. of this section by:

(1) the amounts of capitalized interest and the bond issuance expenses as provided in subsection b. of section 7 of this act;

(2) the amounts of reserve capacity expenses and debt service reserve fund requirements as provided in subsection c. of section 7 of this act;

(3) the interest earned on amounts deposited for project costs pending their distribution to project sponsors as provided in subsection d. of section 7 of this act; and

(4) the amounts of the loan origination fee as provided in subsection e. of section 7 of this act.

c. (1) Of the sums appropriated to the trust from the "Wastewater Treatment Trust Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985," (P.L.1985, c.329) pursuant to P.L.1987, c.198, the trust is authorized to transfer such amounts as needed to the Clean Water Fund - State Revolving Fund Accounts (hereinafter referred to as the "Clean Water State Revolving Fund Accounts") for the purposes of issuing loans or providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the "Water Quality Act of 1987" (33 U.S.C.s.1251 et seq.), and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Clean Water Act").

(2) Of the sums appropriated to the trust from the "1992 Wastewater Treatment Trust Fund" established pursuant to section 27 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," (P.L.1992, c.88) pursuant to P.L.1996, c.86, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund Accounts for the purpose of providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(3) Of the sums appropriated to the trust from the "Stormwater Management and Combined Sewer Overflow Abatement Fund" created pursuant to section 14 of the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," (P.L.1989, c.181) pursuant to P.L.1998, c.87, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund Accounts for the purpose of providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(4) Of the sums appropriated to the trust from the "2003 Water Resources and Wastewater Treatment Trust Fund" established pursuant to subsection b. of section 19 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003," (P.L.2003, c.162) pursuant to P.L.2004, c.110, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund Accounts for the purpose of providing the State match as required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

d. For the purposes of this act:

(1) "capitalized interest" means the amount equal to interest paid on trust bonds which is funded with trust bond proceeds and the earnings thereon;

(2) "issuance expenses" means and includes, but need not be limited to, the costs of financial document printing, bond insurance premiums or other credit enhancement, underwriters' discount, verification of financial calcula-

tions, the services of bond rating agencies and trustees, the employment of accountants, attorneys, financial advisors, loan servicing agents, registrars, and paying agents, and any other costs related to the issuance of trust bonds;

(3) "reserve capacity expenses" means those project costs for reserve capacity not eligible for loans under rules and regulations governing zero interest loans adopted by the Commissioner of Environmental Protection pursuant to section 4 of P.L.1985, c.329 but which are eligible for loans from the trust in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27);

(4) "debt service reserve fund expenses" means the debt service reserve fund costs associated with reserve capacity expenses, water supply projects for which the project sponsors are public water utilities as provided in section 9 of P.L.1985, c.334 (C.58:11B-9), and other drinking water projects not eligible for, or interested in, State or federal debt service reserve funds pursuant to the "Water Supply Bond Act of 1981," P.L.1981, c.261, as amended and supplemented by P.L.1997, c.223; and

(5) "loan origination fee" means the fee charged by the Department of Environmental Protection and financed under the trust loan to pay a portion of the costs incurred by the department in the implementation of the New Jersey Environmental Infrastructure Financing Program.

e. The trust is authorized to increase the loan amount in the future to compensate for a refunding of the issue, provided adequate savings are achieved, for the loans issued pursuant to P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159 and P.L.2004, c.110.

2. a. (1) The New Jersey Environmental Infrastructure Trust is authorized to expend funds for the purpose of making supplemental loans to or on behalf of the project sponsors listed below for the following clean water environmental infrastructure projects:

Project Number	**Project Sponsor**	**Estimated Allowable Loan Amount**
340385-02-1	Berkeley Heights Township	$340,000
340641-02-1	Camden City	$1,237,000
340536-05-1	Mercer County Improvement Authority	$150,000
340321-01-1	Montclair State University	$822,000
340750-05-1	Ocean Township SA	$1,815,000
340547-07/09-1	Rahway Valley SA	$1,890,000
343046-01-1	Middle Township	$66,000
343043-01-1	Old Bridge Township	$2,061,000
	TOTAL	$8,081,000

(2) The loans authorized in this subsection shall be made for the difference between the allowable loan amounts required by these projects based upon final building costs pursuant to subsection a. of section 7 of this act and the loan amounts certified by the chairman of the trust in State fiscal years 2002, 2003 and 2004, and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27). The loans authorized in this subsection shall be made to or on behalf of the project sponsors listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 6 of this act.

(3) The loans authorized in this subsection shall have priority over the environmental infrastructure projects listed in subsection a. of section 4 of this act.

b. (1) The trust is authorized to expend funds for the purpose of making supplemental loans to or on behalf of the project sponsors listed below for the following drinking water environmental infrastructure projects:

Project Number	**Project Sponsor**	**Estimated Allowable Loan Amount**
0408001-012-1	Camden City	$453,000
0720001-002-1	Verona Township	$1,200,000
0818004-001-1	Washington Township MUA	$1,751,000
	TOTAL	$3,404,000

(2) The loans authorized in this subsection shall be made for the difference between the allowable loan amounts required by these projects based upon final building costs pursuant to subsection a. of section 7 of this act and the loan amounts certified by the chairman of the trust in State fiscal years 2002 and 2003, and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27). The loans authorized in this subsection shall be made to or on behalf of the project sponsors listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 6 of this act.

(3) The loans authorized in this subsection shall have priority over the environmental infrastructure projects listed in subsection b. of section 4 of this act.

3. a. The New Jersey Environmental Infrastructure Trust is authorized to make loans to or on behalf of the project sponsors for the clean water projects listed in subsection a. of section 2 and subsection a. of section 4 of

this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the trust pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act. The trust is authorized to increase any such amount pursuant to subsection b., c., d. or e. of section 7 or section 8 of this act.

b. The trust is authorized to make loans to project sponsors for the drinking water projects listed in subsection b. of section 2 and subsection b. of section 4 of this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the trust pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act. The trust is authorized to increase any such amount pursuant to subsection b., c., d. or e. of section 7 or section 8 of this act.

4. a. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2005 Clean Water Project Priority List":

Project Number	**Project Sponsor**	**Estimated Allowable Loan Amount**
340815-05	Newark City	$3,799,000
340259-02	Kearny Town	$3,324,000
340952-03	North Hudson SA	$4,000,000
340547-10	Rahway Valley SA	$69,340,000
340928-04	Jersey City MUA	$587,000
340926-02	Paterson City	$1,757,000
340848-01	East Newark Borough	$125,000
340381-06	Roxbury Township	$973,000
340416-13	Trenton City	$372,000
343045-01	Cape May City	$1,273,000
343037-01	Burlington County BCF	$1,055,000
340815-07	Newark City	$3,468,000
340815-08	Newark City	$564,000
340809-05	Atlantic County UA	$1,342,000
343051-01	Hamilton Township	$385,000
340366-07	Camden City	$1,607,000
343058-01	Voorhees Township	$1,733,000
343010-02	Brick Township	$529,000
343021-02	Middletown Township	$986,000
343055-01	New Jersey Water Supply Authority - Manasquan Basin	$275,000
343055-01A	New Jersey Water Supply Authority/Howell Township	$982,000
343023-02	Evesham Township	$165,000
342005-01/ 340679-01	Linden City	$5,686,000
343054-01	New Jersey Water Supply Authority - Raritan Basin	$560,000

343054-01A	New Jersey Water Supply Authority/Clinton Township/ Lebanon Township/Bethlehem Township/Readington Township	$4,306,000
343056-01	Ridgewood Village	$990,000
340029-02	Secaucus Township	$1,188,000
343034-03	Readington Township	$191,000
340620-05	Barnegat Township	$1,320,000
343012-01	Clinton Township	$2,625,000
343047-01	Byram Township	$461,000
343052-01	Milltown Borough	$1,117,000
343053-01	Mine Hill Township	$330,000
343057-01	Stockton Borough	$71,000
340366-05	Camden City	$976,000
340103-01	South Orange Village	$825,000
340372-25	Ocean County UA	$6,385,000
340801-05	Somerset Raritan Valley SA	$5,357,000
340364-03	Gloucester Township MUA	$2,277,000
340377-02	South Monmouth Regional SA	$3,460,000
340969-04	Berkeley Township SA	$1,493,000
340837-01	Montclair Township	$479,000
340888-01	North Brunswick Township	$639,000
340858-02	Cranford Township	$1,135,000
340858-03	Cranford Township	$2,920,000
340947-02	West Deptford Township	$5,435,000
340881-03	Hawthorne Borough	$992,000
340170-02	Cinnaminson SA	$1,108,000
340698-01	Middlesex Borough	$930,000
340873-01	Clinton Township SA	$296,000
340778-05	West Paterson Borough	$544,000
340569-03	Byram Township	$150,000
340110-01	Bergen County Improvement Authority	$100,000,000
340108-01	Edgewater Park SA	$250,000
340391-07	Ewing Lawrence SA	$4,671,000
340109-01	Pohatcong Township	$315,000
	TOTAL	$258,123,000

b. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2005 Drinking Water Project Priority List":

Project Number	**Project Sponsor**	**Estimated Allowable Loan Amount**
2119001-005	Aqua New Jersey Inc.	$1,437,000
1613001-013	North Jersey District Water Supply Commission	$16,667,000
1011001-004	New Jersey American Water Company - Frenchtown	$487,000
0613001-001	Seabrook Water Corporation	$318,000
1505004-001	Berkeley Township MUA	$4,402,000

0408001-014	Camden City	$236,000
0408001-013	Camden City	$4,098,000
1518001-001/002	Cedar Glen Homes Inc.	$452,000
0604001-004	Bayview Water Company/ Middlesex Water Company	$339,000
0324001-005	Mount Laurel Township MUA	$8,893,000
0319001-003	Maple Shade Township	$1,923,000
1111001-003	Trenton City	$6,237,000
1339001-002	Shorelands Water Company, Inc.	$3,025,000
1216001-004	Perth Amboy City	$596,000
0221001-001/002	Garfield City	$3,355,000
0820001-001	West Deptford Township	$1,063,000
1225001-008	Middlesex Water Company	$3,575,000
1225001-017	Middlesex Water Company	$5,079,000
0808001-002	South Jersey Water Supply Company	$195,000
2101001-002	Allamuchy Township	$500,000
1616001-002/003	West Paterson Borough	$650,000
1415001-003	Fayson Lake Water Company	$237,000
0103001-007	Brigantine City	$2,512,000
0424001-002	Merchantville-Pennsauken Water Commission	$1,636,000
1530004-001	Stafford Township	$5,868,000
1504001-002	Beachwood Borough	$304,000
0324001-003	Mount Laurel Township MUA	$776,000
0713001-008	Montclair Township	$556,000
1415001-007	Fayson Lake Water Company	$160,000
	TOTAL	$81,431,000

5. In accordance with and subject to the provisions of sections 5, 6 and 23 of P.L.1985, c.334 (C.58:11B-5, 58:11B-6, and 58:11B-23) and as set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21), or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1), any proceeds from bonds issued by the trust to make loans for priority environmental infrastructure projects listed in sections 2 and 4 of this act which are not expended for that purpose may be applied for the payment of all or any part of the principal of and interest and premium on the trust bonds whether due at stated maturity, the interest payment dates or earlier upon redemption. A portion of the proceeds from bonds issued by the trust to make loans for priority environmental infrastructure projects pursuant to this act may be applied for the payment of capitalized interest and for the payment of any issuance expenses; for the payment of reserve capacity expenses; for the payment of debt service reserve fund expenses; and for the payment of increased costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

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

a. The chairman of the trust has certified that the project is in compliance with the provisions of P.L.1977, c.224, P.L.1985, c.334, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.224, P.L.1997, c.225 or P.L.1999, c.175, and any rules and regulations adopted pursuant thereto. In making this certification, the chairman may conclusively rely on the project review conducted by the Department of Environmental Protection without any independent review thereof by the trust;

b. The loan shall be conditioned upon approval of a zero interest loan from the Department of Environmental Protection from the "Water Supply Fund" established pursuant to section 14 of the "Water Supply Bond Act of 1981," (P.L.1981, c.261), as amended by P.L.1983, c.355 and amended and supplemented by P.L.1997, c.223, the "Wastewater Treatment Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985" (P.L.1985, c.329), the "1992 Wastewater Treatment Fund" established pursuant to section 27 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992" (P.L.1992, c.88), the "2003 Water Resources and Wastewater Treatment Fund" established pursuant to section 19 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003" (P.L.2003, c.162), or the Drinking Water State Revolving Fund established pursuant to section 1 of P.L.1998, c.84;

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

d. The loan shall not exceed the allowable project cost of the environmental infrastructure facility, exclusive of capitalized interest and issuance expenses as provided in subsection b. of section 7 of this act, reserve capacity expenses and the debt service reserve fund expenses as provided in subsection c. of section 7 of this act, interest earned on project costs as provided in subsection d. of section 7 of this act, the amounts of the loan origination fee as provided in subsection e. of section 7 of this act, refunding increases as provided in section 8 of this act and increased costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27);

e. The loan shall bear interest, exclusive of any late charges or administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors receiving trust loans, at or below the interest rate paid by the trust on the bonds issued to make or refund the loans authorized by this act, adjusted for underwriting discount and original issue discount or premium, in accordance with the terms and conditions set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1); and

f. The loan shall be subject to all other terms and conditions as the trust shall determine to be consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and any rules and regulations adopted pursuant thereto, and with the financial plan required by section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1).

The priority lists and authorization for the making of loans pursuant to this act shall expire on July 1, 2005, and any project sponsor which has not executed and delivered a loan agreement with the trust for a loan authorized in this act shall no longer be entitled to that loan.

7. a. The New Jersey Environmental Infrastructure Trust is authorized to reduce the individual amount of loan funds made available to or on behalf of project sponsors pursuant to sections 2 and 4 of this act based upon final building costs defined in and determined in accordance with rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) or rules and regulations adopted by the Commissioner of Environmental Protection pursuant to section 4 of P.L.1985, c.329, section 11 of P.L.1977, c.224 (C.58:12A-11) or section 5 of P.L.1981, c.261. The trust is authorized to use any such reduction in the loan amount made available to a project sponsor to cover that project sponsor's increased costs due to differing site conditions or other allowable expenses as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

b. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the amount of capitalized interest and issuance expenses allocable to each loan made by the trust pursuant to this act; provided that the increase for issuance expenses, excluding underwriters' discount, original issue discount or premiums, municipal bond insurance premiums and bond rating agency fees, shall not exceed 0.4% of the principal amount of trust bonds issued to make loans authorized by this act.

c. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the amount of reserve capacity expenses, and by the debt service reserve fund expenses associated with such reserve capacity expenses or associated with loans issued to owners of public water utilities, as may be allowed for the project by the trust in accordance with rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

d. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the interest earned on amounts deposited for project costs pending their distribution to project sponsors.

e. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the loan origination fee.

8. The New Jersey Environmental Infrastructure Trust is authorized to increase the individual amount of loan funds made available to project sponsors by the trust pursuant to P.L.1989, c.190, P.L.1990, c.97, P.L.1991, c.324, P.L.1992, c.37, P.L.1993, c.192, P.L.1994, c.105, P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159 or P.L.2004, c.110, provided that adequate savings are achieved, to compensate for a refunding of trust bonds issued to make loans authorized by the aforementioned acts.

9. The expenditure of funds authorized pursuant to this act is subject to the provisions of P.L.1977, c.224 (C.58:12A-1 et seq.), P.L.1985, c.329, P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.225 or P.L.1999, c.175, and the rules and regulations adopted pursuant thereto, and the provisions of the Federal Clean Water Act or the Federal Safe Drinking Water Act, as appropriate.

10. a. There is appropriated to the New Jersey Environmental Infrastructure Trust from the "2003 Water Resources and Wastewater Treatment Trust Fund" established pursuant to subsection b. of section 19 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 $5,000,000 and any net earnings received from the investment or deposit of moneys in the "2003 Water Resources and Wastewater Treatment Trust Fund."

b. The New Jersey Environmental Infrastructure Trust shall utilize the moneys appropriated under this section to establish a reserve fund as required pursuant to paragraph (3) of subsection a. of section 20 of P.L.2003, c.162 and section 11 of P.L.1985, c.334 (C.58:11B-11).

c. The expenditure of the sums appropriated under this section is subject to the provisions of P.L.2003, c.162, P.L.1985, c.334 (C.58:11B-1 et seq.) and P.L.1997, c.224, and any rules and regulations adopted pursuant thereto.

11. This act shall take effect immediately.

Approved July 23, 2004.

CHAPTER 111

AN ACT concerning environmental infrastructure projects, and amending P.L.1985, c.334 and P.L.1997, c.224.

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

1. Section 3 of P.L.1985, c.334 (C.58:11B-3) is amended to read as follows:

C.58:11B-3 Definitions relative to the New Jersey Environmental Infrastructure Trust.

3. As used in sections 1 through 27 of P.L.1985, c.334 (C.58:11B-1 through 58:11B-27) and sections 23 through 27 of P.L.1997, c.224 (C.58:11B-10.1 et al.):

"Bonds" means bonds issued by the trust pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

"Combined sewer system" means a sewer system designed to carry sanitary wastewater at all times, which is also designed to collect and transport stormwater runoff from streets and other sources, thereby serving a combined purpose;

"Combined sewer overflow" means the discharge of untreated or partially treated stormwater runoff and wastewater from a combined sewer system into a body of water;

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

"Cost" means the cost of all labor, materials, machinery and equipment, lands, property, rights and easements, financing charges, interest on bonds, notes or other obligations, plans and specifications, surveys or estimates of costs and revenues, engineering and legal services, and all other expenses necessary or incident to all or part of an environmental infrastructure project;

"Department" means the Department of Environmental Protection;

"Local government unit" means (1) a State authority, county, municipality, municipal, county or regional sewerage or utility authority, municipal sewerage district, joint meeting, improvement authority, or any other political subdivision of the State authorized to construct, operate and maintain wastewater treatment systems; or (2) a State authority, district water supply commission, county, municipality, municipal, county or regional utilities authority, municipal water district, joint meeting or any other political subdivision of the State authorized pursuant to law to operate or maintain a public water supply system or to construct, rehabilitate, operate or maintain water supply facilities or otherwise provide water for human consumption;

"Notes" means notes issued by the trust pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

"Project" or "environmental infrastructure project" means the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to any (1) wastewater treatment system project, including any stormwater management or combined sewer overflow abatement projects; or (2) water supply project, as authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), including any water resources project, as authorized pursuant to P.L.2003, c.162;

"Public water utility" means any investor-owned water company or small water company;

"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, including nonprofit, noncommunity water systems owned or operated by a nonprofit group or organization;

"Stormwater management system" means any equipment, plants, structures, machinery, apparatus, management practices, or land, or any combination thereof, acquired, used, constructed, implemented or operated to prevent nonpoint source pollution, abate improper cross-connections and interconnections between stormwater and sewer systems, minimize stormwater runoff, reduce soil erosion, or induce groundwater recharge, or any combination thereof;

"Trust" means the New Jersey Environmental Infrastructure Trust created pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4);

"Wastewater" means residential, commercial, industrial, or agricultural liquid waste, sewage, septage, stormwater runoff, or any combination thereof, or other liquid residue discharged or collected into a sewer system or stormwater management system, or any combination thereof;

"Wastewater treatment system" means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed or operated by, or on behalf of, a local government unit for the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for the collection or treatment, or both, of stormwater runoff and wastewater, or for the final disposal of residues resulting from the treatment of wastewater, including, but not limited to, pumping and ventilating stations, treatment plants and works, connections, outfall sewers, interceptors, trunk lines, stormwater management systems, and other personal property and appurtenances necessary for their use or operation; "wastewater treatment system" shall include a stormwater management system or a combined sewer system;

"Wastewater treatment system project" means any work relating to the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to any wastewater treatment system that meets the requirements set forth in sections 20, 21 and 22 of P.L.1985, c.334 (C.58:11B-20, 58:11B-21 and 58:11B-22); or any work relating to any of the stormwater management or combined sewer overflow abatement projects identified in the stormwater management and combined sewer overflow abatement project priority list adopted by the commissioner pursuant to section 28 of P.L.1989, c.181; or any work relating to the purposes set forth in section 6 of P.L.2003, c.162; or any work relating to any other project eligible for financing under the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. s.1251 et seq.), or any amendatory or supplementary acts thereto;

"Water resources project" means any work related to transferring water between public water systems during a state of water emergency, to avert a drought emergency in all or any part of the State, to plan, design or construct interconnections of existing water supplies, or to extend water supplies to areas with contaminated ground water supplies;

"Water supply facilities" means and refers to the real property and the plants, structures, interconnections between existing water supply facilities, machinery and equipment and other property, real, personal and mixed, acquired, constructed or operated, or to be acquired, constructed or operated, in whole or in part, by or on behalf of a public water utility, or by or on behalf of the State or a local government unit, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, or of conserving existing water resources, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering, conserving or transmitting of water, and for the preservation and protection of these resources and facilities, whether in public or private ownership, and providing for the conservation and development of future water supply resources, and facilitating incidental recreational uses thereof;

"Water supply project" means any work relating to the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to water supply facilities that meets the requirements set forth in sections 24, 25 and 26 of P.L.1997, c.224 (C.58:11B-20.1, C.58:11B-21.1 and C.58:11B-22.1); or any work relating to the purposes set forth in section 4 of P.L.1981, c.261; or any work relating to the purposes set forth in section 6 of P.L.2003, c.162; or any work relating to any other project eligible for

funding pursuant to the federal "Safe Drinking Water Act Amendments of 1996" Pub.L.104-182, and any amendatory and supplementary acts thereto.

2. Section 6 of P.L.1985, c.334 (C.58:11B-6) is amended to read as follows:

C.58:11B-6 Issuance of bonds, notes, other obligations.

6. a. Except as may be otherwise expressly provided in the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), the trust may from time to time issue its bonds, notes or other obligations in any principal amounts as in the judgment of the trust shall be necessary to provide sufficient funds for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, notes or other obligations issued by it, whether the bonds, notes or other obligations or the interest or redemption premiums thereon to be funded or refunded have or have not become due, the establishment or increase of reserves or other funds to secure or to pay the bonds, notes or other obligations or interest thereon and all other costs or expenses of the trust incident to and necessary to carry out its corporate purposes and powers.

b. Whether or not the bonds, notes or other obligations of the trust are of a form and character as to be negotiable instruments under the terms of Title 12A of the New Jersey Statutes, the bonds, notes and other obligations are made negotiable instruments within the meaning of and for the purposes of Title 12A of the New Jersey Statutes, subject only to the provisions of the bonds, notes and other obligations for registration.

c. Bonds, notes or other obligations of the trust shall be authorized by a resolution or resolutions of the trust and may be issued in one or more series and shall bear any date or dates, mature at any time or times, bear interest at any rate or rates of interest per annum, be in any denomination or denominations, be in any form, either coupon, registered or book entry, carry any conversion or registration privileges, have any rank or priority, be executed in any manner, be payable in any coin or currency of the United States which at the time of payment is legal tender for the payment of public and private debts, at any place or places within or without the State, and be subject to any terms of redemption by the trust or the holders thereof, with or without premium, as the resolution or resolutions may provide. A resolution of the trust authorizing the issuance of bonds, notes or other obligations may provide that the bonds, notes or other obligations be secured by a trust indenture between the trust and a trustee, vesting in the trustee any property, rights, powers and duties in trust consistent with the provisions of P.L.1985,

c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) as the trust may determine.

d. Bonds, notes or other obligations of the trust may be sold at any price or prices and in any manner as the trust may determine. Each bond, note or other obligation shall mature and be paid not later than 20 years from the effective date thereof, or the certified useful life of the project or projects to be financed by the bonds, whichever is less.

All bonds of the trust shall be sold at such price or prices and in such manner as the trust shall determine, after notice of sale, a summary of which shall be published at least once in at least three newspapers published in the State of New Jersey and at least once in a publication carrying municipal bond notices and devoted primarily to financial news published in New Jersey or the city of New York, the first summary notice to be at least five days prior to the day of bidding. The notice of sale may contain a provision to the effect that any or all bids made in pursuance thereof may be rejected. In the event of such rejection or of failure to receive any acceptable bid, the trust, at any time within 60 days from the date of such advertised sale, may sell such bonds at private sale upon terms not less favorable to the State than the terms offered by any rejected bid. The trust may sell all or part of the bonds of any series as issued to any State fund or to the federal government or any agency thereof, at private sale, without advertisement.

e. Bonds, notes or other obligations of the trust may be issued under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) without obtaining the consent of any department, division, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things, other than those consents, proceedings, conditions or things which are specifically required by P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.).

f. Bonds, notes or other obligations of the trust issued under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) shall not be a debt or liability of the State or of any political subdivision thereof other than the trust and shall not create or constitute any indebtedness, liability or obligation of the State or any political subdivision, but all these bonds, notes and other obligations, unless funded or refunded by bonds, notes or other obligations, shall be payable solely from revenues or funds pledged or available for their payment as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.). Each bond, note and obligation shall contain on its face a statement to the effect that the trust is obligated to pay the principal thereof or the interest thereon only from its revenues, receipts or funds pledged or available for their payment as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.) or

P.L.1997, c.224 (C.58:11B-10.1 et al.), and that neither the State, nor any political subdivision thereof, is obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the State, or any political subdivision thereof, is pledged to the payment of the principal of or the interest on the bonds, notes or other obligations.

g. The aggregate principal amount of bonds, notes or other obligations, including subordinated indebtedness of the trust, shall not exceed $2,000,000,000. In computing the foregoing limitations there shall be excluded all the bonds, notes or other obligations, including subordinated indebtedness of the trust, which shall be issued for refunding purposes, whenever the refunding shall be determined to result in a savings.

(1) Upon the decision by the trust to issue refunding bonds, except for current refunding, and prior to the sale of those bonds, the trust shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the trust relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the trust to issue and sell the refunding bonds at public or private sale and the reasons therefor.

(2) The Joint Budget Oversight Committee or its successor shall have the authority to approve or disapprove the sales of refunding bonds as included in each report submitted in accordance with paragraph (1) of this subsection. The committee shall notify the trust in writing of the approval or disapproval as expeditiously as possible.

(3) No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee or its successor as set forth in paragraphs (1) and (2) of this subsection.

(4) Within 30 days after the sale of the refunding bonds, the trust shall notify the committee of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, the actual amount of debt service savings to be realized as a result of the sale of refunding bonds, and the intended use of the proceeds from the sale of those bonds.

(5) The committee shall review all information and reports submitted in accordance with this subsection and may, on its own initiative, make observations to the trust, or to the Legislature, or both, as it deems appropriate.

h. Each issue of bonds, notes or other obligations of the trust may, if it is determined by the trust, be general obligations thereof payable out of any revenues, receipts or funds of the trust, or special obligations thereof payable out of particular revenues, receipts or funds, subject only to any agreements with the holders of bonds, notes or other obligations, and may be secured by one or more of the following:

(1) Pledge of revenues and other receipts to be derived from the payment of the interest on and principal of notes, bonds or other obligations issued to the trust by one or more local government units, and any other payment made to the trust pursuant to agreements with any local government units, or a pledge or assignment of any notes, bonds or other obligations of any local government unit and the rights and interest of the trust therein;

(2) Pledge of rentals, receipts and other revenues to be derived from leases or other contractual arrangements with any person or entity, public or private, including one or more local government units, or a pledge or assignment of those leases or other contractual arrangements and the rights and interest of the trust therein;

(3) Pledge of all moneys, funds, accounts, securities and other funds, including the proceeds of the bonds, notes or other obligations;

(4) Pledge of the receipts to be derived from the payments of State aid, payable to the trust pursuant to section 12 of P.L.1985, c.334 (C.58:11B-12);

(5) A mortgage on all or any part of the property, real or personal, of the trust then owned or thereafter to be acquired, or a pledge or assignment of mortgages made to the trust by any person or entity, public or private, including one or more local government units and the rights and interest of the trust therein.

i. The trust shall not issue any bonds, notes or other obligations, or otherwise incur any additional indebtedness, on or after November 5, 2025.

j. (Deleted by amendment, P.L.1996, c.88).

3. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to read as follows:

C.58:11B-9 Loans to local government units.

9. a. (1) The trust may make and contract to make loans to local government units, or to a local government unit on behalf of another local government unit, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of any wastewater treatment system project or water supply project, which the local government unit may lawfully undertake or acquire and for which the local government unit is authorized by law to borrow money.

(2) The trust may make and contract to make loans to public water utilities, or to any other person or local government unit on behalf of a public water utility, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of any water supply project, which the public water utility may lawfully undertake or acquire.

(3) The trust may make and contract to make loans to private persons other than local government units, or to any other person or local government unit on behalf of a private person, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of stormwater management systems.

The loans may be made subject to those terms and conditions as the trust shall determine to be consistent with the purposes thereof. Each loan by the trust and the terms and conditions thereof shall be subject to approval by the State Treasurer, and the trust shall make available to the State Treasurer all information, statistical data and reports of independent consultants or experts as the State Treasurer shall deem necessary in order to evaluate the loan. Each loan to a local government unit, public water utility or any other person shall be evidenced by notes, bonds or other obligations thereof issued to the trust. In the case of each local government unit, notes and bonds to be issued to the trust by the local government unit (1) shall be authorized and issued as provided by law for the issuance of notes and bonds by the local government unit, (2) shall be approved by the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs, and (3) notwithstanding the provisions of N.J.S.40A:2-27, N.J.S.40A:2-28 and N.J.S.40A:2-29 or any other provisions of law to the contrary, may be sold at private sale to the trust at any price, whether or not less than par value, and shall be subject to redemption prior to maturity at any times and at any prices as the trust and local government units may agree. Each loan to a local government unit, public water utility or any other person and the notes, bonds or other obligations thereby issued shall bear interest at a rate or rates per annum as the trust and the local government unit, public water utility or any other person, as the case may be, may agree.

b. The trust is authorized to guarantee or contract to guarantee the payment of all or any portion of the principal and interest on bonds, notes or other obligations issued by a local government unit to finance the cost of any wastewater treatment system project or water supply project, which the local government unit may lawfully undertake or acquire and for which the local government unit is authorized by law to borrow money, and the guarantee shall constitute an obligation of the trust for the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.). Each guarantee by the trust and the terms and conditions thereof shall be subject to approval by the State Treasurer, and the trust shall make available to the State Treasurer all information, statistical data and reports of independent consultants or experts as the State Treasurer shall deem necessary in order to evaluate the guarantee.

c. The trust shall not make or contract to make any loans or guarantees to local government units, public water utilities or any other person, or otherwise incur any additional indebtedness, on or after November 5, 2025.

d. Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary, the trust may receive funds from any source or issue its bonds, notes or other obligations in any principal amounts as in the judgment of the trust shall be necessary to provide sufficient funds to finance or refinance short-term or temporary loans to local government units, public water utilities or private persons for any wastewater treatment system projects included on the project priority list for the ensuing fiscal year and eligible for approval pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20) or water supply projects included on the project priority list for the ensuing fiscal year and eligible for approval pursuant to section 24 of P.L.1997, c.224 (C.58:11B-20.1), as applicable, without regard to any other provisions of P.L.1985, c.334 or P.L.1997, c.224, including, without limitation, any administrative or legislative approvals.

The trust shall create and establish a special fund (hereinafter referred to as the "Interim Financing Program Fund") for the short-term or temporary loan financing or refinancing program (hereinafter referred to as the "Interim Financing Program").

Any short-term or temporary loans made by the trust pursuant to this subsection may only be made in advance of the anticipated loans the trust may make and contract to make under the provisions of subsection a. of this section to be financed or refinanced through the issuance of bonds, notes or other obligations of the trust authorized under section 6 of P.L.1985, c.334 (C.58:11B-6). The trust may make short-term or temporary loans pursuant to the Interim Financing Program to any one or more of the project sponsors, for the respective projects thereof, identified in the interim financing project priority list (hereinafter referred to as the "Interim Financing Program Eligibility List") in the form provided to the Legislature by the Commissioner of Environmental Protection.

The Interim Financing Program Eligibility List shall be submitted to the Legislature on or before June 30 of each year on a day when both Houses are meeting. The President of the Senate and the Speaker of the General Assembly shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. Any environmental infrastructure project or the project sponsor thereof not identified in the Interim Financing Program Eligibility List shall not be eligible for a short-term or temporary loan from the Interim Financing Program Fund.

4. Section 27 of P.L.1997, c.224 (C.58:11B-22.2) is amended to read as follows:

C.58:11B-22.2 Submission of consolidated financial plan.

27. As an alternative to the individual annual submissions required by the provisions of sections 21 and 22 of P.L.1985, c.334 (C.58:11B-21 and 58:11B-22) and sections 25 and 26 of P.L.1997, c.224 (C.58:11B-21.1 and C.58:11B-22.1), the trust may develop and submit to the Legislature a consolidated financial plan designed to implement the financing of the wastewater treatment system projects on the project priority list approved pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20), the water supply projects on the project priority list approved pursuant to section 24 of P.L.1997, c.224 (C.58:11B-20.1), the water resources projects and wastewater treatment system projects on the water resources project and wastewater treatment system project priority list developed pursuant to section 31 of P.L.2003, c.162, and any other environmental infrastructure projects approved by the Legislature.

5. This act shall take effect immediately.

Approved July 23, 2004.

CHAPTER 112

AN ACT expanding the mechanisms available to finance local development projects and amending P.L.2001, c.310.

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

1. Section 2 of P.L.2001, c.310 (C.40A:12A-65) is amended to read as follows:

C.40A:12A-65 Definitions relative to "Redevelopment Area Bond Financing Law."

2. As used in sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.):

"Authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), the New Jersey Redevelopment Authority established pursuant to section 4 of P.L.1996, c.62 (C.55:19-23) or other instrumentality created by law by the State with the power to incur debt and issue bonds and other obligations.

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

"Bonds" mean bonds, notes or other obligations issued by the authority, including any State entity, or a municipality to finance or refinance redevelopment projects, and in connection therewith, to finance or refinance any other cost or expense of an authority, a State entity or a municipality pursuant to the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.), the "Local Redevelopment and Housing Law", P.L.1992, c.79 (C.40A:12A-1 et seq.), or other applicable law.

"Financial agreement" means an agreement that meets the requirements of a financial agreement under P.L.1991, c.431 (C.40A:20-1 et seq.) or, in the event that real property within a redevelopment area is exempt from taxation or has been or will be abated pursuant to applicable law, an agreement among a State entity, a municipality and a State entity redeveloper providing for payment of payments in lieu of taxes or special assessments by the State entity redeveloper with respect to a redevelopment project, or part thereof, to be carried out pursuant to a State entity redevelopment agreement.

"Municipality" means the municipal governing body or an entity acting on behalf of the municipality if permitted by the federal Internal Revenue Code of 1986, or, if a redevelopment agency or redevelopment entity is established in the municipality pursuant to P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so provides, the redevelopment agency or entity so established.

"Redeveloper" means any person, firm, corporation or public body, including the New Jersey Economic Development Authority or the New Jersey Redevelopment Authority to the extent permitted by law, that shall enter into or propose to enter into a contract with a municipality or other redevelopment entity for the redevelopment or rehabilitation of an area in need of redevelopment, or an area in need of rehabilitation, or any part thereof, under the provisions of the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.), or for any construction or other work forming part of a redevelopment or rehabilitation project.

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

ment costs and any financing costs and expenses in accordance with a redevelopment plan.

"Redevelopment bond financing agreement" means a contract between a municipality and a redeveloper for any work or undertaking for the redevelopment of a redevelopment area, or part thereof, under the provisions of the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.) or the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), as the case may be.

"Redevelopment area" means an area which has been delineated a "redevelopment area" or "area in need of redevelopment" pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.) or an area in need of redevelopment delineated by a resolution of a State entity in accordance with the provisions of the enabling statute governing that State entity.

"Redevelopment plan" means a plan for the redevelopment or rehabilitation of all or any part of a redevelopment area as described in the redevelopment plan adopted pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7) or as described in the resolution adopted by a State entity determining the location, type and character of a redevelopment project.

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

"Special assessment" means an assessment upon the lands or improvements on such lands, or both, in the redevelopment area benefitted by improvements undertaken pursuant to the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.), or the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), and assessed pursuant to chapter 56 of Title 40 of the Revised Statutes, R.S. 40:56-1 et seq., except as otherwise provided in subsection c. of section 3 of P.L.2001, c.310 (C.40A:12A-66).

"State entity" means the New Jersey Meadowlands Commission established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.) or any other entity created by State law with the power to undertake a redevelopment project directly or through a State entity redeveloper and with the power to determine the location, type and character of a redevelopment project or part of a redevelopment project on land owned or controlled by it.

"State entity redeveloper" means any person, firm or corporation that shall enter into or propose to enter into a State entity redevelopment agreement with a State entity for the redevelopment or rehabilitation of a redevelopment area under the enabling legislation governing the actions of the State entity or for any construction or other work forming a part of a redevelopment project.

"State entity redevelopment agreement" means an agreement between a State entity and a State entity redeveloper for any work or undertaking in a redevelopment area.

2. Section 3 of P.L.2001, c.310 (C.40A:12A-66) is amended to read as follows:

C.40A:12A-66 Tax abatement within redevelopment area; special assessments.

3. a. A municipality that has designated a redevelopment area or a municipality in which a redevelopment project is undertaken by a State entity redeveloper pursuant to a State entity redevelopment agreement may provide for tax abatement within that redevelopment area and for payments in lieu of taxes in accordance with the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) and P.L.1991, c.441 (C.40A:21-1 et seq.); provided, however, that the provisions of section 12 of P.L.1991, c.431 (C.40A:20-12) establishing a minimum or maximum annual service charge and requiring staged increases in annual service charges over the term of the exemption period, and of section 13 of P.L.1991, c.431 (C.40A:20-13) permitting the relinquishment of status under that act, shall not apply to redevelopment projects financed with bonds.

b. A municipality in which a redevelopment project is undertaken by a State entity redeveloper pursuant to a State entity redevelopment agreement regarding real property that is or may be abated by applicable law may provide for a tax abatement within the redevelopment area and for payments in lieu of taxes pursuant to a financial agreement between the municipality and the State entity redeveloper receiving the benefits of P.L.2004, c.112 without regard to the limitations and other provisions of P.L.1991, c.431 (C.40A:20-1 et seq.).

c. In addition to, or in lieu of, the tax abatement provided for in subsection a. or b. of this section, the municipality may provide by ordinance for one or more special assessments within the redevelopment area in accordance with chapter 56 of Title 40 of the Revised Statutes, R.S.40:56-1 et seq., provided, however, that the provisions of R.S.40:56-35 shall be applied so that if any installment of a special assessment shall remain unpaid for 30 days after the time at which it shall become due, the municipality may provide, by ordinance, either that: (1) the whole assessment or balance due

thereon shall become and be immediately due; or, (2) any subsequent installments which would not yet have become due except for the default shall be considered as not in default and that the lien for the installments not yet due shall continue; and provided, further, that the ordinance may require that the assessments be payable in quarterly, semi-annual or yearly installments, with legal interest thereon, over a period of years up to but in no event exceeding the period of years for which the bonds were issued, or for 30 years, whichever shall be less. In levying a special assessment on the lands or improvements, or both, located in the redevelopment area, the municipality may provide that the amount of the special assessment shall be a specific amount, not to exceed the cost of the improvements, paid with respect to property located in the redevelopment area. That specific amount shall, to the extent accepted by the owner of the property benefitted, be deemed the conferred benefit, in lieu of the amount being determined by the procedures otherwise applicable to determining the actual benefit conferred on the property. Special assessments levied pursuant to an ordinance adopted under this subsection shall constitute a municipal lien under R.S.40:56-33.

d. Upon adoption, a copy of the ordinance shall be filed for public inspection in the office of the municipal clerk, and there shall be published in a newspaper, published or circulating in the municipality, a notice stating the fact and the date of adoption and the place where the ordinance is filed and a summary of the contents of the ordinance. The notice shall state that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of the ordinance or the actions authorized to be taken as set forth in the ordinance shall be commenced within 20 days after the publication of the notice. If no action or proceeding questioning the validity of the ordinance providing for tax abatement, special assessments or other actions authorized by the ordinance shall be commenced or instituted within 20 days after the publication of the notice, the county and the school district and all other municipalities within the county and all residents and taxpayers and owners of property therein shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court questioning the validity or enforceability of the ordinance or the validity or enforceability of acts authorized under the ordinance, and the ordinance and acts authorized by the ordinance shall be conclusively deemed to be valid and enforceable in accordance with their terms and tenor.

3. Section 4 of P.L.2001, c.310 (C.40A:12A-67) is amended to read as follows:

C.40A:12A-67 Issuance of bonds by municipality.

4. a. The municipality may issue bonds itself in the manner provided for herein or pursuant to the "Local Redevelopment and Housing Law,"

P.L.1992, c.79 (C.40A:12A-1 et seq.) or may apply to the authority to issue bonds, regardless of whether the redevelopment project is undertaken under municipal authority pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.) or by a State entity redeveloper pursuant to a State entity redevelopment agreement, which in any case may be secured by payments in lieu of taxes or special assessments or both or a portion thereof, by the adoption of a resolution or ordinance, as applicable, of the governing body of the municipality, authority or State entity to that effect.

b. A municipality that has designated a redevelopment area or in which a redevelopment project is undertaken by a State entity redeveloper pursuant to a State entity redevelopment agreement may, by resolution of its governing body, if it determines to issue bonds through the authority, enter into contracts with the authority relating to that redevelopment project, or to act as a redeveloper or to finance or refinance a redevelopment project undertaken by a State entity redeveloper pursuant to a State entity redevelopment agreement within a redevelopment area. A resolution so adopted shall contain findings and determinations of the governing body: (1) that all or a portion of the redevelopment project undertaken within the municipality will result in the redevelopment of the municipality; and, (2) that the contract with the authority or, to the extent applicable, the financial agreement with the State entity redeveloper, is a necessary or important inducement to the undertaking of the project or the redevelopment project undertaken by the State entity redeveloper in that it makes the financing thereof feasible. The contract or contracts, or the terms of any bonds issued directly by a municipality may provide for the assignment, for the benefit of bondholders, of all or any portion of payments in lieu of taxes, or special assessments, or both. A contract may be made and entered into for a term beginning currently or at some future or contingent date, and with or without consideration, and for a specified or unlimited time, and on any terms and conditions which may be requested by the municipality and, to the extent applicable, the State entity redeveloper, and, if applicable, as may be agreed to by the authority and, to the extent applicable, the State entity redeveloper, in conformity with its contracts with the holders of bonds, and shall be valid and binding on the municipality. The municipality is hereby authorized and directed to do and perform any contract so entered into by it and to provide for the discharge of any obligation thereunder in the same manner as other obligations of the municipality.

Any contract, and any instrument making or evidencing the same, may be pledged or assigned by the authority, with the consent of the municipality executing the contract, and, to the extent applicable, the consent of the State entity redeveloper, to secure its bonds and thereafter may not be modified

except as provided by the terms of the instrument or by the terms of the pledge or assignment.

The municipality may include in the terms of a bond or contract, including a financial agreement, a provision that the payments in lieu of taxes or special assessments shall constitute a municipal charge for the purposes of R.S.54:4-66.

c. The payments in lieu of taxes or special assessments, or both, may be assigned directly by the municipality or the authority or the trustee for the bonds as payment or security for the bonds. Notwithstanding any law to the contrary, the assignment shall be an absolute assignment of all the municipality's right, title, and interest in the payment in lieu of taxes or special assessments, or both, or portion thereof, along with the rights and remedies provided to the municipality under the agreement including, but not limited to, the right of collection of payments due. Payments in lieu of taxes and special assessments assigned as provided hereunder shall not be included in the general funds of the municipality, nor shall they be subject to any laws regarding the receipt, deposit, investment or appropriation of public funds and shall retain such status notwithstanding enforcement of the payment or assessment by the municipality or assignee as provided herein. The municipality shall be a "person" within the meaning of that term as defined in section 3 of P.L.1974, c.80 (C.34:1B-3); and the purpose described in this section shall be a "project" within the meaning of that term as defined in section 3 of P.L.1974, c.80 (C.34:1B-3).

d. Notwithstanding the provisions of subsection g. of section 37 of P.L.1992, c.79 (C.40A:12A-37), the bonds issued pursuant to this section may be issued as non-recourse obligations, and unless otherwise provided for by a separate action of the municipality to guarantee such bonds or otherwise provide for a pledge of the municipality's full faith and credit shall not, except for such action, be considered to be direct and general obligations of the municipality, and, absent such action, the municipality shall not be obligated to levy and collect a tax sufficient in an amount to pay the principal and interest on the bonds when the same become due and payable. The provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) shall not apply to any bonds issued or authorized pursuant to this section and those bonds shall not be considered gross debt of the municipality on any debt statement filed in accordance with the "Local Bond Law," N.J.S.40A:2-1 et seq., and the provisions of chapter 27 of Title 52 of the Revised Statutes shall not apply to such bonds.

e. The proceeds from the sale of bonds and any funds provided by any department of the State, authority created by the State or bi-state authority for the purposes described in the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.) or

for the purpose of financing or refinancing a redevelopment project pursuant to a State entity redevelopment agreement, shall not require compliance with public bidding laws, including the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), or any other statute where the redeveloper or State entity redeveloper, as the case may be, shall undertake the redevelopment project. The use of these funds shall be subject to public accountability and oversight by the issuer of those bonds, regardless of whether the municipality, agency or authority provides the funds.

f. In order to provide additional security for any loan to a redeveloper or a State entity redeveloper, as the case may be, or to bonds issued to finance a redevelopment project, regardless of whether that redevelopment project is undertaken under municipal authority pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.) or by a State entity redeveloper pursuant to a State entity redevelopment agreement, the municipality may utilize powers otherwise provided by law, including the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), to provide for any extension of the municipality's credit to any redeveloper or State entity redeveloper, as the case may be, or its full faith and credit which may include a full faith and credit lease as security for the bonds or any loan to a redeveloper or State entity redeveloper, as the case may be. To the extent that the municipality provides for a full faith and credit guarantee of any loan to a redeveloper or State entity redeveloper, as the case may be, or any bonds, but determines not to authorize the issuance of bonds or notes to provide for the funding source thereof, or otherwise determines to enter into a full faith and credit lease, it may do so by resolution approved by a majority of the full governing body. To the extent that bonds or notes are authorized as provided above, such bonds or notes shall be authorized pursuant to the provisions of the "Local Bond Law," N.J.S.40A:2-1 et seq., and shall be deductible from the gross debt of the municipality until such time as such bonds or notes are actually issued, and only up to the amount actually issued, to fund such guarantee.

g. A financial instrument, whether issued by a municipality or an authority, that is secured in whole or in part by payments in lieu of taxes or by special assessments, or both, as provided herein shall be subject to the review and approval of the board. That review and approval shall be made prior to approval of, in the case of a municipality, an introduced ordinance or, in the case of an authority, a resolution. The board shall be entitled to receive from the applicant an amount sufficient to provide for all reasonable professional and other fees and expenses incurred by it for the review, analysis and determination with respect thereto. As part of its review, the board shall specifically solicit comments from the Office of State Planning and the New Jersey Economic Development Authority in addition to com-

ments from the public. As part of the board's review and approval, it shall consider where appropriate one or more of the following: whether the redevelopment project or plan promotes approaches and concepts to reduce congestion; enhance mobility; assist in the redevelopment of our municipalities; and otherwise improve the quality of life of our citizens.

h. A municipality that has assigned any portion of the payments in lieu of taxes it receives pursuant to a financial agreement, as payment or security for bonds, may also pledge a portion of those payments in lieu of taxes as payment or security for bonds in order to finance or refinance any cost or expense of the municipality, State entity or authority.

i. In the case of a municipality which is otherwise subject to tax or revenue sharing pursuant to law and which assigns a portion of the payments in lieu of taxes or special assessments pursuant to a financial agreement to secure bonds issued by the municipality or the authority, the assigned portion of those payments in lieu of taxes or special assessments shall not be considered part of the tax or revenue sharing formula or calculation of municipal revenues for the purpose of determining whether that municipality is obligated to make payment to, or receive a credit from, any tax sharing or revenue sharing pool.

4. Section 5 of P.L.2001, c.310 (C.40A:12A-68) is amended to read as follows:

C.40A:12A-68 Payments in lieu of taxes constitute municipal lien.

5. a. Payments required to be made in accordance with an agreement for payments in lieu of taxes entered into under section 3 of P.L.2001, c.310 (C.40A:12A-66) shall be a continuous lien on the land against which the ordinance is recorded on and after the date of recordation of both the ordinance and the agreement, whether simultaneously or not, or the date of confirmation of the special assessments, whichever is earlier. All subsequent payments in lieu of taxes thereunder, interest, penalties and costs of collection which thereafter fall due or accrue shall be added and relate back to and be a part of the initial lien. Upon recordation of the ordinance and agreement, payments in lieu of taxes shall constitute a municipal lien within the meaning, and for all purposes, of law.

b. If bonds are issued, the municipality, the redeveloper or the State entity redeveloper, as the case may be, may record, either simultaneously or at different times, any ordinance enacted by the municipality relating to the payment in lieu of taxes agreement or special assessments and, either simultaneously with the ordinance or at different times, a copy of the agreement or agreements. The ordinance, when recorded, shall contain a legend at the top of the front page substantially as follows:

"THIS ORDINANCE SECURES BONDS OR OTHER OBLIGATIONS ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THE 'REDEVELOPMENT AREA BOND FINANCING LAW' AND THE LIEN HEREOF IN FAVOR OF THE OWNERS OF SUCH BONDS OR OTHER OBLIGATIONS IS A MUNICIPAL LIEN SUPERIOR TO ALL OTHER NON-MUNICIPAL LIENS HEREAFTER RECORDED."

c. Notwithstanding any law to the contrary, upon recordation of both the ordinance and any accompanying agreement, the lien thereof shall be perfected for all purposes in accordance with law and the lien shall thereafter be superior to all non-municipal liens thereafter recorded or otherwise arising, without any additional notice, recording, filing, continuation filing or action, until the payment in full of the bonds. The lien thereby established shall apply not only to the bonds initially issued, but also to any refinancing or refunding thereof, as well as to any additional bonds thereafter issued on a parity therewith in accordance with the provisions of the original documents securing the initial bonds; provided, however, that in the event any ordinance or agreement is amended or supplemented in a way which increases the amount of payment in lieu of taxes or special assessments, the lien as to that increase shall be perfected and apply upon the recordation of the amended or supplemented ordinance and agreement (including the above-recited legend). Except as set forth in this section, no amendment or supplement to the ordinance or agreement thereafter recorded shall affect the perfection or priority of the lien established upon original recordation thereof.

d. Upon the final payment in full of any bonds secured as provided in this section and section 4 of P.L.2001, c.310 (C.40A:12A-67), the lien established hereby shall terminate, and the municipality shall record a notice to that effect.

5. This act shall take effect immediately.

Approved August 4, 2004.

CHAPTER 113

AN ACT concerning charity care payments to hospitals, amending and supplementing P.L.1992, c.160 and amending P.L.1996, c.28.

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

1. Section 9 of P.L.1992, c.160 (C.26:2H-18.59) is amended to read as follows:

C.26:2H-18.59 Allocation of funds.

9. a. The commissioner shall allocate such funds as specified in subsection e. of this section to the charity care component of the disproportionate share hospital subsidy account. In a given year, the department shall transfer from the fund to the Division of Medical Assistance and Health Services in the Department of Human Services such funds as may be necessary for the total approved charity care disproportionate share payments to hospitals for that year.

b. For the period January 1, 1993 to December 31, 1993, the commission shall allocate $500 million to the charity care component of the disproportionate share hospital subsidy account. The Department of Health and Senior Services shall recommend the amount that the Division of Medical Assistance and Health Services shall pay to an eligible hospital on a provisional, monthly basis pursuant to paragraphs (1) and (2) of this subsection. The department shall also advise the commission and each eligible hospital of the amount a hospital is entitled to receive.

(1) The department shall determine if a hospital is eligible to receive a charity care subsidy in 1993 based on the following:

$$\frac{\text{Hospital Specific Approved Uncompensated Care-1991}}{\text{Hospital Specific Preliminary Cost Base-1992}} = \text{Hospital Specific \% Uncompensated Care (\%UC)}$$

A hospital is eligible for a charity care subsidy in 1993 if, upon establishing a rank order of the %UC for all hospitals, the hospital is among the 80% of hospitals with the highest %UC.

(2) The maximum amount of the charity care subsidy an eligible hospital may receive in 1993 shall be based on the following:

$$\frac{\text{Hospital Specific Approved Uncompensated Care-1991}}{\text{Total approved Uncompensated Care All Eligible Hospitals-1991}} \times \$500 \text{ million} = \text{Maximum Amount of Hospital Specific Charity Care Subsidy for 1993}$$

(3) A hospital shall be required to submit all claims for charity care cost reimbursement, as well as demographic information about the persons who qualify for charity care, to the department in a manner and time frame specified by the Commissioner of Health and Senior Services, in order to continue to be eligible for a charity care subsidy in 1993 and in subsequent years.

The demographic information shall include the recipient's age, sex, marital status, employment status, type of health insurance coverage, if any, and if the recipient is a child under 18 years of age who does not have health insurance coverage or a married person who does not have health insurance coverage, whether the child's parent or the married person's spouse, as the case may be, has health insurance.

(4) A hospital shall be reimbursed for the cost of eligible charity care at the same rate paid to that hospital by the Medicaid program; except that charity care services provided to emergency room patients who do not require those services on an emergency basis shall be reimbursed at a rate appropriate for primary care, according to a schedule of payments developed by the commission.

(5) The department shall provide for an audit of a hospital's charity care for 1993 within a time frame established by the department.

c. For the period January 1, 1994 to December 31, 1994, a hospital shall receive disproportionate share payments from the Division of Medical Assistance and Health Services based on the amount of charity care submitted to the commission or its designated agent, in a form and manner specified by the commission. The commission or its designated agent shall review and price all charity care claims and notify the Division of Medical Assistance and Health Services of the amount it shall pay to each hospital on a monthly basis based on actual services rendered.

(1) (Deleted by amendment, P.L.1995, c.133.)

(2) If the commission is not able to fully implement the charity care claims pricing system by January 1, 1994, the commission shall continue to make provisional disproportionate share payments to eligible hospitals, through the Division of Medical Assistance and Health Services, based on the charity care costs incurred by all hospitals in 1993, until such time as the commission is able to implement the claims pricing system.

If there are additional charity care balances available after the 1994 distribution based on 1993 charity care costs, the department shall transfer these available balances from the fund to the Division of Medical Assistance and Health Services for an approved one-time additional disproportionate share payment to hospitals according to the methodology provided in section 12 of P.L.1995, c.133 (C.26:2H-18.59a). The total payment for all hospitals shall not exceed $75.5 million.

(3) A hospital shall be reimbursed for the cost of eligible charity care at the same rate paid to that hospital by the Medicaid program; except that charity care services provided to emergency room patients who do not require those services on an emergency basis shall be reimbursed at a rate appropriate for primary care, according to a schedule of payments developed by the commission.

(4) (Deleted by amendment, P.L.1995, c.133.)

d. (Deleted by amendment, P.L.1995, c.133.)

e. The total amount allocated for charity care subsidy payments shall be: in 1994, $450 million; in 1995, $400 million; in 1996, $310 million; in 1997, $300 million; for the period January 1, 1998 through June 30, 1998, $160 million; and in fiscal year 1999 and each fiscal year thereafter through fiscal year 2004, $320 million. Total payments to hospitals shall not exceed the amount allocated for each given year.

f. Beginning January 1, 1995:

(1) The charity care subsidy shall be determined pursuant to section 13 of P.L.1995, c.133 (C.26:2H-18.59b).

(2) A charity care claim shall be valued at the same rate paid to that hospital by the Medicaid program, except that charity care services provided to emergency room patients who do not require those services on an emergency basis shall be valued at a rate appropriate for primary care according to a schedule of payments adopted by the commissioner.

(3) The department shall provide for an audit of a hospital's charity care within a time frame established by the commissioner.

2. Section 7 of P.L.1996, c.28 (C.26:2H-18.59e) is amended to read as follows:

C.26:2H-18.59e Determination of charity care subsidy.

7. a. For the period beginning January 1, 1996 and ending June 30, 2004, and except as provided in section 8 of P.L.1996, c.28 (C.26:2H-18.59f), the charity care subsidy shall be determined according to the following methodology.

If the Statewide total of adjusted charity care is less than available charity care funding, a hospital's charity care subsidy shall equal its adjusted charity care.

If the Statewide total of adjusted charity care is greater than available charity care funding, then the hospital-specific charity care subsidy shall be determined by allocating available charity care funds so as to equalize hospital-specific payer mix factors to the Statewide target payer mix factor. Those hospitals with a payer mix factor greater than the Statewide target payer mix factor shall be eligible to receive a subsidy sufficient to reduce their factor to that Statewide level; those hospitals with a payer mix factor

that is equal to or less than the Statewide target payer mix factor shall not be eligible to receive a subsidy.

Charity care subsidy payments shall be based upon actual documented hospital charity care.

As used in this section:

(1) The hospital-specific "documented charity care" shall be equal to the dollar amount of charity care provided by the hospital that is verified in the department's most recent charity care audit conducted under the most recent charity care eligibility rules adopted by the department and valued at the same rate paid to that hospital by the Medicaid program.

For 1996, documented charity care shall equal the audited, Medicaid-priced amounts reported for the first three quarters of 1995. This amount shall be multiplied by 1.33 to determine the annualized 1995 charity care amount. For 1997 and the period from January 1, 1998 through June 30, 1998, documented charity care shall be equal to the audited Medicaid-priced amounts for the last quarter two years prior to the payment period and the first three quarters of the year prior to the payment period. For fiscal year 1999 and each fiscal year thereafter, documented charity care shall be equal to the audited Medicaid-priced amounts for the most recent calendar year;

(2) In 1996, the hospital-specific "operating margin" shall be equal to: the hospital's 1993 and 1994 income from operations minus its 1993 and 1994 charity care subsidies divided by its 1993 and 1994 total operating revenue minus its 1993 and 1994 charity care subsidies. After calculating each hospital's operating margin, the department shall determine the Statewide median operating margin.

In 1997 and each year thereafter, the hospital-specific "operating margin" shall be calculated in the same manner as for 1996, but on the basis of income from operations, total operating revenue and charity care subsidies data from the three most current years;

(3) The hospital-specific "profitability factor" shall be determined annually as follows. Those hospitals that are equal to or below the Statewide median operating margin shall be assigned a profitability factor of "1." For those hospitals that are above the Statewide median operating margin, the profitability factor shall be equal to:

$$1 - \frac{.75 \times (\text{hospital specific operating margin} - \text{Statewide median operating margin})}{\text{highest hospital specific operating margin} - \text{Statewide median operating margin}}$$

(4) The hospital-specific "adjusted charity care" shall be equal to a hospital's documented charity care times its profitability factor;

(5) The hospital-specific "revenue from private payers" shall be equal to the sum of the gross revenues, as reported to the department in the hospital's most recently available New Jersey Hospital Cost Reports for all non-governmental third party payers including, but not limited to, Blue Cross and Blue Shield plans, commercial insurers and health maintenance organizations;

(6) The hospital-specific "payer mix factor" shall be equal to a hospital's adjusted charity care divided by its revenue from private payers; and

(7) The "Statewide target payer mix factor" is the lowest payer mix factor to which all hospitals receiving charity care subsidies can be reduced by spending all available charity care subsidy funding for that year.

b. For the purposes of this section, "income from operations" and "total operating revenue" shall be defined by the department in accordance with financial reporting requirements established pursuant to N.J.A.C.8:31B-3.3.

c. Charity care subsidy payments shall commence on or after the date of enactment of P.L.1996, c.28 and the full calendar year 1996 allocation shall be disbursed by January 31, 1997.

C.26:2H-18.59i Reimbursed documented charity care; charity care subsidy formula, after July 1, 2004.

3. a. Beginning July 1, 2004 and each year thereafter:

(1) Reimbursed documented charity care shall be equal to the Medicaid-priced amounts of charity care claims submitted to the Department of Health and Senior Services for the most recent calendar year, adjusted, as necessary, to reflect the annual audit results. These amounts shall be augmented to reflect payments to hospitals by the Medicaid program for Graduate Medical Education and Indirect Medical Education based on the most recent Graduate Medical Education and Indirect Medical Education formulas utilized by the federal Medicare program.

(2) Hospital-specific reimbursed documented charity care shall be equal to the Medicaid-priced dollar amount of charity care provided by a hospital as submitted to the Department of Health and Senior Services for the most recent calendar year. A sample of the claims submitted by the hospital to the department shall be subject to an annual audit conducted pursuant to applicable charity care eligibility criteria.

b. Beginning July 1, 2004 and each year thereafter, the charity care subsidy shall be determined according to the following methodology:

(1) Each hospital shall be ranked in order of its hospital-specific, relative charity care percentage, or RCCP, by dividing the amount of hospital-spe-

cific gross revenue for charity care patients by the hospital's total gross revenue for all patients.

(2) The nine hospitals with the highest RCCPs shall receive a charity care payment equal to 96% of each hospital's hospital-specific reimbursed documented charity care. The hospital ranked number 10 shall receive a charity care payment equal to 94% of its hospital-specific reimbursed documented charity care, and each hospital ranked number 11 and below shall receive two percentage points less than the hospital ranked immediately above that hospital.

(3) Notwithstanding the provisions of paragraph (2) of this subsection to the contrary, each of the hospitals located in the 10 municipalities in the State with the lowest median annual household income according to the most recent census data, shall be ranked from the hospital with the highest hospital-specific reimbursed documented charity care to the hospital with the lowest hospital-specific reimbursed documented charity care. The hospital in each of the 10 municipalities, if any, with the highest documented hospital-specific charity care shall receive a charity care payment equal to 96% of its hospital-specific reimbursed documented charity care.

(4) Notwithstanding the provisions of this subsection to the contrary, no hospital shall receive reimbursement for less than 43% of its hospital-specific reimbursed documented charity care.

c. To ensure that charity care subsidy payments remain viable and appropriate, the State shall maintain the charity care subsidy at an amount not less than 75% of the Medicaid-priced amounts of charity care provided by hospitals in the State. In addition, these amounts shall be augmented to reflect payments to hospitals by the Medicaid program for Graduate Medical Education and Indirect Medical Education based on the most recent Graduate Medical Education and Indirect Medical Education formulas utilized by the federal Medicare program.

d. Notwithstanding any other provisions of this section to the contrary, in the event that the change from the charity care subsidy formula in effect for fiscal year 2004 to the formula established pursuant to this section in effect for fiscal year 2005, reduces, for any reason, the amount of the charity care subsidy payment to a hospital below the amount that the hospital received under the formula in effect in fiscal year 2004, the hospital shall receive a payment equal to the amount it would have received under the formula in effect for fiscal year 2004.

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

5. This act shall take effect on July 1, 2004.

Approved August 6, 2004.

CHAPTER 114

AN ACT concerning drug and alcohol abuse and making an appropriation.

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

1. There is appropriated $300,000 from the Drug Enforcement and Demand Reduction Fund established pursuant to N.J.S.2C:35-15, to the Department of Human Services for a grant to the Partnership for a Drug-Free New Jersey pursuant to P.L.1997, c.174.

2. This act shall take effect immediately.

Approved August 7, 2004.

CHAPTER 115

AN ACT concerning the practice of optometry and revising parts of the statutory law.

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

1. R.S.45:12-1 is amended to read as follows:

Practice of optometry defined.

45:12-1. Optometry is hereby declared to be a profession, and the practice of optometry is defined to be the employment of objective or subjective means, or both, for the examination of the human eye and adnexae for the purposes of ascertaining any departure from the normal, measuring its powers of vision and adapting lenses or prisms for the aid thereof, or the use and prescription of pharmaceutical agents, excluding injections, except for injections to counter anaphylactic reaction, and excluding controlled dangerous substances as provided in sections 5 and 6 of P.L.1970, c.226 (C.24:21-5 and C.24:21-6), for the purposes of treating deficiencies, deformities, dis-

eases, or abnormalities of the human eye and adnexae including the removal of superficial foreign bodies from the eye and adnexae.

An optometrist utilizing pharmaceutical agents for the purposes of treatment of ocular conditions and diseases shall be held to a standard of patient care in the use of such agents commensurate to that of a physician utilizing pharmaceutical agents for treatment purposes.

A person shall be deemed to be practicing optometry within the meaning of this chapter who in any way advertises himself as an optometrist, or who shall employ any means for the measurement of the powers of vision or the adaptation of lenses or prisms for the aid thereof, practice, offer or attempt to practice optometry as herein defined, either on his own behalf or as an employee or student of another, whether under the personal supervision of his employer or perceptor or not, or to use testing appliances for the purposes of measurement of the powers of vision or diagnose any ocular deficiency or deformity, visual or muscular anomaly of the human eye and adnexae or prescribe lenses, prisms or ocular exercise for the correction or the relief thereof, or who uses or prescribes pharmaceutical agents for the purposes of diagnosing and treating deficiencies, deformities, diseases or abnormalities of the human eye and adnexae or who holds himself out as qualified to practice optometry.

2. Section 6 of P.L.1991, c.385 (C.45:12-9.8) is amended to read as follows:

C.45:12-9.8 Credentialing, certification process; rules, regulations.

6. a. The New Jersey State Board of Optometrists shall establish a comprehensive credentialing and certification process for optometrists to receive certification in the use and prescription of pharmaceutical agents in the practice of optometry and promulgate the rules and regulations necessary to effectuate the purposes of P.L.1991, c. 385 (C.45:12-9.8 et seq.).

b. The comprehensive credentialing and certification process established in accordance with subsection a. of this section shall include courses offered by a school that is accredited by the United States Department of Education and the Council on Postsecondary Accreditation.

3. Section 7 of P.L.1991, c.385 (C.45:12-9.9) is amended to read as follows:

C.45:12-9.9 Credentialing requirements.

7. The New Jersey State Board of Optometrists shall establish the credentialing requirements which shall be fulfilled before a person may be certified to use or prescribe pharmaceutical agents for treatment purposes in the practice of optometry. In addition, the board shall establish continuing

education requirements for the renewal of certification for the use and prescription of pharmaceutical agents for treatment purposes in the practice of optometry. No licensee shall be tested by the board for certification to use or prescribe pharmaceutical agents for treatment purposes in the practice of optometry before having first satisfactorily completed all educational requirements in ocular pharmacology at a school duly accredited by the United States Department of Education and the Council on Postsecondary Accreditation. These educational standards shall be no less than that required of currently enrolled students as part of their requirements for graduation from that school. This credentialing and certification process shall be required of all persons seeking to utilize pharmaceutical agents for treatment purposes in the practice of optometry regardless of licensure either prior or subsequent to the effective date of P.L.1991, c.385 (C.45:12-9.8 et seq.); except that licensees shall be immediately certified at their current level of practice and those licensees currently certified to use and prescribe pharmaceutical agents for treatment purposes pursuant to P.L.1991, c.385 (C.45:12-9.8 et seq.) shall be immediately credentialed and certified to use and prescribe those pharmaceutical agents authorized by that act for treatment purposes in the practice of optometry but not orally until certified, except for injections to counter anaphylactic reactions.

The board shall maintain a list of all approved credentialing courses, which list shall be made available upon request to licensees or other interested persons. Upon receipt of verification of satisfactory completion of an approved credentialing course of study, the board shall certify the optometrist applicant as certified in the use and prescription of those pharmaceutical agents.

Title amended.

4. The title of P.L.2003, c.96 is amended to read as follows:

AN ACT concerning the dissemination of certain information about physicians, podiatrists and optometrists to the public, amending P.L.1983, c.248 and P.L.1989, c.300 and supplementing Title 45 of the Revised Statutes.

5. Section 2 of P.L.2003, c.96 (C.45:9-22.22) is amended to read as follows:

C.45:9-22.22 Collection, maintenance of information regarding physicians, podiatrists, optometrists.

2. a. The Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the State Board of Medical Examiners and the New Jersey State Board of Optometrists, shall collect and maintain information concerning all physicians, podiatrists and optometrists, respec-

tively, licensed in the State for the purpose of creating a profile of each physician, podiatrist and optometrist pursuant to this act. The profiles shall be made available to the public through electronic and other appropriate means, at no charge to the public. The division shall establish a toll-free telephone number for members of the public to contact the division to obtain a paper copy of a physician, podiatrist or optometrist profile and to make other inquiries about the profiles.

b. A physician, podiatrist or optometrist shall be required to provide the appropriate board or division or its designated agent with any information necessary to complete the profile as provided in section 3 of this act.

c. Either board may request any additional information it deems necessary to complete the profiles on the biennial license renewal form submitted by physicians, podiatrists and optometrists, as applicable.

d. The appropriate board shall provide to the division or its designated agent any information required pursuant to this act that is available to the board concerning a physician, podiatrist or optometrist, for the purpose of creating the physician, podiatrist and optometrist profiles.

6. 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 1 of P.L.1983, c.247 (C.26:2H-12.2) 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.

7. Section 4 of P.L.2003, c.96 (C.45:9-22.24) is amended to read as follows:

C.45:9-22.24 Contracts with public, private entity for profiles.

4. The Division of Consumer Affairs may contract with a public or private entity for the purpose of developing, administering and maintaining the physician, podiatrist and optometrist profiles required pursuant to this act.

a. The contract shall specify the duties and responsibilities of the entity with respect to the development, administration and maintenance of the profile. The contract shall specify the duties and responsibilities of the

division with respect to providing the information required pursuant to section 3 of this act to the entity on a regular and timely basis.

b. The contract shall specify that any identifying information concerning a physician, podiatrist or optometrist provided to the entity by the division, the State Board of Medical Examiners, or the New Jersey State Board of Optometrists or the optometrist, respectively, or the physician or podiatrist shall be used only for the purpose of the profile.

c. The division shall monitor the work of the entity to ensure that physician, podiatrist and optometrist profiles are properly developed and maintained pursuant to the requirements of this act.

8. Section 5 of P.L.2003, c.96 is amended to read as follows:

5. The Director of the Division of Consumer Affairs shall report to the Legislature no later than 18 months after the effective date of this act on the status of the physician and podiatrist profiles, and no later than 180 days after the effective date of P.L.2004, c.115 (C.45:12-9.13 et al.) on the status of the optometrist profiles.

The director shall also make recommendations in the report on the issue of developing profiles for other licensed health care professionals, including, but not limited to, dentists, advanced practice nurses, physician assistants, physical therapists and chiropractors, and the type of information that would be appropriate to include in the respective profiles for each type of licensed health care professional.

9. Section 8 of P.L.2003, c.96 (C.45:9-22.25) is amended to read as follows:

C.45:9-22.25 Regulations.

8. Within 180 days of the effective date of this act, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the State Board of Medical Examiners and the New Jersey State Board of Optometrists, shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.

C.45:12-9.13 Credentialing requirements for optometrist to use, prescribe pharmaceutical agents.

10. No licensee shall be certified by the New Jersey State Board of Optometrists to use or prescribe pharmaceutical agents in the practice of optometry before having completed credentialing requirements in ocular pharmacology approved and administered by the New Jersey State Board of Optometrists. Until such time as a majority of the optometrist members of the New Jersey State Board of Optometrists are certified to use and prescribe pharmaceutical agents for treatment purposes in the practice of

optometry, an interim four-member panel of experts in ocular pharmacology shall be established to prepare or endorse credentialing requirements for board approval. The interim advisory panel of experts in ocular pharmacology shall be comprised of a physician selected by the State Board of Medical Examiners, a member selected by the Board of Pharmacy, a representative of a school of optometry duly accredited by the United States Department of Education and the Council on Postsecondary Accreditation, to be selected by the New Jersey State Board of Optometrists, and the Commissioner of the Department of Health and Senior Services or his designee. The interim panel shall be selected by the respective boards within 90 days of the effective date of this amendatory and supplementary act. Panel members shall be directly responsible to the Director of the Division of Consumer Affairs, who may order the replacement of any panel member for failure to promptly and equitably fulfill their duties. The panel shall have 120 days following appointment of a majority of the panel to submit to the New Jersey State Board of Optometrists credentialing requirements in ocular pharmacology. Should the panel fail within the 120 day period to submit credentialing requirements to the New Jersey State Board of Optometrists, the Director of the Division of Consumer Affairs shall designate, within 90 days thereafter, the credentialing requirements for the interim period. Should the Director of the Division of Consumer Affairs fail to designate credentialing requirements within the 90-day period, the credentialing requirements shall be designated by the New Jersey State Board of Optometrists.

11. The New Jersey State Board of Optometrists shall report to the Governor and the Legislature on the progress made in implementing the provisions of this act no later than three years after its enactment.

Repealer.

12. Section 8 of P.L.1991, c.385 (C.45:12-9.10) is repealed.

13. This act shall take effect immediately, except that sections 1, 3, and 12 shall take effect one year after the date of enactment.

Approved August 7, 2004.

CHAPTER 116

AN ACT concerning horse racing and the New Jersey Sports and Exposition Authority, amending various parts of the statutory law and supplementing P.L.1971, c.137 (C.5:10-1 et seq.).

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

1. Section 44 of P.L.1940, c.17 (C.5:5-64) is amended to read as follows:

C.5:5-64 Distribution of parimutuel pools.

44. Each holder of a permit shall distribute all sums deposited in any pool where the patron is required to select one horse to the winners thereof, less an amount which in harness races shall not exceed 17% of the total deposits plus the breaks and which in other races shall not exceed 17% of the total deposits plus the breaks. In every pool where the patron is required to select two horses, the holder of each permit for either harness or running track shall distribute all sums deposited in each pool to the winners thereof, less an amount which shall not exceed 19% of the total deposits plus the breaks. In every pool where the patron is required to select three or more horses, every holder of a permit shall distribute all sums deposited in each pool to the winners thereof, less an amount which shall not exceed 25% of the total deposits plus the breaks. Every permitholder shall distribute to the persons holding winning tickets in any of the aforementioned pools, as a minimum, a sum not exceeding $0.10, calculated on the basis of each dollar deposited in any pool after the deduction of the said 17%, 19% or 25%, as the case may be. Should the amount remaining in the pool be insufficient to pay the winners the minimum, the breakage accruing in that race, or any necessary portion thereof, shall be applied toward making up any such deficiency. The breaks are hereby defined as the odd cents over any multiple of $0.10, calculated on the basis of $1.00 otherwise payable to a patron. Every permitholder engaged in the business of conducting running race meetings under this act, except the New Jersey Sports and Exposition Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.) or a lessee of the authority, shall distribute as purse money the breaks as herein defined, except as the same shall have been applied toward making up a deficiency in a pool as herein provided. Every permitholder engaged in the business of conducting harness race meetings under this act, except the New Jersey Sports and Exposition Authority or a lessee of the authority, shall retain for his own uses and purposes 50% of the breaks as herein defined, except as the same shall have been applied toward making up a deficiency in the pool as herein provided, and shall distribute as purse money the remaining 50%. The New Jersey Sports and Exposition Authority or a lessee of the authority shall retain all breaks as revenue, except as the same shall have been applied toward making up a deficiency in a pool as herein provided.

Every permitholder shall submit to the commission every seventh day of any and every race meeting a report under oath showing the daily and total amount of such breaks, together with such other information as the commission may require. All sums held by any permitholder for payment of outstanding parimutuel tickets not claimed by the person or persons entitled thereto within six months from the time such tickets are issued shall be paid upon the expiration of such six-month holding period as follows:

a. In the case of running and harness races, beginning July 1, 1997 50% of those sums shall be paid to the racing commission for deposit in the general fund of the State and disposition in accordance with section 4 of P.L.1997, c.29 (C.5:5-68.1);

b. In the case of running races, 50% of those sums shall be paid to the commission and set aside in the special trust account established pursuant to section 46 b.(1)(e) and section 46 b.(2)(e) of P.L.1940, c.17 (C.5:5-66); and

c. In the case of harness races, 25% of those sums shall be retained by the permitholder to supplement purses for sire stakes races on which there is parimutuel wagering, and 25% shall be retained by the permitholder to supplement overnight purses.

Where it is shown to the satisfaction of the commission that the reason for the parimutuel tickets being outstanding and unclaimed is the loss, misplacement or theft of said tickets within the confines and control of the parimutuel department of any permitholder, and it is further shown to the satisfaction of the commission that said parimutuel tickets have been cashed by such parimutuel department, the commission may adjust and credit the permitholder's account accordingly and the permitholder shall reimburse any employee who has been held personally accountable and paid for such lost, stolen or misplaced tickets. All outstanding parimutuel ticket money shall be deposited in an account separate and apart from the track's mutuel or general treasury account. The outstanding parimutuel ticket account shall be subject to the rules and regulations prescribed by the Division of New Jersey Racing Commission.

2. Section 46 of P.L.1940, c.17, (C.5:5-66) is amended to read as follows:

C.5:5-66 Disposition of undistributed deposits.

46. Every permitholder engaged in the business of conducting horse race meetings under this act, except the New Jersey Sports and Exposition Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.) or a lessee of the authority, shall make disposition of the deposits remaining undistributed pursuant to section 44 of P.L.1940, c.17 (C.5:5-64) as follows:

a. In the case of harness races:

(1) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, 1.25% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race, except that for pools where the patron is required to select two horses, the permitholder shall pay 2.25% of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall pay 5.25% of the total contributions;

(2) Hold and set aside in an account designated as a special trust account 1.15% of such total contributions in all pools, to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40 (C.5:5-88), for the following purposes and no other:

(a) 37% thereof to increase purses and grant awards for starting horses, as provided or as may be provided by rules of the New Jersey Racing Commission, with payment to be made in the same manner as payment of other purses and awards;

(b) 55% thereof for the establishment of a Sire Stakes Program for standardbred horses, with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(c) 5% thereof to the Sire Stakes Program for purse supplements designed to improve and promote the standardbred breeding industry in New Jersey by increasing purses for owners of horses that are sired by a New Jersey registered stallion and are eligible to participate in the Sire Stakes Program. The Sire Stakes Program board of trustees shall consult with the Standardbred Breeders' and Owners' Association of New Jersey before disbursing money for purse supplements;

(d) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

(3) Retain 7.7875%, or in the case of races on a charity racing day 7.20%, of so much of such total contributions for his own uses and purposes. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall retain 8.7575%, or in the case of races on a charity racing day 7.70%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 11.6675%, or in the case of races on a charity racing day 9.20%, of the total contributions. Each permitholder shall contribute out of its 11.6675% or 9.20% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs

which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(4) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 7.69375%, or in the case of races on a charity racing day 7.40%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.2% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the tracks. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the permitholder shall distribute as purse money 8.42875%, or in the case of races on a charity racing day 7.90%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 10.63375%, or in the case of races on a charity racing day 9.40%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 10.63375% or 9.40% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(5) In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen .29375% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be .52875%, and for pools where the patron is required to select three or more horses, the amount shall be 1.23375%.

(6) In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses .05% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be .09%, and for pools where the patron is required to select three or more horses, the amount shall be .21%.

(7) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .025% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be .045%, and for pools where the patron is required to select three or more horses, the amount shall be .105%.

Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

b. In the case of running races:

(1) Where the amount derived from the parimutuel handle, excluding the handle derived from intertrack wagering, does not exceed $1 million per day based on such contributions accumulated and averaged during the calendar year, the permitholder shall:

(a) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission,.30% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race, except that for pools where the patron is required to select three or more horses, the permitholder shall pay 1.30% of the total contributions.

(b) Hold and set aside in an account designated as a special trust account .05% of such total contributions to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(c) Retain 9.991%, or in the case of races on a charity racing day 9.85%, of such total contributions for his own uses and purposes. For pools where the patron is required to select two horses, the permitholder shall retain 11.061%, or in the case of races on a charity racing day 10.92%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 13.941%, or in the case of races on a charity racing day 13.33%, of the total contributions. Each permitholder shall contribute out of its 13.941% or 13.33% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(d) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association 6.141%, or in the case of races on a charity racing day 6.00%, of such contributions. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall distribute as purse money 7.071%, or in the case of races on a charity racing day 6.93%, of such

contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 9.631%, or in the case of races on a charity racing day 9.02%, of the total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association shall not exceed 2.5% of the sum available for distribution as purse money from all parimutuel pools. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horsemen's Association and the permitholder. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 9.631% or 9.02% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(e) Deduct and set aside in a special trust account for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey .8% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be 1.3%. The money in the special trust account shall be used to: (i) improve purses for closed races; (ii) provide awards to owners and breeders of registered New Jersey bred horses who earn portions of purses in open and closed races at New Jersey race tracks or in closed races at an out-of-State track as part of a multi-state event to promote thoroughbred breeding, and to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners; and (iii) provide awards to the New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders' Association of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (b) of this paragraph.

(f) (Deleted by amendment, P.L.1986, c.19.)

(g) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .012% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be .052%.

(h) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant

to P.L.1993, c.15 (C.5:5-44.8) .006% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be .026%.

(i) (Deleted by amendment, P.L.2002, c.103).

(j) Except as otherwise provided by law, not be subject to an admission or amusement tax, excise tax, license or horse racing fee of any kind by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

(2) Where the amount derived from the parimutuel handle, excluding the handle derived from intertrack wagering, exceeds $1 million per day based on such contributions accumulated and averaged during the calendar year, the permitholder shall:

(a) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, .50% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race.

(b) Hold and set aside in an account designated as a special trust account .05% of such total contributions to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(c) Retain 9.305%, or in the case of races on a charity racing day 9.07%, of such total contributions for his own uses and purposes. For pools where the patron is required to select two horses, the permitholder shall retain 10.375%, or in the case of races on a charity racing day 10.14%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 13.545%, or in the case of races on a charity racing day 13.31%, of the total contributions. Each permitholder shall contribute out of its 13.545% or 13.31% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(d) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association 6.815%, or in the case of races on a charity racing day 6.58%, of such contributions. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall distribute as purse money 7.745%, or in the case of races on a charity racing day 7.51%, of such

contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 10.085%, or in the case of races on a charity racing day 9.85%, of the total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association shall not exceed 2.5% of the sum available for distribution as purse money from all parimutuel pools. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horsemen's Association and the permitholder. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 10.085% or 9.85% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(e) Deduct and set aside in a special trust account for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey .8% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be 1.29%. The money in the special trust account shall be used to: (i) improve purses for closed races; (ii) provide awards to owners and breeders of registered New Jersey bred horses who earn portions of purses in open and closed races at New Jersey race tracks or in closed races at an out-of-State track as part of a multi-state event to promote thoroughbred breeding, and to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners; and (iii) provide awards to the New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders' Association of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (b) of this paragraph.

(f) (Deleted by amendment, P.L.1986, c.19.)

(g) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .02% of such total contributions.

(h) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8).01% of such total contributions.

(i) (Deleted by amendment, P.L.2002, c.103).

(j) Except as otherwise provided by law, not be subject to an admission or amusement tax, excise tax, license or horse racing fee of any kind from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

3. Section 2 of P.L.2001, c.199 (C.5:5-128) is amended to read as follows:

C.5:5-128 Findings, declarations relative to horse racing and off-track wagering.

2. The Legislature finds and declares that:

a. The horse racing industry is economically important to this State, and the general welfare of the people of the State will be promoted by the advancement of horse racing and related projects and facilities in the State.

b. It is the intent of the Legislature, by authorizing off-track wagering and account wagering in this State, to promote the economic future of the horse racing industry in this State, to foster the potential for increased commerce, employment and recreational opportunities in this State and to preserve the State's open spaces.

c. It is the further intent of the Legislature that facilities offering off-track wagering opportunities to the public also offer other amenities such as quality dining and handicapping facilities.

d. The Legislature has determined that the New Jersey Racing Commission is best suited to oversee, license and regulate off-track wagering and account wagering in the State, and that the New Jersey Sports and Exposition Authority, by virtue of its experience in the operation of parimutuel wagering facilities and other entertainment-related projects in this State, is particularly well-suited to coordinate with other parties to promote the uniformity and success of off-track wagering throughout the State and to ensure the fiscal soundness and technical reliability of an account wagering system, pursuant to the terms of this act.

e. In establishing off-track wagering facilities, the authority will not be performing an essential government function but rather an essentially private business function. Numerous municipalities, residents and businesses will be impacted by the establishment of off-track wagering facilities throughout the State. A municipality may oppose the placement of an off-track wagering facility within its boundaries at the discretion of the authority and the commission. A municipality may want an off-track wagering facility sited within its boundaries, but only if the municipality receives an appropriate level of property tax for municipal services. Therefore, fundamental fairness dictates that any municipality be empowered to refuse the siting of a facility

within its boundaries. Fundamental fairness also dictates that an off-track wagering facility, even if owned and not leased by the authority, be subject to local property tax requirements.

f. By regulation of the Division of Alcoholic Beverage Control, there exist special licenses that permit the sale of alcoholic beverages on public property. These special licenses, typically available to the authority, are inexpensive and circumvent the traditional method for obtaining a license to sell alcoholic beverages. Because the establishment of off-track wagering facilities is, in reality, essentially a private business function and not an essential government function, the authority is not permitted to receive a special license. Under this act, only a private holder of a Class C plenary retail consumption license is permitted to provide alcoholic beverages at an off-track wagering facility.

4. Section 3 of P.L.2001, c.199 (C.5:5-129) is amended to read as follows:

C.5:5-129 Definitions relative to horse racing and off-track wagering.

3. As used in this act:

"Account holder" means a resident of this State over age 18 who establishes an account pursuant to this act through which account wagers are placed.

"Account wagering" means a form of parimutuel wagering in which an account holder may deposit money in an account with the account wagering licensee and then use the account balance to pay for parimutuel wagers by the account holder.

"Account wagering licensee" means the New Jersey Sports and Exposition Authority or its assignee, provided that the commission has granted its approval for the authority to establish an account wagering system as provided for in this act.

"Account wagering system" means the system through which account wagers are processed by the account wagering licensee pursuant to this act.

"Authority" means the New Jersey Sports and Exposition Authority created by section 4 of P.L.1971, c.137 (C.5:10-4).

"Backstretch Benevolency" means the Backstretch Benevolency Programs Fund established pursuant to section 1 of P.L.1993, c.15 (C.5:5-44.8).

"Breeders and Stallions" means the distribution from the special trust account created pursuant to section 46 a. (2) of P.L.1940, c.17 (C.5:5-66) for the purposes of subparagraph (c) of that citation.

"Breeding and Development" means the New Jersey Horse Breeding and Development Account established pursuant to section 5 of P.L.1967, c.40 (C.5:5-88).

"Commission" means the New Jersey Racing Commission created by section 1 of P.L.1940, c.17 (C.5:5-22).

"Executive Director" means the Executive Director of the commission.

"Health and Welfare" means moneys distributed to the Standardbred Breeders' and Owners' Association for the administration of a health benefits program pursuant to section 46 a. (5) of P.L.1940, c.17 (C.5:5-66).

"In-State host track" means a racetrack within this State which is operated by a permit holder which conducts a horse race upon which account wagers are placed pursuant to this act.

"In-State sending track" means a racetrack within this State which is operated by a permit holder and is equipped to conduct off-track simulcasting.

"In-State track" means an in-State host track or an in-State sending track.

"Interstate common pool" means the parimutuel pool established within this State or in another state or foreign nation within which is combined parimutuel pools of one or more receiving tracks located in one or more states or foreign nations upon a race at an out-of-State sending track or out-of-State host track for the purpose of establishing payoff prices in the various jurisdictions.

"Jockey's Health and Welfare" means a health and welfare trust established by the organization certified by the New Jersey Racing Commission as representing a majority of the active licensed thoroughbred jockeys in New Jersey for the purpose of providing health and welfare benefits to active, disabled and retired New Jersey jockeys and their dependents based upon reasonable criteria by that organization.

"New Jersey Racing Industry Special Fund" means the fund established pursuant to section 27 of this act.

"New Jersey Thoroughbred Horsemen's Association" means the association representing the majority of New Jersey thoroughbred owners and trainers responsible for receiving and distributing funds for programs designed to aid thoroughbred horsemen.

"Off-track simulcasting" means the simultaneous audio or visual transmission of horse races conducted at in-State and out-of-State racetracks to off-track wagering facilities and parimutuel wagering at those off-track wagering facilities on the results of those races.

"Off-track wagering" means parimutuel wagering at an off-track wagering facility as authorized under this act.

"Off-track wagering facility" means a licensed facility, other than a racetrack, at which parimutuel wagering is conducted pursuant to this act.

"Off-track wagering licensee" means the New Jersey Sports and Exposition Authority or its assignee, provided that the commission has granted its

approval for the authority to conduct an off-track wagering facility as provided for in this act.

"Out-of-State host track" means a racetrack in a jurisdiction other than the State of New Jersey, the operator of which is lawfully permitted to conduct a horse race meeting and which conducts horse races upon which account wagers may be placed pursuant to this act.

"Out-of-State sending track" means a racetrack in a jurisdiction other than the State of New Jersey which is equipped to conduct off-track simulcasting and the operator of which is lawfully permitted to conduct a horse race meeting and to provide simulcast horse races to off-track wagering facilities in this State.

"Out-of-State track" means an out-of-State host track or an out-of-State sending track.

"Outstanding parimutuel ticket" means a winning parimutuel ticket which is not claimed within six months of sale.

"Parimutuel" means any system whereby wagers with respect to the outcome of a horse race are placed with, or in, a wagering pool conducted by an authorized person, and in which the participants are wagering with each other and not against the person conducting the wagering pool.

"Participation agreement" means the written contract that provides for the establishment or implementation of either (a) an off-track wagering facility or facilities or (b) an account wagering system. Each such contract shall set forth the manner in which the off-track wagering facility or facilities or the account wagering system shall be managed, operated and capitalized, as well as how expenses and revenues shall be allocated and distributed by and among the authority and the other eligible participants.

"Permit holder" means the holder of an annual permit to conduct a horse race meeting issued by the commission.

"Racetrack" means the physical facility where a permit holder conducts a horse race meeting with parimutuel wagering.

"Racing costs" means the prospective and actual costs for all licensing, investigation, operation, regulation, supervision and enforcement activities and functions performed by the commission.

"Simulcast horse races" means horse races conducted at an in-State sending track or an out-of-State sending track, as the case may be, and transmitted simultaneously by picture to a receiving track or an off-track wagering facility.

"Sire Stakes" means the Sire Stakes Program established pursuant to section 1 of P.L.1971, c.85 (C.5:5-91).

"Standardbred Drivers' Health and Welfare" means a health and welfare trust established by the Standardbred Breeders' and Owners' Association of New Jersey for the purpose of providing health and welfare benefits to

active, disabled and retired New Jersey standardbred drivers and their dependents based upon reasonable criteria by that organization.

"Takeout" means that portion of a wager which is deducted from or not included in the parimutuel pool, and which is distributed other than to persons placing wagers.

"Thoroughbred Breeders and Stallions" means the special trust account created pursuant to section 46 b.(1)(e) of P.L.1940, c.17 (C.5:5-66).

5. Section 4 of P.L.2001, c.199 (C.5:5-130) is amended to read as follows:

C.5:5-130 Issuance of license to authority to permit off-track wagering.

4. a. The commission is authorized to issue a license to the authority to permit off-track wagering at a specified facility, upon application of the authority and in accordance with the provisions of this act. A license issued pursuant to this act shall be valid for a period of one year. The commission shall issue a license only if the permit holder at Monmouth Park and the thoroughbred permit holder at Meadowlands Racetrack schedule at least the minimum number of race dates required in section 30 of this act, P.L.2001, c.199 (C.5:5-156), and it is satisfied that the authority has entered into a participation agreement with each and every other person, partnership, association, corporation, or authority or the successor in interest to such person, partnership, association, corporation or authority that:

(1) held a valid permit to hold or conduct a race horse meeting within this State in the calendar year 2000;

(2) has complied with the terms of such permit; and

(3) is in good standing with the commission and the State of New Jersey.

An off-track wagering license may not be transferred or assigned to a successor in interest without the approval of the commission and the Attorney General, which approval may not be unreasonably withheld.

b. As part of the license application process, any participation agreement entered into for the purposes of this section, or any modification to the agreement made thereafter, shall be reviewed by the commission and the Attorney General to determine whether the agreement meets the requirements of this act and shall be subject to the approval of the commission and the Attorney General.

6. Section 5 of P.L.2001, c.199 (C.5:5-131) is amended to read as follows:

C.5:5-131 Filing fee, certification by authority; standards.

5. a. At the time of filing an application for an off-track wagering license, the authority shall submit to the commission a non-refundable filing

fee in an amount established by regulation by the commission, and a certification in a form prescribed by the commission which specifies, but is not limited to, the following information:

(1) a plan depicting the proposed facility and improvements thereon, including information about the size, seating capacity, parking and services to be provided at the facility;

(2) the location of the proposed facility, and relevant demographic or other information concerning the municipality and surrounding area where the proposed facility is to be located;

(3) the number of permanent and part-time jobs expected to be created at the proposed facility, and gross revenues expected to be generated by the facility;

(4) the fire evacuation plan for the proposed facility;

(5) the type of food and beverages available; and

(6) such other information as the commission may require.

b. The authority shall file a separate application and certification for each proposed off-track wagering facility.

c. The commission shall establish by regulation procedures and conditions for renewal of licenses issued under this act.

d. The commission shall by regulation establish the maximum hours of operation of off-track wagering facilities.

e. Notwithstanding R.S.33:1-42, alcoholic beverages may be offered for on-premise consumption at an off-track wagering facility only if provided by a Class C plenary retail consumption licensee, by an agreement or contract with the authority, pursuant to the provisions of R.S.33:1-1 et seq. in accordance with such procedures as established by statute and by regulation of the Division of Alcoholic Beverage Control. The authority shall not hold a license to provide alcoholic beverages at an off-track wagering facility.

f. Persons under the age of 18 years shall not be permitted in any off-track wagering facility, except in dining areas if accompanied by a parent or guardian.

g. The commission shall by regulation establish minimum standards for off-track wagering facilities, including, but not limited to, standards for size, seating capacity, parking and services to be provided.

h. The authority, in lieu of obtaining municipal zoning and planning approvals that may otherwise be required in connection with the off-track wagering facility, shall submit a written notice of its intention to site an off-track wagering facility to the governing body of the municipality within which the facility would be sited. The notice shall identify the proposed site of the facility by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the municipal tax assessor's offices. Within 45 days of its receipt of the authority's notice of intention,

the municipal governing body may disapprove of the proposed site of an off-track wagering facility by adopting a resolution which shall be valid and binding upon the authority and the commission upon delivery of a duly certified copy of the resolution to the authority and the commission. Whenever a municipality determines to consider a resolution disapproving a proposed off-track wagering facility, the authority shall be given an opportunity to offer a public presentation of the proposed facility prior to consideration of the resolution. A resolution disapproving a proposed off-track wagering facility shall state the reasons for disapproval.

In the event the governing body shall not adopt such a resolution, the authority may seek a license for an off-track wagering facility in that municipality and the commission may grant the authority the license provided that:

(1) the proposed off-track wagering facility site is not in an area zoned residential;

(2) the authority has submitted its plans to the municipal planning board, and complied with the provisions of section 22 of P.L.1975, c.291 (C.40:55D-31); and

(3) the authority has made reasonable efforts to address the reasonable concerns expressed by the municipal planning board.

7. Section 7 of P.L.2001, c.199 (C.5:5-133) is amended to read as follows:

C.5:5-133 Final determination on license application.

7. a. No sooner than 30 days nor later than 60 days following the public hearing, the commission shall make a final determination on the license application. The commission shall approve the application if it determines that the plan for the proposed facility includes appropriate standards of quality for the premises and services it will provide and that the authority has demonstrated by clear and convincing evidence that establishment of the proposed off-track wagering facility will not be inimical to the interests of the public and the horse racing industry in this State. The commission shall submit its determination to the Attorney General for review and approval. The determination of the commission shall be deemed approved by the Attorney General if not affirmatively approved or disapproved by the Attorney General within 14 days of the date of submission. The decision of the Attorney General shall be deemed a final decision. Upon approval by the Attorney General, the commission shall issue to the authority an off-track wagering license specifying the location, the periods of time during a calendar year and the hours of operation during which off-track wagering is permitted at the facility, and prescribing any other conditions or terms the commission deems appropriate.

b. With the approval of the commission, the authority may assign an off-track wagering license to a permit holder, provided that the authority shall retain responsibility for license renewals. In the event the authority assigns an off-track wagering license, the assignee shall reimburse the authority for its costs associated with the application for the license. With the approval of the commission, the off-track wagering licensee may enter into a contract or agreement with a person or entity to conduct or operate an off-track wagering facility for the licensee and to act as the agent of the licensee in all off-track wagering matters approved by the commission.

8. Section 13 of P.L.2001, c.199 (C.5:5-139) is amended to read as follows:

C.5:5-139 Issuance of license to establish account wagering system.

13. a. The commission is authorized to issue a license to the authority to establish an account wagering system in accordance with the provisions of this act, P.L.2001, c.199 (C.5:5-127 et seq.). A license issued pursuant to this act shall be valid for a term of one year. The commission shall issue a license only if the permit holder at Monmouth Park and the thoroughbred permit holder at Meadowlands Racetrack schedule at least the minimum number of race dates required in section 30 of this act, P.L.2001, c.199 (C.5:5-156), and it is satisfied that the authority has entered into a participation agreement with each and every person, partnership, association, corporation or authority or the successor in interest to such person, partnership, association, corporation or authority that:

(1) held a valid permit to hold or conduct a race horse meeting within this State in the calendar year 2000 consisting of at least 40 live race dates in the aggregate at the permit holder's racetrack;

(2) has complied with the terms of such permit; and

(3) is in good standing with the commission and the State of New Jersey.

An account wagering license may not be transferred or assigned to a successor in interest without the approval of the commission and the Attorney General, which approval may not be unreasonably withheld.

b. As part of the license application process, any participation agreement, or any modification to the agreement made thereafter, entered into for the purposes of this section shall be reviewed by the commission and the Attorney General to determine whether the agreement meets the requirements of this act and shall be subject to the approval of the commission and the Attorney General.

c. At the time of filing an application for licensure under this section, the authority shall submit to the commission a non-refundable filing fee in an amount established by regulation by the commission, and a certification

in a form prescribed by the commission which specifies, but is not limited to, information about the operation of the account wagering system and the authority's participation therein.

9. Section 14 of P.L.2001, c.199 (C.5:5-140) is amended to read as follows:

C.5:5-140 Public hearing.

14. a. Within 14 days of receipt of a completed application, certification and applicable fees, the executive director shall determine whether the same is in due form and meets the requirements of law in all respects, and upon being satisfied thereof, the executive director, within 45 days of receipt of a completed application, certification and applicable fees, shall hold a public hearing, the costs of which shall be paid by the applicant.

b. No sooner than 30 days nor later than 60 days following the public hearing, the commission shall make a final determination on the application. The commission shall approve the application if it determines that the authority has demonstrated by clear and convincing evidence that wagers placed through the proposed account wagering system will be accurately processed and that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State. The commission's determination shall be submitted to the Attorney General for review and approval. The determination of the commission shall be deemed approved by the Attorney General if not affirmatively approved or disapproved by the Attorney General within 14 days of the date of submission. The decision of the Attorney General shall be deemed a final decision. Upon approval by the Attorney General, the commission shall issue to the authority a license to participate in the account wagering system.

c. With the approval of the commission, the authority may assign the account wagering license to a permit holder, provided that the authority shall retain responsibility for license renewals. In the event the authority assigns the account wagering license, the assignee shall reimburse the authority for its costs associated with the application for the license. With the approval of the commission, the account wagering licensee may enter into a contract or agreement with a person or entity to conduct or operate an account wagering system or facility for the licensee and to act as the agent of the licensee in all account wagering matters approved by the commission.

10. Section 30 of P.L.2001, c.199 (C.5:5-156) is amended to read as follows:

C.5:5-156 Scheduling of race dates, minimum required.

30. a. The permit holder at Monmouth Park and the thoroughbred permit holder at Meadowlands Racetrack together shall schedule (1) no fewer than 120 thoroughbred race dates in the aggregate in each of calendar years 2004 through 2007; (2) no fewer than 141 thoroughbred race dates in the aggregate in each of calendar years 2008 through 2016; and (3) beginning in calendar year 2017 and in each calendar year thereafter, no fewer than 141 thoroughbred race dates in the aggregate, provided that in calendar year 2017 and in each calendar year thereafter the permit holders may schedule fewer than 141 thoroughbred race dates in the aggregate if the commission determines, upon application by the permit holders, that scheduling fewer dates in that calendar year is in the best interest of the racing industry and the State. In making its determination, the commission shall consider all factors, including, but not limited to, handle, number of starters, interstate competition, and export marketability. Notwithstanding the foregoing in (3), in no calendar year shall the permit holders schedule, in the aggregate, fewer than 120 thoroughbred race dates.

b. The standardbred permit holder at Meadowlands Racetrack shall schedule annually no fewer than 151 standardbred race dates.

c. The permit holders at Freehold Raceway shall schedule annually no fewer than 192 standardbred race dates.

d. Notwithstanding subsection a. of this section, the permit holder at Monmouth Park and the thoroughbred permit holder at Meadowlands Racetrack may schedule 120 thoroughbred race dates in the aggregate in each calendar year from 2004 through 2007 only if the thoroughbred permit holder at Meadowlands Racetrack or the permit holder at Monmouth Park guarantee in each calendar year from 2004 through 2007 at least $4,200,000 in thoroughbred stakes at Meadowlands Racetrack and Monmouth Park, and guarantee the average daily overnight purses for thoroughbred race meetings at the following levels: (1) at least $300,000 at Meadowlands Racetrack in each calendar year from 2004 through 2007; (2) for the traditional meet at Monmouth Park, at least $320,000 in calendar year 2004, at least $325,000 in calendar year 2005, at least $330,000 in calendar year 2006 and at least $335,000 in calendar year 2007; and (3) for the 18-day supplemental meet at Monmouth Park, at least $300,000 in each calendar year from 2004 through 2006. In any calendar year from 2004 through 2007 in which the permit holder at the Meadowlands Racetrack or the permit holder at Monmouth Park, as appropriate, fails to guarantee the required minimum for thoroughbred stakes or the required minimum in average in daily overnight purses pursuant to this subsection, the permit holder at Monmouth Park and the thoroughbred permit holder at Meadowlands Racetrack together

shall schedule no fewer than 141 thoroughbred race dates in the aggregate in that calendar year.

11. Section 7 of P.L.1971, c.137 (C.5:10-7) is amended to read as follows:

C.5:10-7 Application for permit.

7. a. The authority or a lessee of the authority is hereby authorized, licensed and empowered to apply to the Racing Commission for a permit or permits to hold and conduct, at any of the projects set forth in paragraphs (1) and (5) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6), horse race meetings for stake, purse or reward, and to provide a place or places on the race meeting grounds or enclosure for wagering by patrons on the results of such horse races by the parimutuel system, and to receive charges and collect all revenues, receipts and other sums from the operation thereof and, in the case of the authority, the ownership thereof.

b. Except as otherwise provided in this section, such horse race meetings and parimutuel wagering shall be conducted by the authority or a lessee of the authority in the manner and subject to compliance with the standards set forth in P.L.1940, c.17 (C.5:5-22 et seq.) and the rules, regulations and conditions prescribed by the Racing Commission thereunder for the conduct of horse race meetings and for parimutuel betting at such meetings.

c. Application for said permit or permits shall be on such forms and shall include such accompanying data as the Racing Commission shall prescribe for other applicants. The Racing Commission shall proceed to review and act on any such application within 30 days after its filing and the Racing Commission is authorized in its sole discretion to determine whether a permit shall be granted to the authority or a lessee of the authority. If, after such review, the Racing Commission acts favorably on such application, a permit shall be granted to the authority or a lessee of the authority without any further approval and shall remain in force and effect so long as any bonds or notes of the authority remain outstanding, the provisions of any other law to the contrary notwithstanding. In granting a permit to the authority or a lessee of the authority to conduct a horse race meeting, the Racing Commission shall not be subject to any limitation as to the number of tracks authorized for the conduct of horse race meetings pursuant to any provision of P.L.1940, c.17 (C.5:5-22 et seq.). Said permit shall set forth the dates to be allotted to the authority for its initial horse race meetings. Thereafter application for dates for horse race meetings by the authority or a lessee of the authority and the allotment thereof by the Racing Commission, including the renewal of the same dates theretofore allotted, shall be governed by the applicable provisions of P.L.1940, c.17 (C.5:5-22 et seq.). Notwithstanding

the provisions of any other law to the contrary, the Racing Commission shall allot annually to the authority or a lessee of the authority for the Meadowlands Complex, in the case of harness racing, not less than 100 racing days, and in the case of running racing, not less than 56 racing days, if and to the extent that application is made therefor.

d. No hearing, referendum or other election or proceeding, and no payment, surety or cash bond or other deposit, shall be required for the authority or a lessee of the authority to hold or conduct the horse race meetings with parimutuel wagering herein authorized.

e. The authority or a lessee of the authority shall determine the amount of the admission fee for the races and all matters relating to the collection thereof.

f. Distribution of sums deposited in parimutuel pools to winners thereof shall be in accordance with the provisions of section 44 of P.L.1940, c.17 (C.5:5-64) pertaining thereto. The authority or a lessee of the authority shall make disposition of the deposits remaining undistributed as follows:

(1) In the case of harness races:

(a) Hold and set aside in an account designated as a special trust account 1% of such total contributions in all pools, to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40, for the following purposes and no other:

(i) 42 1/2% thereof to increase purses and grant awards for starting horses, as provided or as may be provided by rules of the New Jersey Racing Commission, with payment to be made in the same manner as payment of other purses and awards;

(ii) 49% thereof for the establishment of a Sire Stakes Program for standardbred horses, with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(iii) 5 1/2% thereof to the Sire Stakes Program for purse supplements designed to improve and promote the standardbred breeding industry in New Jersey by increasing purses for owners of horses that are sired by a New Jersey registered stallion and are eligible to participate in the Sire Stakes Program. The Sire Stakes Program board of trustees shall consult with the Standardbred Breeders' and Owners' Association of New Jersey before disbursing money for purse supplements;

(iv) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

Payment of the sums held and set aside pursuant to subparagraphs (iii) and (iv) shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total

of all such contributions, together with such other information as the commission may require.

(b) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 5.1175%, or in the case of races on a charity racing day 5%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.5% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the authority or a lessee of the authority. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the authority or a lessee of the authority shall distribute as purse money 5.6175%, or in the case of races on a charity racing day 5.5%, of the total contributions and for pools where the patron is required to select three or more horses, the authority or a lessee of the authority shall distribute as purse money 7.1175%, or in the case of races on a charity racing day 7%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, the authority or a lessee of the authority shall retain out of the 7.1175% or 7% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(c) In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen .1175% of such total contributions.

(d) In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses .02% of such total contributions.

(e) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

(2) In the case of running races:

(a) Hold and set aside in an account designated as a special trust account .05% of such total contributions, to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(b) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association 4.475%, or in the case of races on a charity racing day 4.24%, of such total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association shall not exceed 2.9% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horsemen's Association and the authority or a lessee of the authority. Notwithstanding the foregoing, for pools where the patron is required to select three or more horses, the authority or a lessee of the authority shall distribute as purse money 7.475%, or in the case of races on a charity racing day 7.24%, of the total contributions.

(c) Deduct and set aside in a special trust account established pursuant to section 46b.(1)(e) and 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66) for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey .1% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be .6%. The money in the special trust account shall be used to: (I) improve purses for closed races; (ii) provide awards to owners and breeders of registered New Jersey bred horses who earn portions of purses in open and closed races at New Jersey race tracks or in closed races at an out-of-State track as part of a multi-state event to promote thoroughbred breeding, and to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners; and (iii) provide awards to the New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders' Association of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (a) of this paragraph.

(d) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .02% of such total contributions.

(e) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

Payment of the sums held and set aside pursuant to subparagraphs (a) and (c) of this subsection shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the

manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

In addition to the amounts above, in the case of races on a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), an amount equal to ½ of 1% of all parimutuel pools shall be paid to the commission at the time and in the manner prescribed by the commission.

All amounts remaining in parimutuel pools, including the breaks, after such distribution and payments shall constitute revenues of the authority or a lessee of the authority. Except as otherwise expressly provided in this section 7, the authority or a lessee of the authority shall not be required to make any payments to the Racing Commission or others in connection with contributions to parimutuel pools.

g. All sums held by the authority or a lessee of the authority for payment of outstanding parimutuel tickets not claimed by the person or persons entitled thereto within the time provided by law shall be paid upon the expiration of such time, without further obligation to such ticketholder, as follows:

(1) In the case of running and harness races, beginning July 1, 1997 50% of those sums shall be paid to the Racing Commission for deposit in the general fund of the State and disposition in accordance with section 4 of P.L.1997, c.29 (C.5:5-68.1);

(2) In the case of running races, 50% of those sums shall be paid to the commission and set aside in the special trust account established pursuant to section 46b.(1)(e) and section 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66); and

(3) In the case of harness races, 25% of those sums shall be retained by the permitholder to supplement purses for sire stakes races on which there is parimutuel wagering, and 25% shall be retained by the permitholder to supplement overnight purses.

h. No admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from the authority or a lessee of the authority by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

i. Any horse race meeting and the parimutuel system of wagering upon the results of horse races held at such race meeting shall not under any circumstances, if conducted as provided in the act and in conformity thereto, be held or construed to be unlawful, other statutes of the State to the contrary notwithstanding.

j. Each employee of the authority or a lessee of the authority engaged in the conducting of horse race meetings shall obtain the appropriate license

from the Racing Commission, subject to the same terms and conditions as is required of similar employees of other permitholders. The Racing Commission may suspend any member of the authority upon approval of the Governor and the license of any employee of the authority or a lessee of the authority in connection with the conducting of horse race meetings, pending a hearing by the Racing Commission, for any violation of the New Jersey laws regulating horse racing or any rule or regulation of the commission. Such hearing shall be held and conducted in the manner provided in said laws.

C.5:10-7.1 Proposals to lease horse racetrack facilities; notification.

12. If the authority seeks proposals to lease one or both of its horse racetrack facilities, it shall promptly provide written notification thereof to the President of the Senate and the Speaker of the General Assembly. Within 20 days after the receipt of such notice, the President of the Senate and Speaker of the General Assembly shall designate a member of the Senate and a member of the General Assembly, as appropriate, to serve as a liaison between the Legislature and the authority with respect to the potential leasing of one or both of the authority's horse racetracks, and shall provide written notification to the authority of the designations. The President and Chief Executive Officer of the authority shall describe to the liaisons each significant proposal and the authority's analysis of each significant proposal. Any recommendation regarding a lease proposal submitted by the President and Chief Executive Officer or staff of the authority to the board of commissioners shall include the opinions of the liaisons. The authority's members shall not award the contract in a lease transaction less than 45 days after the liaisons receive descriptions and analyses of the proposals.

13. Section 4 of P.L.1971, c.137 (C.5:10-4) is amended to read as follows:

C.5:10-4 "New Jersey Sports and Exposition Authority"; membership.

4. a. There is hereby established in the Department of Community Affairs a public body corporate and politic, with corporate succession, to be known as the "New Jersey Sports and Exposition Authority." The authority is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by the act shall be deemed and held to be an essential governmental function of the State and the application of the revenue derived from the projects to the purposes provided in this act shall be deemed and held to be applied in support of government.

b. The authority shall consist of the State Treasurer, the President of the New Jersey Sports and Exposition Authority, and a member of the Hackensack Meadowlands Development Commission, to be appointed by the Governor, who shall be members ex officio, 11 members appointed by the Governor with the advice and consent of the Senate, one member appointed by the President of the Senate and one member appointed by the Speaker of the General Assembly, for terms of four years. Each member shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. Each appointed member may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of such hearing. Each member before entering upon his duties shall take and subscribe an oath to perform the duties of his office faithfully, impartially and justly to the best of his ability. A record of such oaths shall be filed in the office of the Secretary of State.

d. The chairman shall be appointed by the Governor from the members of the authority other than ex officio members, and the members of the authority shall elect one of their number as vice chairman thereof. The authority shall elect a secretary and a treasurer, who need not be members, and the same person may be elected to serve both as secretary and treasurer. The powers of the authority shall be vested in the members thereof in office from time to time and nine members of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of at least eight members of the authority. No vacancy in the membership of the authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the authority.

e. Each member and the treasurer of the authority shall execute a bond to be conditioned upon the faithful performance of the duties of such member or treasurer, as the case may be, in such form and amount as may be prescribed by the Director of the Division of Budget and Accounting in the Department of the Treasury. Such bonds shall be filed in the office of the Secretary of State. At all times thereafter the members and treasurer of the authority shall maintain such bonds in full force and effect. All costs of such bonds shall be borne by the authority.

f. The members of the authority shall serve without compensation, but the authority shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no officer or employee of the State shall be deemed to have

forfeited or shall forfeit his office or employment or any benefits or emoluments thereof by reason of his acceptance of the office of ex officio member of the authority or his services therein.

g. Each ex officio member of the authority may designate an officer or employee of his department or agency to represent him at meetings of the authority, and each such designee may lawfully vote and otherwise act on behalf of the member for whom he constitutes the designee. Any such designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended by writing delivered to the authority.

h. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the authority all property, funds and assets thereof shall be vested in the State.

i. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the authority shall have force or effect until 15 days after such copy of the minutes shall have been so delivered unless during such 15-day period the Governor shall approve the same, in which case such action shall become effective upon such approval. If, in said 15-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and void and of no effect. The powers conferred in this subsection I. upon the Governor shall be exercised with due regard for the rights of the holders of bonds and notes of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection I. shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or notes or for the benefit, protection or security of the holders thereof.

14. Section 5 of P.L.1971, c.137 (C.5:10-5) is amended to read as follows:

C.5:10-5 Powers of authority.

5. Except as otherwise limited by the act, the authority shall have power:

a. To sue and be sued;

b. To have an official seal and alter the same at pleasure;

c. To make and alter bylaws for its organization and internal management and for the conduct of its affairs and business;

d. To maintain an office at such place or places within the State as it may determine;

e. To acquire, hold, use and dispose of its income, revenues, funds and moneys;

f. To acquire, lease as lessee or lessor, rent, lease, hold, use and dispose of real or personal property for its purposes;

g. To borrow money and to issue its negotiable bonds or notes and to secure the same by a mortgage on its property or any part thereof, and to enter into any credit agreement, and otherwise to provide for and secure the payment of its bonds and notes and to provide for the rights of the holders thereof;

h. To make and enter into all contracts, leases, and agreements for the use or occupancy of its projects or any part thereof or which are necessary or incidental to the performance of its duties and the exercise of its powers under the act;

i. To make surveys, maps, plans for, and estimates of the cost of its projects;

j. To establish, acquire, construct, lease the right to construct, rehabilitate, repair, improve, own, operate, and maintain its projects, and let, award and enter into construction contracts, purchase orders and other contracts with respect thereto in such manner as the authority shall determine, subject only to the provisions of sections 1 through 3 of P.L.1981, c.447 (C.5:10-21.1 through 5:10-21.3) and section 3 of P.L.1987, c.318 (C.5:10-21.1a);

k. To fix and revise from time to time and charge and collect rents, tolls, fees and charges for the use, occupancy or services of its projects or any part thereof or for admission thereto, and for the grant of concessions therein and for things furnished or services rendered by the authority;

l. To establish and enforce rules and regulations for the use or operation of its projects or the conduct of its activities, and provide for the policing and the security of its projects;

m. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or, except with respect to the State, by the exercise of the power of eminent domain, any land and other property, including land under water, meadowlands, and riparian rights, which it may determine is reasonably necessary for any of its projects or for the relocation or reconstruction of any highway by the authority and any and all rights, title and interest in such land and other property, including public lands, reservations, highways or parkways, owned by or in which the State or any county, city, borough, town, township,

village, public corporation, or other political subdivision of the State has any right, title or interest, or parts thereof or rights therein and any fee simple absolute or any lesser interest in private property, and any fee simple absolute in, easements upon or the benefit of restrictions upon abutting property, to preserve and protect any project, except that the authority shall not have the right to exercise the power of eminent domain in connection with projects authorized under paragraphs (5), (6), and (7) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6);

n. To provide through its employees, or by the grant of one or more concessions, or in part through its employees and in part by grant of one or more concessions, for the furnishing of services and things for the accommodation of persons admitted to or using its projects or any part thereof;

o. To hold and conduct horse race meetings for stake, purse or reward and to provide and operate a parimutuel system of wagering at such meetings, but subject only to the provisions of section 7 of the act;

p. To acquire, construct, operate, maintain, improve, and make capital contributions to others for transportation and other facilities, services and accommodations for the public's use of its projects and to lease or otherwise contract for the operation thereof;

q. Subject to any agreement with bondholders or noteholders, to invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds or notes, in such obligations, securities and other investments as the authority shall deem prudent;

r. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of the act, with the terms and conditions thereof;

s. Subject to any agreements with bondholders or noteholders, to purchase bonds or notes of the authority out of any funds or money of the authority available therefor, and to hold, cancel or resell such bonds or notes;

t. To appoint and employ a president, who shall be the chief executive officer, and such additional officers, who need not be members of the authority, and accountants, attorneys, financial advisors or experts and all such other or different officers, agents and employees as it may require and to determine their qualifications, terms of office, duties and compensation, all without regard to the provisions of Title 11A of the New Jersey Statutes; provided that it is the express intent of the Legislature that the authority within its sole discretion shall utilize, to the fullest extent feasible, the services of the officers, personnel and consultants of the Meadowlands Commission, in connection with its project in the Meadowlands complex;

u. To do and perform any acts and things authorized by the act, under, through, or by means of its officers, agents or employees or by contract with any person, firm or corporation;

v. To procure insurance against any losses in connection with its property, operations or assets, in such amounts and from such insurers as it deems desirable;

w. To do any and all things, including, but not limited to, the creation or formation of profit or not-for-profit corporations, necessary or convenient to carry out its purposes and exercise the powers given and granted in the act;

x. To determine the location, type and character of a project or any part thereof and all other matters in connection with all or any part of a project, notwithstanding any land use plan, zoning regulation, building code or similar regulation heretofore or hereafter adopted by the State, any municipality, county, public body politic and corporate, including but not limited to the Meadowlands Commission, or any other political subdivision of the State, except that all projects constructed after the effective date of this 1987 amendatory and supplementary act shall conform to the Barrier-Free Sub-Code promulgated as part of the State Uniform Construction Code pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.) and further excepted that the authority shall consult with the Meadowlands Commission before making any determination as to the location, type and character of any project under the jurisdiction of the Meadowlands Commission; and

y. To provide, with or without charge as it deems appropriate, through or by means of its officers, agents or employees, advisory, consulting, management or operating services to any political subdivision of the State, or any agency or instrumentality of the State or of any political subdivision of the State, with regard to a stadium, arena, concert hall or other sports or entertainment facility in operation as of January 1, 2004 and owned or operated by such entity as of January 1, 2004.

15. This act shall take effect immediately and except for sections 12 and 13 shall be retroactive to January 1, 2004.

Approved August 8, 2004.

CHAPTER 117

AN ACT expanding the duties of the racing commission, amending P.L.1940, c.17.

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

1. Section 1 of P.L.1940, c.17 (C.5:5-22) is amended to read as follows:

C.5:5-22 New Jersey Racing Commission, powers, duties; definitions.

1. There is hereby created and established a New Jersey Racing Commission, hereinafter referred to as the commission, which commission shall be vested with and possessed of the powers and duties in this act specified, including the duty, when consistent with the commission's primary duty of regulating horse racing, to advocate the growth, development and promotion of the horse racing industry in this State, and also the powers necessary or proper to enable it to carry out fully and effectually all the provisions and purposes of this act. The jurisdiction, powers and duties of the commission herein created and established shall extend under this act to any and all persons, partnerships, associations or corporations which shall hereafter hold or conduct any meeting within the State of New Jersey whereat horse racing shall be permitted for any stake, purse or reward.

As used in this act

(a) Horse racing, horse race meeting or race meeting shall be construed to mean and include running and harness racing of horses.

(b) Running racing or running races shall be construed to mean and include only any racing of horses in which the horses competing or participating are mounted by a jockey.

(c) Harness racing or harness races shall be construed to mean and include only any racing of horses in which the horses competing or participating are harnessed to a sulky, carriage or similar vehicle and are not mounted by a jockey.

2. This act shall take effect immediately.

Approved August 8, 2004.

CHAPTER 118

AN ACT extending eligibility for certain thoroughbred breeder awards, amending P.L.1940, c.17.

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

1. Section 46 of P.L.1940, c.17 (C.5:5-66) is amended to read as follows:

C.5:5-66 Disposition of undistributed deposits.

46. Every permitholder engaged in the business of conducting horse race meetings under this act, except the New Jersey Sports and Exposition Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.) or a lessee of the authority, shall make disposition of the deposits remaining undistributed pursuant to section 44 of P.L.1940, c.17 (C.5:5-64) as follows:

a. In the case of harness races:

(1) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, 1.25% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race, except that for pools where the patron is required to select two horses, the permitholder shall pay 2.25% of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall pay 5.25% of the total contributions;

(2) Hold and set aside in an account designated as a special trust account 1.15% of such total contributions in all pools, to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40 (C.5:5-88), for the following purposes and no other:

(a) 37% thereof to increase purses and grant awards for starting horses, as provided or as may be provided by rules of the New Jersey Racing Commission, with payment to be made in the same manner as payment of other purses and awards;

(b) 55% thereof for the establishment of a Sire Stakes Program for standardbred horses, with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(c) 5% thereof to the Sire Stakes Program for purse supplements designed to improve and promote the standardbred breeding industry in New Jersey by increasing purses for owners of horses that are sired by a New Jersey registered stallion and are eligible to participate in the Sire Stakes Program. The Sire Stakes Program board of trustees shall consult with the Standardbred Breeders' and Owners' Association of New Jersey before disbursing money for purse supplements;

(d) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

(3) Retain 7.7875%, or in the case of races on a charity racing day 7.20%, of so much of such total contributions for his own uses and purposes. Notwithstanding the foregoing, for pools where the patron is required to

select two horses, the permitholder shall retain 8.7575%, or in the case of races on a charity racing day 7.70%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 11.6675%, or in the case of races on a charity racing day 9.20%, of the total contributions. Each permitholder shall contribute out of its 11.6675% or 9.20% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(4) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 7.69375%, or in the case of races on a charity racing day 7.40%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.2% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the tracks. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the permitholder shall distribute as purse money 8.42875%, or in the case of races on a charity racing day 7.90%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 10.63375%, or in the case of races on a charity racing day 9.40%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 10.63375% or 9.40% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(5) In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen .29375% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be .52875%, and for pools where the patron is required to select three or more horses, the amount shall be 1.23375%.

(6) In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses .05% of such total contributions, except that for pools where the patron is required to select

two or more horses, the amount shall be .09%, and for pools where the patron is required to select three or more horses, the amount shall be .21%.

(7) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .025% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be .045%, and for pools where the patron is required to select three or more horses, the amount shall be .105%.

Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

b. In the case of running races:

(1) Where the amount derived from the parimutuel handle, excluding the handle derived from intertrack wagering, does not exceed $1 million per day based on such contributions accumulated and averaged during the calendar year, the permitholder shall:

(a) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, .30% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race, except that for pools where the patron is required to select three or more horses, the permitholder shall pay 1.30% of the total contributions.

(b) Hold and set aside in an account designated as a special trust account .05% of such total contributions to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(c) Retain 9.991%, or in the case of races on a charity racing day 9.85%, of such total contributions for his own uses and purposes. For pools where the patron is required to select two horses, the permitholder shall retain 11.061%, or in the case of races on a charity racing day 10.92%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 13.941%, or in the case of races on a charity racing day 13.33%, of the total contributions. Each permitholder shall contribute out of its 13.941% or 13.33% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and

necessary and which shall be subject to the regulation and control of the commission.

(d) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association 6.141%, or in the case of races on a charity racing day 6.00%, of such contributions. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall distribute as purse money 7.071%, or in the case of races on a charity racing day 6.93%, of such contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 9.631%, or in the case of races on a charity racing day 9.02%, of the total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association shall not exceed 2.5% of the sum available for distribution as purse money from all parimutuel pools. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horsemen's Association and the permitholder. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 9.631% or 9.02% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(e) Deduct and set aside in a special trust account for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey .8% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be 1.3%. The money in the special trust account shall be used to: (I) improve purses for closed races; (ii) provide awards to owners and breeders of registered New Jersey bred horses who earn portions of purses in open or closed races at New Jersey race tracks or in closed races at an out-of-State track as part of a multi-state event to promote thoroughbred breeding, and to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners; and (iii) provide awards to the New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. In any calendar year in which there is a surplus in the special trust account, the surplus funds may be used to provide awards to breeders or owners of registered New Jersey bred horses who earn portions of purses in races at an out-of-State racetrack held at least 30 days before the start of the first thoroughbred meet of the calendar year of more than 10 days' duration at a

racetrack in this State or at least 30 days following the conclusion of the last thoroughbred meet of the calendar year of more than 10 days' duration at a racetrack in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders' Association of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (b) of this paragraph.

(f) (Deleted by amendment, P.L.1986, c.19.)

(g) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .012% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be .052%.

(h) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .006% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be .026%.

(i) (Deleted by amendment, P.L.2002, c.103).

(j) Except as otherwise provided by law, not be subject to an admission or amusement tax, excise tax, license or horse racing fee of any kind by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

(2) Where the amount derived from the parimutuel handle, excluding the handle derived from intertrack wagering, exceeds $1 million per day based on such contributions accumulated and averaged during the calendar year, the permitholder shall:

(a) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, .50% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race.

(b) Hold and set aside in an account designated as a special trust account .05% of such total contributions to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(c) Retain 9.305%, or in the case of races on a charity racing day 9.07%, of such total contributions for his own uses and purposes. For pools where the patron is required to select two horses, the permitholder shall retain 10.375%, or in the case of races on a charity racing day 10.14%, of the total

contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 13.545%, or in the case of races on a charity racing day 13.31%, of the total contributions. Each permitholder shall contribute out of its 13.545% or 13.31% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(d) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association 6.815%, or in the case of races on a charity racing day 6.58%, of such contributions. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall distribute as purse money 7.745%, or in the case of races on a charity racing day 7.51%, of such contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 10.085%, or in the case of races on a charity racing day 9.85%, of the total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association shall not exceed 2.5% of the sum available for distribution as purse money from all parimutuel pools. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horsemen's Association and the permitholder. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 10.085% or 9.85% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(e) Deduct and set aside in a special trust account for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey .8% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be 1.29%. The money in the special trust account shall be used to: (i) improve purses for closed races; (ii) provide awards to owners and breeders of registered New Jersey bred horses who earn portions of purses in open or closed races at New Jersey race tracks or in closed races at an out-of-State track as part of a multi-state event to promote thoroughbred breeding, and to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners;

and (iii) provide awards to the New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. In any calendar year in which there is a surplus in the special trust account, the surplus funds may be used to provide awards to breeders or owners of registered New Jersey bred horses who earn portions of purses in races at an out-of-State racetrack held at least 30 days before the start of the first thoroughbred meet of the calendar year of more than 10 days' duration at a racetrack in this State or at least 30 days following the conclusion of the last thoroughbred meet of the calendar year at a racetrack of more than 10 days' duration in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders' Association of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (b) of this paragraph.

(f) (Deleted by amendment, P.L.1986, c.19.)

(g) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .02% of such total contributions.

(h) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

(i) (Deleted by amendment, P.L.2002, c.103).

(j) Except as otherwise provided by law, not be subject to an admission or amusement tax, excise tax, license or horse racing fee of any kind from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

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

Approved August 8, 2004.

CHAPTER 119

AN ACT concerning workers' compensation coverage under the New Jersey Horse Racing Injury Compensation Board and amending P.L.1995, c.329.

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

1. Section 3 of P.L.1995, c.329 (C.34:15-131) is amended to read as follows:

C.34:15-131 Definitions regarding The New Jersey Horse Racing Injury Compensation Board.

3. As used in this act:

"Board" means the New Jersey Horse Racing Injury Compensation Board established by section 4 of this act.

"Commission" means the New Jersey Racing Commission established pursuant to section 1 of P.L.1940, c.17 (C.5:5-22).

"Horse racing industry employee" means a jockey, jockey apprentice, or driver engaged in performing services for an owner in connection with the racing of a horse in New Jersey. "Horse racing industry employee" also means an exercise rider of a thoroughbred horse for the period of time during which he or she is employed as an exercise rider of a thoroughbred horse at a horse racetrack in this State, who is licensed by the commission and from whose wages deductions and withholdings as required or authorized by State or federal law are taken, and a trainer who otherwise would be considered an employee of the owner pursuant to R.S.34:15-1 et seq., as well as any person assisting such trainer who is required to be licensed by the commission.

2. This act shall take effect immediately.

Approved August 8, 2004.

CHAPTER 120

AN ACT concerning the Highlands Region, creating a Highlands Water Protection and Planning Council, dedicating a portion of the realty transfer fee revenue annually for certain State aid purposes in the Highlands Region and in the pinelands area, supplementing Title 13 of the Revised Statutes, and amending and supplementing various sections of the statutory law.

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

C.13:20-1 Short title.

1. This act shall be known, and may be cited, as the "Highlands Water Protection and Planning Act."

C.13:20-2 Findings, declarations relative to the "Highlands Water Protection and Planning Act."

2. The Legislature finds and declares that the national Highlands Region is an area that extends from northwestern Connecticut across the lower Hudson River Valley and northern New Jersey into east central Pennsylvania; that the national Highlands Region has been recognized as a landscape of special significance by the United States Forest Service; that the New Jersey portion of the national Highlands Region is nearly 800,000 acres, or about 1,250 miles, covering portions of 88 municipalities in seven counties; and that the New Jersey Highlands Region is designated as a Special Resource Area in the State Development and Redevelopment Plan.

The Legislature further finds and declares that the New Jersey Highlands is an essential source of drinking water, providing clean and plentiful drinking water for one-half of the State's population, including communities beyond the New Jersey Highlands, from only 13 percent of the State's land area; that the New Jersey Highlands contains other exceptional natural resources such as clean air, contiguous forest lands, wetlands, pristine watersheds, and habitat for fauna and flora, includes many sites of historic significance, and provides abundant recreational opportunities for the citizens of the State.

The Legislature further finds and declares that the New Jersey Highlands provides a desirable quality of life and place where people live and work; that it is important to ensure the economic viability of communities throughout the New Jersey Highlands; and that residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the New Jersey Highlands are also in the best interests of all the citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities.

The Legislature further finds and declares that there are approximately 110,000 acres of agricultural lands in active production in the New Jersey Highlands; that these lands are important resources of the State that should be preserved; that the agricultural industry in the region is a vital component of the economy, welfare, and cultural landscape of the Garden State; and, that in order to preserve the agricultural industry in the region, it is necessary and important to recognize and reaffirm the goals, purposes, policies, and provisions of the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.) and the protections afforded to farmers thereby.

The Legislature further finds and declares that, since 1984, 65,000 acres, or over 100 square miles, of the New Jersey Highlands have been lost to development; that sprawl and the pace of development in the region has dramatically increased, with the rate of loss of forested lands and wetlands more than doubling since 1995; that the New Jersey Highlands, because of

its proximity to rapidly expanding suburban areas, is at serious risk of being fragmented and consumed by unplanned development; and that the existing land use and environmental regulation system cannot protect the water and natural resources of the New Jersey Highlands against the environmental impacts of sprawl development.

The Legislature further finds and declares that the protection of the New Jersey Highlands, because of its vital link to the future of the State's drinking water supplies and other key natural resources, is an issue of State level importance that cannot be left to the uncoordinated land use decisions of 88 municipalities, seven counties, and a myriad of private landowners; that the State should take action to delineate within the New Jersey Highlands a preservation area of exceptional natural resource value that includes watershed protection and other environmentally sensitive lands where stringent protection policies should be implemented; that a regional approach to land use planning in the preservation area should be established to replace the existing uncoordinated system; that such a new regional approach to land use planning should be complemented by increased standards more protective of the environment established by the Department of Environmental Protection for development in the preservation area of the New Jersey Highlands; that the new regional planning approach and the more stringent environmental regulatory standards should be accompanied, as a matter of wise public policy and fairness to property owners, by a strong and significant commitment by the State to fund the acquisition of exceptional natural resource value lands; and that in the light of the various pressures now arrayed against the New Jersey Highlands, these new approaches should be implemented as soon as possible.

The Legislature further finds and declares that in the New Jersey Highlands there is a mountain ridge running southwest from Hamburg Mountain in Sussex County that separates the eastern and the western New Jersey Highlands; that much of the State's drinking water supplies originate in the eastern New Jersey Highlands; and that planning for the region and the environmental standards and regulations to protect those water supplies should be developed with regard to the differences in the topography of the Highlands Region and how the topography affects the quality of the water supplies.

The Legislature therefore determines, in the light of these findings set forth hereinabove, and with the intention of transforming them into action, that it is in the public interest of all the citizens of the State of New Jersey to enact legislation setting forth a comprehensive approach to the protection of the water and other natural resources of the New Jersey Highlands; that this comprehensive approach should consist of the identification of a preservation area of the New Jersey Highlands that would be subjected to stringent

water and natural resource protection standards, policies, planning, and regulation; that this comprehensive approach should also consist of the establishment of a Highlands Water Protection and Planning Council charged with the preparation of a regional master plan for the preservation area in the New Jersey Highlands as well as for the region in general; that this comprehensive approach should also include the adoption by the Department of Environmental Protection of stringent standards governing major development in the Highlands preservation area; that, because of the imminent peril that the ongoing rush of development poses for the New Jersey Highlands, immediate, interim standards should be imposed on the date of enactment of this act on major development in the preservation area of the New Jersey Highlands, followed subsequently by adoption by the department of appropriate rules and regulations; that it is appropriate to encourage in certain areas of the New Jersey Highlands, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and to discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts thereof; that the maintenance of agricultural production and a positive agricultural business climate should be encouraged to the maximum extent possible wherever appropriate in the New Jersey Highlands; and that all such aforementioned measures should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations while also providing every conceivable opportunity for appropriate economic growth and development to advance the quality of life of the residents of the region and the entire State.

C.13:20-3 Definitions relative to the "Highlands Water Protection and Planning Act."

3. As used in this act:

"Agricultural or horticultural development" means construction for the purposes of supporting common farmsite activities, including but not limited to: the production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants, animals, and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing;

"Agricultural impervious cover" means agricultural or horticultural buildings, structures, or facilities with or without flooring, residential buildings, and paved areas, but shall not mean temporary coverings;

"Agricultural or horticultural use" means the use of land for common farmsite activities, including but not limited to: the production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants, animals, and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing;

"Application for development" means the application form and all accompanying documents required for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, or direction of the issuance of a permit pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or R.S.40:27-1 et seq., for any use, development, or construction;

"Capital improvement" means any facility for the provision of public services with a life expectancy of three or more years, owned and operated by or on behalf of the State or a political subdivision thereof;

"Construction beyond site preparation" means having completed the foundation for a building or structure, and does not include the clearing, cutting, or removing of vegetation, bringing construction materials to the site, or site grading or other earth work associated with preparing a site for construction;

"Construction materials facility" means any facility or land upon which the activities of production of ready mix concrete, bituminous concrete, or class B recycling occurs;

"Council" means the Highlands Water Protection and Planning Council established by section 4 of this act;

"Department" means the Department of Environmental Protection;

"Development" means the same as that term is defined in section 3.1 of P.L.1975, c.291 (C.40:55D-4);

"Development regulation" means the same as that term is defined in section 3.1 of P.L.1975, c.291 (C.40:55D-4);

"Disturbance" means the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation;

"Environmental land use or water permit" means a permit, approval, or other authorization issued by the Department of Environmental Protection pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution Control Act," P.L.1977, c.74

(C.58:10A-1 et seq.), "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.);

"Facility expansion" means the expansion of the capacity of an existing capital improvement in order that the improvement may serve new development;

"Farm conservation plan" means a site specific plan that prescribes needed land treatment and related conservation and natural resource management measures, including forest management practices, that are determined to be practical and reasonable for the conservation, protection, and development of natural resources, the maintenance and enhancement of agricultural or horticultural productivity, and the control and prevention of nonpoint source pollution;

"Farm management unit" means a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise;

"Highlands open waters" means all springs, streams including intermittent streams, wetlands, and bodies of surface water, whether natural or artificial, located wholly or partially within the boundaries of the Highlands Region, but shall not mean swimming pools;

"Highlands Region" means that region so designated by subsection a. of section 7 of this act;

"Immediate family member" means spouse, child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, or half sister, whether the individual is related by blood, marriage, or adoption;

"Impact fee" means cash or in-kind payments required to be paid by a developer as a condition for approval of a major subdivision or major site plan for the developer's proportional share of the cost of providing new or expanded reasonable and necessary public improvements located outside the property limits of the subdivision or development but reasonably related to the subdivision or development based upon the need for the improvement created by, and the benefits conferred upon, the subdivision or development;

"Impervious surface" means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements;

"Individual unit of development" means a dwelling unit in the case of a residential development, a square foot in the case of a non-residential development, or any other standard employed by a municipality for different categories of development as a basis upon which to establish a service unit;

"Local government unit" means a municipality, county, or other political subdivision of the State, or any agency, board, commission, utilities authority or other authority, or other entity thereof;

"Major Highlands development" means, except as otherwise provided pursuant to subsection a. of section 30 of this act, (1) any non-residential development in the preservation area; (2) any residential development in the preservation area that requires an environmental land use or water permit or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more; (3) any activity undertaken or engaged in the preservation area that is not a development but results in the ultimate disturbance of one-quarter acre or more of forested area or that results in a cumulative increase in impervious surface by one-quarter acre or more on a lot; or (4) any capital or other project of a State entity or local government unit in the preservation area that requires an environmental land use or water permit or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more. Major Highlands development shall not mean an agricultural or horticultural development or agricultural or horticultural use in the preservation area;

"Mine" means any mine, whether on the surface or underground, and any mining plant, material, equipment, or explosives on the surface or underground, which may contribute to the mining or handling of ore or other metalliferous or non-metalliferous products. The term "mine" shall also include a quarry, sand pit, gravel pit, clay pit, or shale pit;

"Mine site" means the land upon which a mine, whether active or inactive, is located, for which the Commissioner of Labor and Workforce Development has granted a certificate of registration pursuant to section 4 of P.L.1954, c.197 (C.34:6-98.4) and the boundary of which includes all contiguous parcels, except as provided below, of property under common ownership or management, whether located in one or more municipalities, as such parcels are reflected by lot and block numbers or metes and bounds, including any mining plant, material, or equipment. "Contiguous parcels" as used in this definition of "mine site" shall not include parcels for which mining or quarrying is not a permitted use or for which mining or quarrying is not permitted as a prior nonconforming use under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.);

"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);

"Planning area" means that portion of the Highlands Region not included within the preservation area;

"Preservation area" means that portion of the Highlands Region so designated by subsection b. of section 7 of this act;

"Public utility" means the same as that term is defined in R.S.48:2-13;

"Recreation and conservation purposes" means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3);

"Regional master plan" means the Highlands regional master plan or any revision thereof adopted by the council pursuant to section 8 of this act;

"Resource management systems plan" means a site specific conservation system plan that (1) prescribes needed land treatment and related conservation and natural resource management measures, including forest management practices, for the conservation, protection, and development of natural resources, the maintenance and enhancement of agricultural or horticultural productivity, and the control and prevention of nonpoint source pollution, and (2) establishes criteria for resources sustainability of soil, water, air, plants, and animals;

"Service area" means that area to be served by the capital improvement or facility expansion as designated in the capital improvement program adopted by a municipality under section 20 of P.L.1975, c.291 (C.40:55D-29);

"Service unit" means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements or facility expansions;

"Soil conservation district" means the same as that term is defined in R.S. 4:24-2;

"State Development and Redevelopment Plan" means the State Development and Redevelopment Plan adopted pursuant to P.L.1985, c.398 (C.52:18A-196 et al.);

"State entity" means any State department, agency, board, commission, or other entity, district water supply commission, independent State authority or commission, or bi-state entity;

"State Soil Conservation Committee" means the State Soil Conservation Committee in the Department of Agriculture established pursuant to R.S.4:24-3;

"Temporary coverings" means permeable, woven and non-woven geotextile fabrics that allow for water infiltration or impermeable materials that are in contact with the soil and are used for no more than two consecutive years; and

"Waters of the Highlands" means all springs, streams including intermittent streams, and bodies of surface or ground water, whether natural or artificial, located wholly or partially within the boundaries of the Highlands Region, but shall not mean swimming pools.

C.13:20-4 "Highlands Water Protection and Planning Council."

4. There is hereby established a public body corporate and politic, with corporate succession, to be known as the "Highlands Water Protection and Planning Council." The council shall constitute a political subdivision of the State established as an instrumentality exercising public and essential governmental functions, and the exercise by the council of the powers and duties conferred by this act shall be deemed and held to be an essential governmental function of the State. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the council is hereby allocated within the Department of Environmental Protection, but, notwithstanding that allocation, the council shall be independent of any supervision or control by the department or by the commissioner or any officer or employee thereof.

C.13:20-5 Membership of council, appointment, terms, meetings, minutes delivered to Governor.

5. a. The council shall consist of 15 voting members to be appointed and qualified as follows:

(1) Eight residents of the counties of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex, or Warren, appointed by the Governor, with the advice and consent of the Senate, (a) no more than four of whom shall be of the same political party, (b) of whom five shall be municipal officials residing in the Highlands Region and holding elective office at the time of appointment and three shall be county officials holding elective office at the time of appointment, and (c) among whom shall be (i) at least one resident from each of the counties of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex, and Warren, and (ii) two residents from the county that has the largest population residing in the Highlands Region, of whom no more than one shall be of the same political party; and

(2) Seven residents of the State, of whom five shall be appointed by the Governor, with the advice and consent of the Senate , one shall be appointed by the Governor upon the recommendation of the President of the Senate, and one shall be appointed by the Governor upon the recommendation of the Speaker of the General Assembly. The members appointed pursuant to this paragraph shall have, to the maximum extent practicable, expertise, knowledge, or experience in water quality protection, natural resources protection, environmental protection, agriculture, forestry, land use, or economic development, and at least four of them shall be property owners, business owners, or farmers in the Highlands Region or residents or nonresidents of the

Highlands Region who benefit from or consume water from the Highlands Region.

b. (1) Council members shall serve for terms of five years; provided, however, that of the members first appointed, five shall serve a term of three years, five shall serve a term of four years, and five shall serve a term of five years. The initial terms of the two council members appointed by the Governor upon the recommendation, respectively, of the President of the Senate and the Speaker of the General Assembly shall be among those council members assigned initial terms of five years pursuant to this paragraph.

(2) Each member shall serve for the term of the appointment and until a successor shall have been appointed and qualified. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term only.

c. Any member of the council may be removed by the Governor, for cause, after a public hearing.

d. Each member of the council, before entering upon the member's duties, shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability, in addition to any oath that may be required by R.S.41:1-1 et seq. A record of the oath shall be filed in the Office of the Secretary of State.

e. The members of the council shall serve without compensation, but the council may, within the limits of funds appropriated or otherwise made available for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties.

f. The powers of the council shall be vested in the members thereof in office. A majority of the total authorized membership of the council shall constitute a quorum and no action may be taken by the council except upon the affirmative vote of a majority of the total authorized membership of the council. No alternate or designee of any council member shall exercise any power to vote on any matter pending before the council.

g. The Governor shall designate one of the members of the council as chairperson. The council shall appoint an executive director, who shall be the chief administrative officer thereof. The executive director shall serve at the pleasure of the council, and shall be a person qualified by training and experience to perform the duties of the office.

h. The members and staff of the council shall be subject to the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.).

i. The council shall be subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

j. A true copy of the minutes of every meeting of the council shall be prepared and forthwith delivered to the Governor. No action taken at a meeting by the council shall have force or effect until 10 days, exclusive of

Saturdays, Sundays, and public holidays, after a copy of the minutes shall have been so delivered; provided, however, that no action taken with respect to the adoption of the regional master plan, or any portion or revision thereof, shall have force or effect until 30 days, exclusive of Saturdays, Sundays, and public holidays, after a copy of the minutes shall have been so delivered. If, in the 10-day period, or 30-day period, as the case may be, the Governor returns the copy of the minutes with a veto of any action taken by the council at the meeting, the action shall be null and void and of no force and effect.

C.13:20-6 Powers, duties, responsibilities of council.

6. The council shall have the following powers, duties, and responsibilities, in addition to those prescribed elsewhere in this act:

a. To adopt and from time to time amend and repeal suitable bylaws for the management of its affairs;

b. To adopt and use an official seal and alter it at the council's pleasure;

c. To maintain an office at such place or places in the Highlands Region as it may designate;

d. To sue and be sued in its own name;

e. To appoint, retain and employ, without regard to the provisions of Title 11A of the New Jersey Statutes but within the limits of funds appropriated or otherwise made available for those purposes, such officers, employees, attorneys, agents, and experts as it may require, and to determine the qualifications, terms of office, duties, services, and compensation therefor;

f. To apply for, receive, and accept, from any federal, State, or other public or private source, grants or loans for, or in aid of, the council's authorized purposes or in the carrying out of the council's powers, duties, and responsibilities;

g. To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the council or to carry out any power, duty, or responsibility expressly given in this act;

h. To call to its assistance and avail itself of the services of such employees of any State entity or local government unit as may be required and made available for such purposes;

i. To adopt a regional master plan for the Highlands Region as provided pursuant to section 8 of this act;

j. To appoint advisory boards, commissions, councils, or panels to assist in its activities, including but not limited to a municipal advisory council consisting of mayors, municipal council members, or other representatives of municipalities located in the Highlands Region;

k. To solicit and consider public input and comment on the council's activities, the regional master plan, and other issues and matters of impor-

tance in the Highlands Region by periodically holding public hearings or conferences and providing other opportunities for such input and comment by interested parties;

l. To conduct examinations and investigations, to hear testimony, taken under oath at public or private hearings, on any material matter, and to require attendance of witnesses and the production of books and papers;

m. To prepare and transmit to the Commissioner of Environmental Protection such recommendations for water quality and water supply standards for surface and ground waters in the Highlands Region, or in tributaries and watersheds thereof, and for other environmental protection standards pertaining to the lands and natural resources of the Highlands Region, as the council deems appropriate;

n. To identify and designate in the regional master plan special areas in the preservation area within which development shall not occur in order to protect water resources and environmentally sensitive lands while recognizing the need to provide just compensation to the owners of those lands when appropriate, whether through acquisition, transfer of development rights programs, or other means or strategies;

o. To identify any lands in which the public acquisition of a fee simple or lesser interest therein is necessary or desirable in order to ensure the preservation thereof, or to provide sites for public recreation, as well as any lands the beneficial use of which are so adversely affected by the restrictions imposed pursuant to this act as to require a guarantee of just compensation therefor, and to transmit a list of those lands to the Commissioner of Environmental Protection, affected local government units, and appropriate federal agencies;

p. To develop model land use ordinances and other development regulations, for consideration and possible adoption by municipalities in the planning area, that would help protect the environment, including, but not limited to, ordinances and other development regulations pertaining to steep slopes, forest cover, wellhead and water supply protection, water conservation, impervious surface, and clustering; and to provide guidance and technical assistance in connection therewith to those municipalities;

q. To identify and designate, and accept petitions from municipalities to designate, special critical environmental areas in high resource value lands in the planning area, and develop voluntary standards and guidelines for protection of such special areas for possible implementation by those municipalities;

r. To comment upon any application for development before a local government unit, on the adoption of any master plan, development regulation, or other regulation by a local government unit, or on the enforcement by a local government unit of any development regulation or other regula-

tion, which power shall be in addition to any other review, oversight, or intervention powers of the council prescribed by this act;

s. To work with interested municipalities to enter into agreements to establish, where appropriate, capacity-based development densities, including, but not limited to, appropriate higher densities to support transit villages or in centers designated by the State Development and Redevelopment Plan and endorsed by the State Planning Commission;

t. To establish and implement a road signage program in cooperation with the Department of Transportation and local government units to identify significant natural and historic resources and landmarks in the Highlands Region;

u. To promote, in conjunction with the Department of Environmental Protection and the Department of Agriculture, conservation of water resources both in the Highlands Region and in areas outside of the Highlands Region for which the Highlands is a source of drinking water;

v. To promote brownfield remediation and redevelopment in the Highlands Region;

w. To work with the State Agriculture Development Committee and the Garden State Preservation Trust to establish incentives for any landowner in the Highlands Region seeking to preserve land under the farmland preservation program that would be provided in exchange for the landowner agreeing to permanently restrict the amount of impervious surface and agricultural impervious cover on the farm to a maximum of five percent of the total land area of the farm;

x. To establish and charge, in accordance with a fee schedule to be set forth by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), reasonable fees for services performed relating to the review of applications for development and other applications filed with or otherwise brought before the council, or for other services, as may be required by this act or the regional master plan; and

y. To prepare, adopt, amend, or repeal, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary in order to exercise its powers and perform its duties and responsibilities under the provisions of this act.

C.13:20-7 Highlands Region, preservation area; delineated.

7. a. The Highlands Region shall consist of all that area within the boundaries of the following municipalities:

(1) in Bergen County: Mahwah and Oakland;

(2) in Hunterdon County: Alexandria, Bethlehem, Bloomsbury, Califon, Clinton Town, Clinton Township, Glen Gardner, Hampton, High Bridge,

Holland, Lebanon Boro, Lebanon Township, Milford, Tewksbury, and Union;

(3) in Morris County: 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;

(4) in Passaic County: Bloomingdale, Pompton Lakes, Ringwood, Wanaque, and West Milford;

(5) in Somerset County: Bedminster, Bernards, Bernardsville, Far Hills, and Peapack-Gladstone;

(6) in Sussex County: Byram, Franklin, Green, Hamburg, Hardyston, Hopatcong, Ogdensburg, Sparta, Stanhope, and Vernon; and

(7) in Warren County: Allamuchy, Alpha, Belvidere, Franklin, Frelinghuysen, Greenwich, Hackettstown, Harmony, Hope, Independence, Liberty, Lopatcong, Mansfield, Oxford, Phillipsburg, Pohatcong, Washington Boro, Washington Township, and White.

b. (1) The preservation area shall consist of all that area within the boundaries described herein:

Beginning at the New Jersey and New York border and the intersection of State Highway 17 and Interstate 287 in northern Mahwah Township; thence southerly on Interstate 287 to its intersection with Ramapo Valley Road (U.S. Highway 202); thence southwesterly on Ramapo Valley Road (U.S. Highway 202) to its intersection with the Campgaw Mountain County Reservation, immediately south of Marion Drive; thence in a general northeastern direction along the boundary of the Campgaw Mountain County Reservation, until its intersection with Interstate 287; thence southerly on Interstate 287 to its intersection with the Mahwah Township and Oakland Borough corporate boundary; thence northwesterly along the Mahwah Township and Oakland Borough corporate boundary to its intersection with the Ramapo River; thence south on the east bank of the Ramapo River to its intersection with Interstate 287; thence westerly on Interstate 287 to its intersection with West Oakland Avenue; thence southerly and westerly on West Oakland Avenue to its intersection with Doty Road; thence southerly on Doty Road to its intersection with Ramapo Valley Road (U.S. Highway 202); thence westerly and southerly on Ramapo Valley Road (U.S. Highway 202) to its intersection with Long Hill Road (County Road 931); thence southerly on Long Hill Road (County Road 931) to its intersection with the Oakland Borough and Franklin Lakes Borough corporate boundary; thence southerly on the Oakland Borough and Franklin Lakes Borough corporate

boundary to its intersection with the Oakland Borough corporate boundary; thence northwesterly along the Oakland Borough corporate boundary to the Wanaque Borough corporate boundary; thence westerly and southerly along the Wanaque Borough and Pompton Lakes Borough corporate boundary to its intersection with Ringwood Avenue (Alternate 511) to its intersection with the southwestern corner of Block 478, lot 7 in Wanaque Borough; thence east along the boundary of Block 478, lot 7 to boundary of Block 479, lot 3 in Wanaque Borough; thence northerly along the boundary of Block 479, lot 3 to the boundary of Block 479, lot 2; thence westerly and northerly to Interstate 287; thence northerly on Interstate 287 to its intersection with the Pompton River; thence northerly along the western bank of the Pompton River to its intersection in Wanaque Borough with the abandoned railroad right of way east of Ringwood Avenue; thence northerly on the abandoned railroad right of way to its intersection with Belmont Avenue; thence easterly on Belmont Avenue to its intersection with Mullen Avenue; thence southerly and easterly on Mullen Avenue to its intersection with Belmont Avenue thence easterly to Meadow Brook; thence northerly on the eastern bank of Meadow Brook to its intersection with Meadow Brook Avenue in Wanaque Borough; thence easterly on Meadow Brook Avenue to its intersection with Crescent Road; thence northerly on Crescent Road to its intersection with Tremont Terrace; thence northerly on Tremont Terrace to its intersection with Wilson Drive; thence northerly on Wilson Drive to its intersection with Conklintown Road; thence westerly on Conklintown Road to its intersection with Ringwood Avenue (Alternate 511); thence southerly on Ringwood Avenue (Alternate 511) to its intersection with the Wanaque Reservoir public lands; thence southerly and westerly on the Wanaque Reservoir public lands boundary to its intersection with Posts Brook; thence southerly on the eastern bank of Posts Brook to its intersection with Doty Road; thence easterly on Doty Road to its intersection the northeast corner of Block 401, lot 3 in Wanaque Borough; thence southerly along the boundary of Block 401, lot 3 to the intersection with the Bloomingdale Borough and Wanaque Borough corporate boundary; thence southerly on Bloomingdale Borough and Wanaque Borough corporate boundary to its intersection with Union Avenue County Road 511); thence westerly on Union Avenue (County Road 511) to its intersection with Morse Lake Road; thence north on Morse Lake Road to the southeastern corner of Block 57, lot 41 in Bloomingdale Borough; thence westerly along the boundary of Block 57, lot 41 to the boundary of Block 57, lot 40; thence northerly and westerly along the boundary of Block 57, lot 40 to the northeast corner of Block 57, lot 43.01; thence continuing westerly and southerly along the boundary of Block 57, lot 43.01 to the boundary of Block 92.08, lot 77; thence westerly along the boundary of Block 92.08, lot 77 to the northeast corner of Block 92.08, lot 1; thence

continuing westerly along the northern boundary of Block 92.08, lot 1 to the southern boundary of Block 49.02, lot 12; thence continuing westerly along the southern boundary of Block 49.02, lot 12 to the southern boundary of Block 49.02, lot 28; thence continuing westerly along the southern boundary of Block 49.02, lot 28 to Woodlot Road; thence westerly across Woodlot Road to the boundary of Block 49.09, lot 8; thence westerly along the southern boundary of Block 49.09, lot 8 to the boundary of Block 49.09, lot 12; thence westerly along the southern boundary of Block 49.09, lot 12 to Overlook Road (Natalie Court); thence westerly across Overlook Road (Natalie Court) to the boundary of Block 49.01, lot 5.04; thence northwesterly along the boundary of Block 49.01, lot 5.04 to the southern corner of Block 49.01, lot 5.05; thence northwesterly along the boundary of Block 49.01, lot 5.05 to a corner of Block 44, lot 182; thence generally westerly following the southern boundary of Block 44, lot 182 to Glenwild Avenue (Carmantown Road) at South Road; thence northerly along the eastern edge of Glenwild Avenue (Carmantown Road) right of way to a point opposite Glade Road; thence south across Glenwild Avenue (Carmantown Road) to the northeast corner of Block 5, lot 28; thence south along the boundary of Block 5, lot 28 to the boundary of Block 5, lot 26.01; thence southerly along the boundary of Block 5, lot 26.01 to Star Lake Road (Ridge Road); thence southwest across Star Lake Road (Ridge Road) to the northern corner of Block 5, lot 26.11 along the boundary of Block 5, lot 26.01; thence westerly along the boundary of Block 5, lot 26.01 to the northern corner of Block 5, lot 26.02; thence southerly and westerly following along the boundary of Block 5, lot 26.02 to the northeastern corner of Block 5, lot 25.02; thence westerly and southerly along the boundary of Block 5, lot 25.02 to the northern limit of the Macopin Road (County Road 693) right of way; thence northerly and westerly on Macopin Road (County Road 693) to its intersection with the Bloomingdale Borough and West Milford Township corporate boundary; thence southerly on the Bloomingdale Borough and West Milford Township corporate boundary to its intersection with the West Milford Township and Butler Borough corporate boundary; thence southerly along this corporate boundary to its intersection with the Kinnelon Borough, Butler Borough and Morris County Corporate boundary; thence westerly, southerly and easterly on the Kinnelon Borough and Butler Borough corporate boundary to its intersection with State Highway 23; thence easterly on State Highway 23 to its intersection with the Kinnelon Borough and Riverdale Borough corporate boundary; thence southerly and easterly on the Riverdale Borough and Pequannock Township corporate boundary to its intersection with Interstate 287; thence southerly on Interstate 287 to its intersection with Old Lane Road Extension; thence westerly, northerly and westerly on Old Lane Road Extension to the intersection of Virginia Drive; thence southerly on

Virginia Drive to its intersection with MacLeay Drive; thence southwesterly on MacLeay Drive to its intersection with West Lake Drive; thence southwesterly on West Lake Drive to Taylortown Road; thence northerly and westerly on Taylortown Road to its intersection with Boonton Avenue and Rockaway Valley Road; thence westerly on Rockaway Valley Road to its intersection with Powerville Road (County Road 618); thence northerly on Powerville Road (County Road 618) to its intersection with Kincaid Road; thence easterly on Kincaid Road to its intersection with the Boonton Township and Montville Township corporate boundary; thence northerly, along the corporate boundary to the intersection with the Boonton Township and Kinnelon Borough corporate boundary; thence westerly on the corporate boundary to the intersection with the Boonton Township and Rockaway Township corporate boundary; thence and southerly on the Boonton Township corporate boundary to its intersection with Split Rock Road; thence northerly on Split Rock Road to its intersection with Lyonsville Road; thence southerly and westerly on Lyonsville Road and its continuation as Meriden Lyonsville Road to its intersection with Beaver Brook; thence along the eastern bank of the Beaver Brook southerly to its intersection with Ford Road; thence southerly and westerly along Ford Road to its intersection with Morris Avenue; thence northerly and westerly along Morris Avenue to its intersection with Green Pond Road (County Road 513); thence northerly on Green Pond Road (County Road 513) to its intersection with the Wildcat Ridge Wildlife Management Area; thence westerly on the Wildcat Ridge Wildlife Management Area boundary to its intersection with Hibernia Brook; thence westerly on the southern bank of Hibernia Brook to its intersection with Valley View Drive; thence westerly on Valley View Drive to its intersection with Erie Avenue; thence northerly on Erie Avenue to its intersection with Comanche Avenue; thence southerly on Comanche Avenue to its intersection with West Lake Shore Drive; thence westerly on West Lake Shore Drive to its intersection with Jackson Avenue; thence westerly on Jackson Avenue to its intersection with Miami Trail; thence westerly and southerly on Miami Trail to its intersection with Cayuga Avenue; thence southerly on Cayuga Avenue to its intersection with South Brookside Avenue; thence easterly on South Brookside Avenue to its intersection with Montauk Avenue; thence southerly on Montauk Avenue to its intersection with Old Middletown Road; thence southwesterly on Old Middletown Road to its intersection with Ridge Road; thence westerly on Ridge Road to its intersection with Cathy's Place; thence southerly on Cathy's Place to its intersection with Mt. Hope Road (County Road 666); thence northerly on Mt. Hope Road (County Road 666) to its intersection with the Mt. Hope Park public land boundary; thence southerly and westerly on the Mt. Hope Park public land boundary to its intersection with Block 70001 in Rockway

Township (Picatinny Arsenal); thence northeasterly, northerly and southwesterly on the boundary of Block 70001 (Picatinny Arsenal) to its intersection with State Highway 15; thence northerly on State Highway 15 to its intersection with the Rockaway Township and Jefferson Township corporate boundary; thence southwesterly on the Rockaway Township and Jefferson Township corporate boundary south of Interstate 80 to its intersection with the Conrail/NJ Transit right of way; thence westerly on Conrail/NJ Transit right of way to its intersection with the Roxbury Township and Mount Arlington Borough corporate boundary; thence northerly on the Roxbury Township and Mount Arlington Borough corporate boundary to its intersection with the southern corner of Block 22, lot 13 in Mount Arlington Borough; thence northerly and northwesterly on the boundary of Block 22, lot 13 to its intersection with Berkshire Avenue; thence westerly on Berkshire Avenue to its intersection with Mountainview Avenue; thence northerly on Mountainview Avenue to its intersection with the southern corner on Block 8, lot 5.01 in Mount Arlington Borough; thence easterly, northerly, southerly then northerly on the boundary of Block 8, lot 5.01 to its intersection with Littel Way; thence westerly on Littel Way to its intersection with Howard Boulevard (County Road 615); thence northerly on Howard Boulevard, continuing northerly as it becomes Espanong Road, to its intersection with Edison Road (County Road 615); thence easterly on Edison Road (County Road 615) to its intersection with State Highway 15; thence northerly on the eastern edge of the State Highway 15 right of way north of Lake Winona to its intersection with the electrical utility right of way; thence southerly and westerly on the utility right of way to its intersection with State Highway 181; thence southerly on State Highway 181 to its intersection with Prospect Point Road; thence southerly on Prospect Point Road to its intersection with Northwood Road (County Road 609); thence southwesterly on Northwood Road to its intersection with a tributary of the Musconetcong River; thence northerly on the west bank of the tributary of the Musconetcong River to its intersection with the southwestern boundary of Block 70001, lot 4 in Hopatcong Borough; thence southwesterly on the southwestern boundary of Block 70001, lot 4 to its intersection with the southernmost corner of Block 70001, lot 5; thence northwesterly on the boundary of Block 70001, lot 5 to its intersection with Block 70001, lot 1; thence southwesterly on Block 70001, lot 1 to its intersection with the easternmost point of Block 50002, lot 1; thence southwesterly on Block 50002, lot 1 to its intersection with Mohawk Trail and Block 50003, lot 1 in Hopatcong Borough; thence northwesterly and southwesterly along the northeast border of Block 5003, lot 1 to its intersection with the northwest corner of Block 5002, lot 2; thence southerly along the western boundary of Block 5002, lot 2 to its intersection with the northernmost corner of Block 5002, lot 4; thence southwesterly

along Block 5002, lot 4 to its intersection with Block 5002, lot 6; thence northwesterly, southwesterly, southeasterly and southwesterly along the boundary of Block 5002, lot 6 to its westernmost corner; thence westerly on a line to the intersection of Old Sparta Stanhope Road and Lubbers Run; thence northerly on Old Sparta Stanhope Road to its intersection with Sparta Stanhope Road (County Route 605); thence southerly on Sparta Stanhope Road (County Route 605) to the intersection of the Conrail right of way; thence southerly along the Conrail right of way to its intersection with the Byram Township and Stanhope Borough corporate boundary; thence westerly and southerly along the Byram Township and Stanhope Borough corporate boundary to its intersection with the southeastern corner of Block 42, lot 115 in Byram Township; thence northeasterly and westerly on the block limit of Block 42 to its intersection with the southeastern corner of Block 42, lot 112; thence northerly on a line approximately 390 feet east of, and parallel to, State Highway 206 to its intersection with Brookwood Road; thence easterly on Brookwood Road to the southeastern corner of Block 40, lot 18; thence northerly on the boundary of Block 40, lot 18 to its intersection with Block 40, lot 15; thence easterly and northerly on Block 40, lot 15 to its intersection with Block 40, lot 14; thence northeasterly, northerly, and westerly on the boundary of Block 40, lot 14 to its intersection with the southeastern corner of Block 365, lot 5; thence northeasterly on the boundary of Block 365, lot 5 to Lake Lackawanna Road (also known as Lackawanna Drive) and the southeastern corner of Block 226, lot 16; thence northeasterly on the boundary of Block 226, lot 16 to its intersection with Block 226, lot 11; thence westerly, northerly, westerly, southerly, and westerly on the boundary of Block 226, lot 11 to its intersection with State Highway 206; thence southerly on State Highway 206 to its intersection with the northeast corner of Block 70, lot 7.02; thence westerly, southerly, westerly, and southerly on the boundary of Block 70, lot 7.02 to its intersection with Block 70, lot 7.01; thence southerly on the boundary of Block 70, lot 7.01 to its intersection with Block 70, lot 6; thence southerly on the boundary of Block 70, lot 6 to its intersection with Hi Glen Drive, continuing southerly to the northwest corner of Block 59, lot 5; thence southerly on the boundary of Block 59, lot 5 to its intersection with Block 34, lot 16; thence westerly, southerly, easterly and southerly on the boundary of Block 34, lot 16 to its intersection with Block 34, lot 17; thence westerly on the boundary of Block 34, Lot 17 to its intersection with Millstream Lane (as depicted on the municipal map); thence southerly on Millstream Lane (as depicted on the municipal map) to its intersection with Netcong Avenue; thence easterly on Netcong Avenue to its intersection with State Highway 206; thence southerly on the western edge of the State Highway 206 right of way to its intersection with the northeastern corner of Block 36, lot 39.01; thence westerly, south-

erly and easterly along the boundary of lot 39.01 to the western edge of the State Highway 206 right of way; thence southerly on the western edge of the State Highway 206 right of way to its intersection with the northeastern corner of Block 36, lot 40; thence westerly, northerly, westerly along the boundary of Block 36 Lot 40 to the boundary of Block 36, Lot 42; thence northerly, westerly, southerly along the boundary of Block 36, Lot 42 to Waterloo Road; thence westerly along Waterloo Road to the intersection with the northwestern corner of Block 29, Lot 201.03; thence southerly to the intersection of Block 29, Lot 201.02 and Block 27, Lot 379; thence easterly to the northeast corner of Block 27, Lot 379; thence southerly on a line approximately 143 feet west of, and paralleling, the western edge of the State Highway 206 right of way to the intersection with Acorn Street; thence easterly on Acorn Street to State Highway 206; thence southerly along the western edge of the State Highway 206 right of way to its intersection with the corporate boundary between Byram Township and Stanhope Borough; thence generally southerly along the corporate boundary between Byram Township and Stanhope Borough to the Musconetcong River and the corporate boundary between Byram Township and Mount Olive Township; thence northwesterly along the corporate boundary between Byram Township and Mount Olive Township to its intersection with Allamuchy State Park; thence southerly, westerly and southerly on the Allamuchy State Park boundary to its intersection with Interstate 80; thence southeasterly on Interstate 80 to its intersection with International Drive North; thence southeasterly on International Drive North to its intersection with Waterloo Valley Road; thence easterly and southerly on Waterloo Valley Road to its intersection with Allamuchy State Park; thence easterly and southerly and westerly on the Allamuchy State Park boundary to its intersection with Lozier Road; thence easterly on Lozier Road to its intersection with Waterloo Road; thence southerly on Waterloo Road to its intersection with 4th Street; thence westerly and southerly on 4th Street to its intersection with Hopkins Drive; thence southerly on Hopkins Drive to its intersection with Netcong Road (County Road 649); thence southerly and westerly on Netcong Road (County Road 649) to its intersection with Sand Shore Road (County Road 649); thence southerly on Sand Shore Road (County Road 649) to its intersection with U.S. Highway 46; thence northerly and easterly on U.S. Highway 46 to its intersection with Gold Mine Road; thence easterly on Gold Mine Road to its intersection with State Highway 206; thence northerly on State Highway 206 to its intersection with Mountain Road; thence southerly and easterly on Mountain Road to its intersection with Mooney Road; thence northerly on Mooney Road to its intersection with U.S. Highway 46; thence easterly and southerly on U.S. Highway 46 to its intersection with Main Street and the Morris Canal Park boundary; thence southerly on the Morris

Canal Park boundary to its intersection with Mountain Road; thence northeasterly on Mountain Road to its intersection with Emmans Road; thence southerly and westerly on Emmans Road to its intersection with the Conrail right of way south of Drake's Brook; thence southerly and westerly on Conrail right of way to its intersection with State Highway 206; thence southerly on State Highway 206 to its intersection with the Mount Olive Township and Chester Township corporate boundary; thence northerly and westerly on the Chester Township corporate boundary to its intersection with the Roxbury Township corporate boundary, continuing northerly and westerly on the Roxbury Township and Chester Township corporate boundaries to the intersection with the Black River Wildlife Management Area; thence northerly and easterly on the boundary of the lands of the Morris County Utilities Authority to its intersection with easterly on Righter Road; thence easterly on Righter Road to its intersection with Park Avenue; thence southerly on Park Avenue to its intersection with the Randolph Township and Chester Township corporate boundary; thence southeasterly on the Chester Township corporate boundary to its intersection with North Road (County Road 513); thence southerly and westerly on North Road (County Road 513) to its intersection with the Chester Township and Chester Borough corporate boundary; thence northerly; thence westerly, southerly and easterly around the Chester Borough corporate boundary to its intersection with Main Street (County Road 510); thence southerly on County Route 510 to its intersection with Chester Township and Mendham Township corporate boundary; thence southerly on the Chester Township corporate boundary to its intersection with the Chester Township and Peapack-Gladstone Borough and Somerset County corporate boundary; thence southwesterly on the Chester Township and Peapack-Gladstone Borough and Somerset County corporate boundary to its intersection with the Bedminster Township corporate boundary; thence southerly on the Bedminster Township corporate boundary to its intersection with Pottersville Road (County Road 512); thence westerly on Pottersville Road (County Road 512) to its intersection with Black River Road; thence northerly and westerly on Black River Road to its intersection with the corporate boundaries of Bedminster Township and Tewksbury Township; thence northerly along the corporate boundaries to their intersection with the corporate boundary of Washington Township; thence westerly along the corporate boundaries of Washington Township and Tewksbury Township to the point where it intersects Black River Road; thence northerly and westerly on Black River Road to the intersection of Hacklebarney Road; thence north on Hacklebarney Road to the intersection of Old Farmers Road; thence northerly and westerly on Old Farmers Road to the intersection of Flintlock Drive; thence easterly and northerly on Flintlock Drive to the intersection of Parker Road; thence westerly on Parker Road to the intersec-

tion of Old Farmers Road; thence northerly on Old Farmers Road to the intersection with the southwestern corner of Block 36.06 in Washington Township; thence northeasterly on the southern boundary of Block 36.06 to its intersection with Block 36, lot 42; thence northwesterly on the boundary of Block 36, lot 42 to its intersection with the southern corner of Block 36, lot 41; thence northeasterly along the southern boundary of Block 36, lot 41 to its intersection with Block 36, lot 43; thence northwesterly on the eastern boundary of Block 36, lot 41 to its intersection with Block 36, lot 43.01; thence westerly and northwesterly on the boundary of Block 36, lot 43.01 to a point 560 feet southeast from the centerline of East Mill Road; thence easterly, and parallel to East Mill Road, a distance of 1300 feet to a point 560 feet from the centerline of East Mill Road; thence northerly to its intersection with East Mill Road; thence westerly on East Mill Road to its intersection with the southwestern corner of Block 28, lot 17.01; thence northwesterly on the western boundary of Block 28, lot 17.01 to its intersection with Block 28, lot 17; thence westerly, easterly and northwesterly on Block 28, lot 17 to its intersection with Block 28, lot 300; thence northwesterly on Block 28, lot 300 to its intersection with Block 28, lot 60; thence northwesterly on Block 28, lot 60 to its intersection with Fairview Avenue; thence southwesterly on Fairview Avenue to its intersection with Springtown Brook (Raritan River Tributary); thence northerly and northwesterly on Springtown Brook to its intersection with the southeastern corner of Block 25, lot 47; thence northwesterly and westerly on the boundary of Block 25, lot 47 to a point that is due east of the northernmost corner of Block 25, lot 48; thence due east to the northernmost corner of Block 25, lot 48; thence westerly, northerly and westerly on the northernmost boundaries of Block 25, lots 48, 49, 47.01, 51, and 52.01 to the intersection of Block 25, lot 52.02; thence northwesterly on Block 25, lot 52.02 to Schooley's Mountain Road (County Road 517); thence across Schooley's Mountain Road (County Road 517) to the northeastern corner of Block 33, lot 19.01; thence westerly on Block 33, lot 19.01 to the northernmost corner of Block 33, lot 19; thence southwesterly on a line to the southwestern corner of Block 33, lot 58.01; thence southeasterly on Block 33, lot 58.01 to its intersection with the abandoned railroad right of way (including the Columbia Gas transmission line); thence crossing the abandoned railroad right of way to the southeastern corner of Block 33, lot 58; thence southeasterly on Block 33, lot 58 to West Mill Road (County Road 513); thence crossing to West Mill Road (County Road 513) to the eastern corner of Block 34, lot 46; thence southeasterly and northeasterly on Block 34, lot 46 to its intersection with Block 34, lot 50; thence northeasterly on Block 34, lot 50 to its intersection with Block 34, lot 1.01; thence northeasterly on Block 34, lot 1.01 to its intersection with Block 34, lot 3.01; thence northeasterly on Block 34, lot 3.01 to its intersection with Fairmount

Road (County Road 517); thence southerly along Fairmount Road to the intersection of Parker Road; thence northeast along Parker Road to Black River Road; thence east along Parker Road to Pickle Road; thence south on Pickle Road to the intersection of West Fairmount Road (County Road 512); thence southerly on West Fairmount Road (County Road 512) to its intersection with Hollow Brook Road; thence westerly on Hollow Brook Road to its intersection with Homestead Road; thence southerly on Homestead Road to its intersection with High Street (County Road 517) and Hill and Dale Road; thence westerly on Hill and Dale Road to its intersection with Rockaway Road; thence westerly on Rockaway Road to its intersection with Meadow Road; thence southerly on Meadow Road to its intersection with Bissell Road; thence westerly on Bissell Road to its intersection with Welsh Road; thence southerly and westerly on Welsh Road to its intersection with the Tewksbury Township and Clinton Township corporate boundary; thence westerly on the Tewksbury Township and Clinton Township corporate boundary to its intersection with Cokesbury Road (County Road 639); thence northerly and westerly on Cokesbury Road (County Road 639) to its intersection with Cokesbury Califon Road; thence northerly on Cokesbury Califon Road to its intersection with the Lebanon Township and Clinton Township corporate boundary; thence westerly on the Lebanon Township and Clinton Township corporate boundary to its intersection with Mt. Grove Road; thence southerly on Mt. Grove Road to its intersection with Beaver Brook Ravine public land boundary; thence southerly, westerly and northerly on the Beaver Brook Ravine public land boundary to its intersection with Highbridge Cokesbury Road (County Road 639); thence westerly on Highbridge Cokesbury Road (County Road 639) to its intersection with Stone Mill Road; thence north on Stone Mill Road to the Clinton Township and Lebanon Township corporate boundary; thence westerly on the Clinton Township corporate boundary to its intersection with the High Bridge Borough and Lebanon Township corporate boundary; thence west and southerly along the corporate boundary to the intersection with Cregar Road; thence westerly on Cregar Road to its intersection with State Highway 31; thence southerly on State Highway 31 to its intersection with the Spruce Run Reservoir boundary; thence southerly and westerly on the Spruce Run Reservoir boundary to its intersection with Rupell Road; thence westerly on Rupell Road to its intersection with the Clinton Fish and Wildlife Management Area; thence westerly on the Clinton Fish and Wildlife Management Area boundary to its intersection with Charlestown Road (County Road 635); thence southerly on Charlestown Road (County Road 635) to its intersection with South Frontage Road in Union Township; thence westerly on South Frontage Road to the intersection of Baptist Church Road; thence south on Baptist Church Road to the Norfolk Southern Lehigh Valley

railroad right of way; thence easterly along the northern boundary of the Norfolk Southern Lehigh Valley railroad right of way to Mechlin Corner Road; thence north on Mechlin Corner Road to the intersection of Perryville Road; thence easterly and southerly on Perryville Road to its intersection with Race Street; thence easterly on Race Street to its intersection with the Franklin Township and Union Township corporate boundary; thence southerly on the Franklin Township and Union Township corporate boundary to Pittstown Clinton Road (County Road 513) to its intersection with Cook's Cross Road; thence westerly on Cook's Cross Road to its intersection with Bloomsbury Road (County Road 579); thence northerly and westerly on Bloomsbury Road (County Road 579) to its intersection with Little York Pattenburg Road (County Road 614); thence westerly and southerly on Little York Pattenburg Road (County Road 614) to its intersection with Little York Mt. Pleasant Road (County Road 631) and Ellis Road; thence westerly and northerly on Ellis Road to its intersection with Hawkes Schoolhouse Road; thence southerly on Hawkes Schoolhouse Road to its intersection with Milford Warren Glen Road (County Road 519); thence westerly on Milford Warren Glen Road (County Road 519) to its intersection with Dennis Road; thence westerly and northerly on Dennis Road to its intersection with Milford Warren Glen Road (County Road 519); thence northerly on Milford Warren Glen Road (County Road 519) to its intersection with the Musconetcong River; thence southerly and westerly on the southern bank of the Musconetcong River to its intersection with the Delaware River and the State of New Jersey corporate boundary; thence northerly and easterly on the Delaware River and the State of New Jersey corporate boundary to its intersection with the Phillipsburg Town and Pohatcong Township corporate boundary; thence northeasterly on the Phillipsburg Town and Pohatcong Township corporate boundary to its intersection with Interstate 78; thence southerly on interstate 78 to its intersection with the Pohatcong Township and Alpha Borough corporate boundary; thence southerly and westerly on the Pohatcong Township and Alpha Borough corporate boundary to its intersection with Snydersville Road; thence northeasterly on Snydersville Road to its intersection with Interstate 78; thence northeasterly on Interstate 78 to its intersection with the Pohatcong Township and Alpha Borough corporate boundary; thence northeasterly on the Pohatcong Township and Alpha Borough corporate boundary to its intersection with Edge Road; thence northwesterly on Edge Road to its intersection with Interstate 78; thence northerly and easterly on Interstate 78 to its intersection with US Highway 22; thence southeasterly on US Highway 22 to its intersection with the Greenwich Township and Pohatcong Township corporate boundary; thence southerly on the Greenwich Township and Pohatcong Township corporate boundary to its intersection with Warren Glen Bloomsbury Road

(County Road 639); thence northerly and easterly on Warren Glen Bloomsbury Road (County Road 639) to its intersection with State Highway 173 in Greenwich Township; thence easterly on State Highway 173 to its intersection with Church Street (County Road 579); thence easterly on Church Street (County Road 579) to its intersection with the Musconetcong River; thence northerly and easterly on the northern bank of the Musconetcong River to its intersection with the eastern most boundary of the Musconetcong Valley Acquisition public lands in Bethlehem Township; thence easterly and southerly on the Musconetcong Valley Acquisition public land boundary to its intersection with the Conrail right of way; thence easterly on the Conrail right of way to its intersection with D. Hull Private Road; thence southerly on the D. Hull Private Road to its intersection with State Highway 173; thence east to the intersection of West Portal Asbury Road (County Road 643); thence easterly and northerly on West Portal Asbury Road (County Road 643); thence easterly and northerly on West Portal-Asbury Road (County Road 643) to its intersection with Maple Avenue in Warren County; thence northerly and easterly on Maple Avenue to its intersection with Shurts Road; thence southerly on Shurts Road, becoming Valley Road in Hunterdon County, continuing on Valley Road to its intersection with Main Street in Hampton Borough; thence northerly on Main Street to its intersection with State Highway 31; thence northerly on State Highway 31 to its intersection with the Musconetcong River; thence northerly and easterly on the northern bank of the Musconetcong River to its intersection with Newburgh Road; thence east on Newburgh Road to the intersection of Schooley's Mountain Road (County Route 517); thence northerly on Schooley's Mountain Road (County Route 517) to the Muscontecong River; thence northerly along the Muscontecong River to East Avenue; thence northeasterly along East Avenue to U.S. Highway 46; thence northerly and easterly along U.S. Highway 46 to the intersection with the Washington Township and Mount Olive Township corporate boundary; thence westerly and southerly along said corporate boundary to the Musconetcong River; thence northerly along the southern bank of the Musconetcong River to the Stephens State Park boundary; thence northerly, westerly, northerly, westerly along the Stephens State Park boundary to a point opposite the lands of Stephens State Park on the western and northern bank of the Musconetcong; thence across the Musconetcong River to the boundary of the lands of Stephens State Park; thence along the southern boundary of Stephens State Park to the intersection of Willow Grove Road (Warren County Route 604); thence north along the lands of Stephens State Park and Willow Grove Road (Warren County Route 604) to a point opposite the lands of Stephens State Park on the west side or Willow Grove Road (Warren County Route 604); thence crossing Willow Grove Road to the boundary of the lands of Stephens State Park;

thence westerly along said State Park boundary lands to the intersection with the Conrail right of way; thence southerly on Conrail right of way to its intersection with Bilby Road; thence northerly and westerly on Bilby Road to its intersection with Old Bilby Road; thence northerly and westerly on Old Bilby Road to its intersection with High Street (County Road 517); thence southerly on High Street (County Road 517) to its intersection with Old Allamuchy Road; thence southerly and westerly on Old Allamuchy Road to its intersection with the Independence Township and Hackettstown Town corporate boundary; thence westerly and southerly on the Hackettstown Town corporate boundary to its intersection with the Hackettstown Town and Mansfield Township corporate boundary; thence southerly and easterly on the Hackettstown Town and Mansfield Township corporate boundary to its intersection with the Conrail railroad right of way at Rockport Road; thence southerly and westerly on the Conrail railroad right of way into Washington Township to a point along the Conrail railroad right of way 1,250 feet southwest of the Washington Township and Mansfield Township corporate boundary; thence proceeding northwesterly 380 feet more or less along a line projected to the southeastern corner of Block 43, lot 10.01 in Washington Township; thence continuing northwesterly and westerly along the boundary of Block 43, lot 10.01 to the northeastern corner of Block 43, lot 10; thence westerly along the boundary of Block 43, lot 10 to the southeastern corner of Block 43, lot 9; thence northerly along the eastern boundaries of Block 43, lots 9, 6 and 5; thence along a line projected from the northern corner of Block 43, lot 5 365 feet more or less across a portion of Block 43, lot 3 to the southeastern corner of Block 43, lot 4; thence northerly and westerly along the boundary of Block 43, lot 4 to Port Colden Road; thence northerly on Port Colden Road to the Shabbecong Creek crossing; thence southwesterly along the northern bank of the Shabbecong Creek to its intersection with the western boundary of Block 40, lot 86; thence south along Block 40, lot 86 to the northeastern corner of Block 40, lot 87.02; thence westerly along the northern boundary of Block 40, lot 87.02; thence 60 feet more or less along a line projected from the northwestern corner of Block 40, lot 87.02 across a portion of Block 40, lot 87 to the northeast corner of Block 40, lot 87.01 and a corner of Block 40, lot 87; thence westerly along the southern boundary of Block 40, lot 87 to the Washington Township and Washington Borough corporate boundary; thence northerly and westerly along the Washington Township and Washington Borough corporate boundary to the southern corner of Block 40, lot 105; thence northeasterly to the corner and intersection with the boundary of Block 40, lot 87; thence northwesterly along the boundary of Block 40, lot 87 to the intersection with the first southwestern corner of Block 40, lot 110; thence northwesterly along the western boundary of Block 40, lot 110 to the south-

ern corner of Block 40, lot 25; thence northeasterly and northwesterly along the boundary of Block 40, lot 25 to the southern corner of Block 40, lot 28; thence northeasterly and northwesterly along the boundary of Block 40, lot 28 the intersection of Jackson Valley Road and State Highway 31; thence northerly along western edge of the right of way of State Highway 31 to a point 2,200 feet north of Jackson Valley Road intersection; thence turning 90 degrees west from the right of way edge and proceeding 1,300 feet more or less westerly across a portion of Block 38, lot 5 to the Conrail railroad tracks or right of way; thence south along the eastern edge of Conrail railroad tracks or right of way to the northern corner of Block 38, lot 8; thence south along the western boundary of Block 38, lot 8 to the southern bank of the Pohatcong Creek; thence southwesterly along the southern bank of the Pohatcong Creek to Mine Hill Road; thence northwesterly along Mine Hill Road to the intersection of Bowerstown Road; thence southwesterly approximately 310 feet on the northern edge of the Bowerstown Road right of way to its intersection with a 12 foot wide portion of Block 5, lot 18 which provides access to Bowerstown Road; thence 550 feet more or less westerly along the 12 foot wide portion of Block 5, lot 18 to the point it intersects with the western limit of the 100 foot wide New Jersey Power and Light easement; thence turning south approximately 104 degrees more or less and projecting along a line 200 feet more or less to the northern corner of Block 5, lot 16.04; thence projected southerly along a line 300 feet more or less to the northern corner of Block 5 , lot 17; thence continuing southerly along the western boundaries of Block 5, lots 17, 16.01, 16.02, and 16.03 to the western corner of Block 5, lot 16.03; thence projecting southerly along a line 670 feet more or less to the eastern corner of Block 5, lot 22.01; thence continuing southerly along the eastern boundary of Block 5, lot 22.01 to Lannings Trail; thence southeast across Lannings Trail to the northeast corner of Block 6, lot 13.05; thence southwesterly and northwesterly along the eastern boundary of Block 6, lot 13.05 to the eastern corner of Block 6, lot 11; thence southerly along the eastern boundary of Block 6, lot 11 to Lanning Terrace; thence southerly across Lanning Terrace to the northeastern corner of Block 6, lot 19.03; thence southerly along the eastern boundary of Block 6, lot 19.03 to the intersection of the northern boundary of Block 6, lot 20.01; thence following along the boundary of Block 6, lot 20.01 easterly and then generally southwesterly to the eastern corner of Block 6, lot 32; thence southwesterly along the eastern boundary of Block 6, lot 32 to Forces Hill Road; thence easterly on Forces Hill Road to the intersection of Brass Castle Road; thence westerly along the southern edge of the Brass Castle Road right of way to the eastern corner of Block 14, lot 1; thence southwesterly and southeasterly along the boundary of Block 14, lot 1 to the northeastern corner of Block 14, lot 22; thence southeasterly and southwesterly along

the boundary of Block 14, lot 22 to Old Schoolhouse Road; thence southwesterly along the northern edge of the right of way for Old Schoolhouse Road to the intersection with the northern edge of the right of way of Little Philadelphia Road; thence southwesterly along the northern edge of the right of way for Little Philadelphia Road to the northeastern corner of Block 15, lot 8.01; thence southwesterly along the northern boundary of Block 15, lot 8.01 to the Washington Township and Franklin Township corporate boundary; thence southeasterly along the Washington Township and Franklin Township corporate boundary to State Highway Route 57; thence southwesterly along State Highway Route 57 to its intersection with Uniontown Road (County Road 519) in Lopatcong Township; thence northerly on Uniontown Road (County Road 519) to the intersection of Upper Belvidere Road Warren County Route 519; thence continuing northerly on Warren County Route 519 which becomes Belvidere Phillipsburg Road to its intersection with South Bridgeville Road (County Road 519); thence easterly and northerly on South Bridgeville Road (County Road 519) to its intersection with Brass Castle Road (County Road 623); thence easterly and southerly on Brass Castle Road (County Road 623) to its intersection with Hazen Oxford Road (County Road 624); thence easterly and southerly on Hazen Oxford Road (County Road 624) to its intersection with Belvidere Road (County Road 624); thence easterly and southerly on Belvidere Road (County Road 624) to its intersection with the northwestern corner of Block 24, lot 10 in Oxford Township; thence southerly, thence easterly on the boundary of Block 24, lot 10 to its intersection with the eastern boundary of Block 24, lot 20; thence southerly on the boundary of Block 24, lot 20 to its intersection with the northern boundary of Block 24, lot 19; thence easterly, thence southeasterly on the boundary of Block 24, lot 19 to its intersection with the northeastern corner of Block 24, lot 13.01; thence southerly on the eastern boundary of Block 24, lot 13.01 to its intersection with Block 24, lot 13; thence southerly on the eastern boundary of Block 24, lot 13 to its intersection with Buckley Avenue; thence easterly on Buckley Avenue to its intersection with the northwestern corner of Block 2, lot 30; thence southerly, thence easterly on the boundary of Block 2, lot 30, continuing easterly on the southern boundaries of Block 2, lots 31, 32, 33, 34, 35, and the southeastern corner of lot 36; thence on a line due south to its intersection with Block 2, lot 18.01; thence easterly, thence southerly on the boundary of Block 2, lot 18.01 to its intersection with the northwestern corner of Block 2, lot 19.02 at Kent Place; thence southerly on the boundary of Block 2, lot 19.02 to its southwestern corner; thence southerly on a line to the southwestern corner of Block 2, lot 61; thence easterly on the southern boundary of Block 2, lot 61 to its intersection with Jonestown Road; thence southerly on Jonestown Road to its intersection with the southwestern corner of Block 1.01, lot

39.02; thence easterly on the southern boundary of Block 1.01, lot 39.02, continuing easterly on the southern boundary of Block 1.01, lots 39 and 39.01 to the intersection with Mine Hill Road; thence northerly on Mine Hill Road to the intersection with Academy Street and the Oxford Mountain public land boundary; thence northeasterly on the Oxford Mountain public land boundary to the intersection with State Highway 31; thence easterly on State Highway 31 to the intersection of Oram's Lane; thence easterly on Oram's Lane to its end and intersection with Block 34, lot 2; thence northerly, thence easterly on the boundary of Block 34, lot 2 to its intersection with Block 34, lot 2.01; thence easterly on the northern boundary of Block 34, lot 2.01 to its intersection with the Pequest Wildlife Management Area boundary; thence northerly on the Pequest Wildlife Management Area boundary to its intersection with Axford Avenue and the Pequest Wildlife Management Area boundary; thence westerly and northerly on the Pequest Wildlife Management Area boundary to its intersection with the Oxford Township and White Township corporate boundary; thence westerly on the Oxford Township and White Township corporate boundary to its intersection with State Highway 31; thence northerly on State Highway 31 to its intersection with U.S. 46; thence easterly on U.S. 46 to its intersection with Free Union Road; thence northerly on Free Union Road to its intersection with Beechwood Road; thence westerly on Beechwood Road to its intersection with Tamarack Road; thence northerly on Tamarack Road to its intersection with the White Township and Liberty Township corporate boundary; thence northerly and westerly on the White Township and Liberty Township corporate boundary to its intersection with Mountain Lake Road (County Road 617); thence southerly and westerly on Mountain Lake Road to its intersection with North Bridgeville Road (County Road 519); thence northerly on North Bridgeville Road (County Road 519) to its intersection with the White Township and Hope Township corporate boundary; thence easterly and southerly on the White Township and Hope Township corporate boundary to its intersection with the Hope Township and Liberty Township corporate boundary; thence northerly and easterly on the Hope Township and Liberty Township corporate boundary to its intersection with the Frelinghuysen Township and Independence Township corporate boundary; thence northerly and easterly on the Frelinghuysen Township and Independence Township corporate boundary to its intersection with Frelinghuysen Township and Allamuchy Township corporate boundary; thence northerly and easterly on the Frelinghuysen Township and Allamuchy Township corporate boundary to its intersection with the southern boundary of the Interstate 80 right of way in Frelinghuysen Township; thence easterly along the southern boundary of the Interstate 80 right of way to its intersection with the Conrail right of way in Allamuchy Township; thence southerly and

westerly on the Conrail right of way to its intersection with the southeastern corner of Block 29 , lot 29 in Independence Township; thence northwesterly along the southwest boundary of Block 29, lot 29 in Independence Township to the Pequest River; thence northerly on the western bank of the Pequest River to its intersection with the southern corner of Block 29, lot 44 in Independence Township; thence northwesterly along the southwestern boundary of Block 29, lot 44 in Independence Township to Shades of Death Road; thence southerly and westerly on Shades of Death Road to its intersection with Hope Road (County Road 611); thence southerly and easterly on Hope Road (County Road 611) to its intersection with U.S. 46; thence northerly and easterly on U.S. 46 to its intersection with Old Cemetery Road; thence southerly and easterly on Old Cemetery Road across the Conrail right of way to its intersection with Cemetery Road; thence southerly and easterly on Cemetery Road to its intersection with Barkers Mill Road; thence southerly and easterly on Barkers Mill Road to its intersection with Johnson Road; thence easterly and northerly on Johnson Road to its intersection with U.S. 46 and Ketchum Road; thence northerly and easterly on Ketchum Road to its intersection with Petersburg Road (County Road 614) and Ridge Road; thence northerly and easterly on Ridge Road to its intersection with County Road 517; thence northerly on County Road 517 to its intersection with Stuyvestant Road and Allamuchy State Park boundary; thence northerly along the Allamuchy State Park boundary into Green Township; thence southeasterly and northeasterly along the Allamuchy State Park boundary to its intersection with the Green Township and Byram Township corporate boundary; thence continuing northerly and easterly on the Byram Township and Andover Borough corporate boundary; thence continuing northerly and easterly along the Byram Township and Andover Township corporate boundary to its intersection with the Sparta Township corporate boundary; thence easterly on the Sparta Township corporate boundary to its intersection with Tomahawk Trail; thence easterly and northerly on Tomahawk Trail to its intersection with Green Road; thence northerly on Green Road to its intersection with Sawmill Road; thence easterly and northerly on Sawmill Road to its intersection with State Highway 181; thence northerly on State Highway 181 to its intersection with Blue Heron Road; thence easterly on Blue Heron Road to its intersection with State Highway 15; thence northerly along the western boundary of the State Highway 15 right of way to its intersection with the southern corner of Block 13.13, lot 21 in Sparta Township; thence easterly and thence northerly along the boundary of Block 13.13, lot 21 to its intersection with Block 13.13, lot 22; thence northeasterly on the boundary of Block 13.13, lot 22 to its intersection with Glen Road (Sussex County Route 620); thence westerly on Glen Road (Sussex County Route 620) to its intersection with the westernmost point of Block 7, lot 57; thence

easterly on the boundary of Block 7, lot 57 to its intersection with Block 7, lot 58; thence northerly on the boundary of Block 7, lot 58 to its intersection with the southwestern edge of Block 7, lot 61.02; thence easterly, northerly, then westerly on the boundary of Block 7, lot 61.02 to its intersection with Main Street; thence southwesterly on Main Street to its intersection with the southernmost corner of Block 12, lot 3; thence westerly on the southern boundary of Block 12, lot 3 to its intersection with Sussex County Route 517); thence westerly on Sussex County Route 517 to its intersection with Station Road; thence northerly on Station Road to its intersection with the southernmost point of Block 19, lot 43; thence northerly, thence easterly on the boundary of Block 19, lot 43 to its intersection with Block 19, lot 39; thence following the boundary of Block 19, lot 39 around the parcel in a counterclockwise manner to its intersection with Block 19, lot 99; thence southerly on the boundary of Block 19, lot 99 to its intersection with the western boundary of the State Highway 15 right of way; thence northerly along the western boundary of the State Highway 15 right of way to its intersection with Houses Corner Road; thence easterly and northerly on Houses Corner Road to its intersection with West Mountain Road; thence southerly on West Mountain Road to its intersection with Sparta Munsons Road; thence southeasterly across Sparta Munsons Road to the Conrail right of way; thence northerly and easterly along the northwestern boundary of the Conrail right of way to its intersection with the Ogdensburg Borough and Sparta Township corporate boundary; thence northeasterly to the southwestern end of Heater's Pond and proceeding northerly along the western edge of Heater's Pond to the intersection of Edison Road; thence westerly on Edison Road to the intersection with the New York Susquehanna and Western Railroad right of way; thence northerly along the easterly edge of the New York Susquehanna and Western Railroad right of way to the Ogdensburg Borough and Hardyston Township corporate boundary; thence westerly on the Ogdensburg Borough and Hardyston Township corporate boundary to its intersection with the Franklin Borough corporate boundary; thence easterly and northerly on the Franklin Borough and Hardyston Township corporate boundary to its intersection with Henderson Road (Hamburg Turnpike); thence southerly and easterly on Henderson Road (Hamburg Turnpike) to the intersection of Mountain Road in Hardyston Township; thence northerly on Mountain Road to its intersection with Rudetown Road (County Road 517); thence easterly and northerly on Rudetown Road (County Road 517) to the Black Creek in Vernon Township; thence easterly along Black Creek to its intersection with the boundary of Block 280, lot 22 in Vernon Township; thence easterly along said boundary to the western boundary of Block 280, lot 23; thence following the boundary of Block 280, lot 23 south to the boundary of Block 177, lot 49; thence easterly and north-

erly along the boundary of Block 177, lot 49 to the boundary of Block 190, lot 18.06; thence easterly along the boundary of Block 190, lot 18.06 to the boundary of Block 190, lot 18.05; thence southeasterly and thence northeasterly along the boundary Block 190, lot 18.05 to the boundary of Block 190, lot 18.01; thence northeasterly along the boundary of Block 190, lot 18.01 to the boundary of Block 190, lot 18.S01; thence southeasterly along the boundary of Block 190, lot 18.S01 to the boundary of Block 190, lot 20; thence southwesterly and easterly along the boundary of Block 190, lot 20 to the boundary of Block 240, lot 1; thence easterly along the boundary of Block 240, lot 1 to County Road 515; thence northerly along County Road 515 to the intersection of Breakneck Road and County Road 515; thence easterly and southerly along the northern edge of the right of way of Breakneck Road to the intersection of the southeastern corner of Block 143, lot 17 in Vernon Township; thence northerly along the eastern boundary of Block 143, lot 17 to the northern corner of Block 143, lot 25; thence northerly 1035 feet more or less along a line projected across Block 143, lot 17 to the southern corner of Block 143, lot 16; thence northerly along the eastern boundary of Block 143, lot 16 to the southern corner of Block 143, lot 15; thence westerly and northerly along the southwestern boundary of Block 143, lot 15 to Pond Eddy Road; thence northerly across Pond Eddy Road to the southern corner of Block 143, lot 10; thence northerly along the eastern boundary of Block 143, lot 10 to the boundary of Block 143, lot 7; thence westerly southerly and generally northerly along the western boundary of Block 143, lot 7 to the limit of Block 143.01; thence northwesterly along the southern limit of Block 143.01 to the eastern corner of Block 143.01, lot 22; thence northwesterly along the northern boundary of Block 143.01, lot 22 and lot 23 to Vernon Warwick Road (State Highway 94); thence easterly and northerly on Vernon Warwick Road (State Highway 94) to its intersection with Maple Grange Road; thence northerly and westerly on Maple Grange Road to its intersection with Pochuck Creek and Wawayanda State Park/Appalachian Trail public land; thence northerly and westerly along the western and southern Wawayanda State Park/Appalachian Trail public land boundary to its intersection with the western terminus of Thistle Avenue (Walnut Hill Drive); thence easterly and southerly on Thistle Avenue (Walnut Hill Drive) to its intersection with Phlox Terrace; thence southerly on Phlox Terrace to its intersection with Cedar Terrace; thence southerly on Cedar Terrace to its intersection with Clover Lane; thence easterly on Clover Lane to its intersection with Zinnia Drive; thence southerly and westerly on the eastern and southern bank of the tributary of Black Creek to its intersection with Lounsberry Hollow Road; thence northerly on Lounsberry Hollow Road to its intersection with Dorchester Road; thence westerly and southerly on Dorchester Road to its intersection with Rolling Hills Road; thence

southerly on Rolling Hills Road to its intersection with a tributary of Black Creek to its intersection with Pochuck Mountain public land boundary; thence southerly and northerly on the Pochuck Mountain public land boundary to its intersection with a tributary of Black Creek; thence northerly on the western bank of the tributary of Black Creek to its intersection with Lake Glenwood; thence along the west shore of Lake Glenwood to Pochuck Creek; thence northerly and westerly on Lake Shore Drive to its intersection with Glenwood Martin Station Road (County Road 565); thence southerly and westerly on Glenwood Martin Station Road (County Road 565) to its intersection with Babtown Road; thence northerly on Babtown Road to its intersection with Maple Avenue; thence northerly on with Maple Avenue to its intersection with Spring Lane; thence northerly on Spring Lane to its intersection with Lakeside Drive; thence northerly on Lakeside Drive to its intersection with Glen Road; thence westerly on Glen Road to its intersection with Lake Walkill Road; thence northerly on Lake Walkill Road to its intersection with the New York State corporate boundary; thence easterly and southerly to its intersection with State Highway 17 and Interstate Highway 287 in northern Mahwah Township, at a point of origin.

(2) Except as otherwise provided in paragraph (1) of this subsection, any natural geographical feature, including a river, stream, or brook, used in paragraph (1) of this subsection for the boundary description of the preservation area shall be considered to lie totally within the preservation area, and any road, railroad, or railroad right of way used in paragraph (1) of this subsection for the boundary description of the preservation area shall be considered to lie totally outside of the preservation area. The use of property block and lot designations include or exclude property from the preservation area. Where a survey gore exists between a property boundary depicted upon a municipal tax map and the limits of a surveyed property noted in paragraph (1) of this subsection, the surveyed property boundary description shall be considered to constitute the preservation area boundary.

c. The planning area shall consist of all that area of the Highlands Region not within the preservation area.

d. The preservation area shall not include any land located within the boundaries of any regional center or town center designated by the State Planning Commission pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.) as of the date of enactment of this act, except to the extent necessary as set forth in the boundary description of the preservation area in subsection b. of this section to reflect appropriate and nearest practicable, on-the-ground, and easily identified reference points.

C.13:20-8 Preparation, adoption of master plan for the Highlands Region.

8. a. The council shall, within 18 months after the date of its first meeting, and after holding at least five public hearings in various locations in the Highlands Region and at least one public hearing in Trenton, prepare and adopt a regional master plan for the Highlands Region. The Highlands regional master plan shall be periodically revised and updated at least once every six years, after public hearings.

The council shall not adopt the regional master plan unless it recommends receiving zones in the planning area and capacity therefor for each receiving zone pursuant to the transfer of development rights program authorized in section 13 of this act.

b. Within 60 days after adopting the regional master plan, the council shall submit the plan to the State Planning Commission for endorsement pursuant to the rules and regulations adopted by the State Planning Commission. The State Planning Commission review shall be limited to the planning area only.

C.13:20-9 Consultations, etc. relative to preparation, revisions of regional master plan.

9. a. During the preparation of the regional master plan or any revision thereof, the council shall consult with the Department of Environmental Protection, the Department of Community Affairs, the State Planning Commission, the Department of Agriculture, the State Agriculture Development Committee, the Department of Transportation, and appropriate officials of local government units and State, regional, and federal departments, agencies and other governmental entities with jurisdiction over lands, waters, and natural resources within the Highlands Region, with interested professional, scientific, and citizen organizations, and with any advisory groups that may be established by the council. The council shall also consult with the Department of Transportation in preparing the transportation component of the regional master plan. The council shall review all relevant federal, State, and private studies of the Highlands Region, the State Development and Redevelopment Plan, municipal, county, and regional plans, applicable federal and State laws and rules and regulations, and other pertinent information on the Highlands Region.

b. Prior to adoption of, and in preparing, the regional master plan, the council may, in conjunction with municipalities in the preservation area, identify areas in which redevelopment shall be encouraged in order to promote the economic well-being of the municipality, provided that the redevelopment conforms with the goals of the preservation area and this act, with the standards prescribed pursuant to section 32 of this act, and with the rules and regulations adopted by the Department of Environmental Protection pursuant to sections 33 and 34 of this act. Any areas identified for

possible redevelopment pursuant to this subsection shall be either a brownfield site designated by the Department of Environmental Protection or a site at which at least 70% of the area thereof is covered with impervious surface.

c. In preparing and implementing the regional master plan or any revision thereto, the council shall ensure that the goals, purposes, policies, and provisions of, and the protections afforded to farmers by, the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), and any rules or regulations adopted pursuant thereto, are recognized and not compromised in any manner.

d. Upon adoption of the regional master plan or any revision thereof, copies thereof shall be transmitted to the Governor, the Legislature, the governing body of every municipality and county located in the Highlands Region, and the State Planning Commission.

C.13:20-10 Goals of regional master plan.

10. a. The goal of the regional master plan with respect to the entire Highlands Region shall be to protect and enhance the significant values of the resources thereof in a manner which is consistent with the purposes and provisions of this act.

b. The goals of the regional master plan with respect to the preservation area shall be to:

(1) protect, restore, and enhance the quality and quantity of surface and ground waters therein;

(2) preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state, thereby ensuring the continuation of a Highlands environment which contains the unique and significant natural, scenic, and other resources representative of the Highlands Region;

(3) protect the natural, scenic, and other resources of the Highlands Region, including but not limited to contiguous forests, wetlands, vegetated stream corridors, steep slopes, and critical habitat for fauna and flora;

(4) preserve farmland and historic sites and other historic resources;

(5) preserve outdoor recreation opportunities, including hunting and fishing, on publicly owned land;

(6) promote conservation of water resources;

(7) promote brownfield remediation and redevelopment;

(8) promote compatible agricultural, horticultural, recreational, and cultural uses and opportunities within the framework of protecting the Highlands environment; and

(9) prohibit or limit to the maximum extent possible construction or development which is incompatible with preservation of this unique area.

c. The goals of the regional master plan with respect to the planning area shall be to:

(1) protect, restore, and enhance the quality and quantity of surface and ground waters therein;

(2) preserve to the maximum extent possible any environmentally sensitive lands and other lands needed for recreation and conservation purposes;

(3) protect and maintain the essential character of the Highlands environment;

(4) preserve farmland and historic sites and other historic resources;

(5) promote the continuation and expansion of agricultural, horticultural, recreational, and cultural uses and opportunities;

(6) preserve outdoor recreation opportunities, including hunting and fishing, on publicly owned land;

(7) promote conservation of water resources;

(8) promote brownfield remediation and redevelopment;

(9) encourage, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts thereof; and

(10) promote a sound, balanced transportation system that is consistent with smart growth strategies and principles and which preserves mobility in the Highlands Region.

C.13:20-11 Contents of regional master plan.

11. a. The regional master plan shall include, but need not necessarily be limited to:

(1) A resource assessment which:

(a) determines the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain while still maintaining the overall ecological values thereof, with special reference to surface and ground water quality and supply; contiguous forests and woodlands; endangered and threatened animals, plants, and biotic communities; ecological factors relating to the protection and enhancement of agricultural or horticultural production or activity; air quality; and other appropriate considerations affecting the ecological integrity of the Highlands Region; and

(b) includes an assessment of scenic, aesthetic, cultural, historic, open space, farmland, and outdoor recreation resources of the region, together with a determination of overall policies required to maintain and enhance such resources;

(2) A financial component, together with a cash flow timetable which:

(a) details the cost of implementing the regional master plan, including, but not limited to, property tax stabilization measures, watershed moratorium offset aid, planning grants and other State aid for local government units, capital requirements for any development transfer bank, payments in lieu-of-taxes, acquisition, within five years and within 10 years after the date of enactment of this act, of fee simple or other interests in lands for preservation or recreation and conservation purposes, compensation guarantees, general administrative costs, and any anticipated extraordinary or continuing costs; and

(b) details the sources of revenue for covering such costs, including, but not limited to, grants, donations, and loans from local, State, and federal departments, agencies, and other governmental entities, and from the private sector;

(3) A component to provide for the maximum feasible local government and public input into the council's operations, which shall include a framework for developing policies for the planning area in conjunction with those local government units in the planning area who choose to conform to the regional master plan;

(4) A coordination and consistency component which details the ways in which local, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the regional master plan, and which details how land, water, and structures managed by governmental or nongovernmental entities in the public interest within the Highlands Region may be integrated into the regional master plan;

(5) A transportation component that provides a plan for transportation system preservation, includes all federally mandated projects or programs, and recognizes smart growth strategies and principles. The transportation component shall include projects to promote a sound, balanced transportation system that is consistent with smart growth strategies and principles and which preserves mobility and maintains the transportation infrastructure of the Highlands Region. Transportation projects and programs shall be reviewed and approved by the council in consultation with the Department of Transportation prior to inclusion in the transportation component; and

(6) A smart growth component that includes an assessment, based upon the resource assessment prepared pursuant to paragraph (1) of subsection a. of this section, of opportunities for appropriate development, redevelopment, and economic growth, and a transfer of development rights program which

shall include consideration of public investment priorities, infrastructure investments, economic development, revitalization, housing, transportation, energy resources, waste management, recycling, brownfields, and design such as mixed-use, compact design, and transit villages. In preparing this component, the council shall:

(a) prepare a land use capability map;

(b) identify existing developed areas capable of sustaining redevelopment activities and investment;

(c) identify undeveloped areas in the planning area, which are not significantly constrained by environmental limitations such as steep slopes, wetlands, or dense forests, are not prime agricultural areas, and are located near or adjacent to existing development and infrastructure, that could be developed;

(d) identify transportation, water, wastewater, and power infrastructure that would support or limit development and redevelopment in the planning area. This analysis shall also provide proposed densities for development, redevelopment, or voluntary receiving zones for the transfer of development rights;

(e) identify potential voluntary receiving zones in the planning area for the transfer of development rights through the appropriate expansion of infrastructure or the modified uses of existing infrastructure;

(f) issue model minimum standards for municipal and county master planning and development regulations outside of the preservation area, including density standards for center-based development to encourage, where appropriate, the adoption of such standards;

(g) identify special critical environmental areas and other critical natural resource lands where development should be limited; and

(h) identify areas appropriate for redevelopment and set appropriate density standards for redevelopment. Any area identified for possible redevelopment pursuant to this subparagraph shall be either a brownfield site designated by the Department of Environmental Protection or a site at which at least 70% of the area thereof is covered with impervious surface.

b. The resource assessment, transportation component, and smart growth component prepared pursuant to subsection a. of this section shall be used only for advisory purposes in the planning area and shall have no binding or regulatory effect therein.

C.13:20-12 Additional contents of regional master plan.

12. In addition to the contents of the regional master plan described in section 11 of this act, the plan shall also include, with respect to the preservation area, a land use capability map and a comprehensive statement of policies for planning and managing the development and use of land in the

preservation area, which shall be based upon, comply with, and implement the environmental standards adopted by the Department of Environmental Protection pursuant to sections 33 and 34 of this act, and the resource assessment prepared pursuant to paragraph (1) of subsection a. of section 11 of this act.

These policies shall include provision for implementing the regional master plan by the State and local government units in the preservation area in a manner that will ensure the continued, uniform, and consistent protection of the Highlands Region in accordance with the goals, purposes, policies, and provisions of this act, and shall include:

a. a preservation zone element that identifies zones within the preservation area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights; and

b. minimum standards governing municipal and county master planning, development regulations, and other regulations concerning the development and use of land in the preservation area, including, but not limited to, standards for minimum lot sizes and stream setbacks, construction on steep slopes, maximum appropriate population densities, and regulated or prohibited uses for specific portions of the preservation area.

C.13:20-13 Use of regional master plan elements for TDR program.

13. a. The council shall use the regional master plan elements prepared pursuant to sections 11 and 12 of this act, including the resource assessment and the smart growth component, to establish a transfer of development rights program for the Highlands Region that furthers the goals of the regional master plan. The transfer of development rights program shall be consistent with the "State Transfer of Development Rights Act," P.L.2004, c.2 (C.40:55D-137 et seq.) or any applicable transfer of development rights program created otherwise by law, except as otherwise provided in this section.

b. In consultation with municipal, county, and State entities, the council shall, within 18 months after the date of enactment of this act, and from time to time thereafter as may be appropriate, identify areas within the preservation area that are appropriate as sending zones pursuant to P.L.2004, c.2 (C.40:55D-137 et seq.).

c. In consultation with municipal, county, and State entities, the council shall, within 18 months after the date of enactment of this act, and from time to time thereafter as may be appropriate, identify areas within the planning area that are appropriate for development as voluntary receiving zones pursuant to P.L.2004, c.2 (C.40:55D-137 et seq.) considering the information

gathered pursuant to sections 11 and 12 of this act, including but not limited to the information gathered on the transfer of development rights pursuant to paragraph (6) of subsection a. of section 11 of this act. For the purposes of the council establishing a transfer of development rights program prior to the preparation of the initial regional master plan, the council in identifying areas appropriate for development as voluntary receiving zones shall consider such information as may be gathered pursuant to sections 11 and 12 of this act and as may be available at the time, but the council need not delay the creation of the transfer of development rights program until the initial regional master plan has been prepared. The council shall set a goal of identifying areas within the planning area that are appropriate for development as voluntary receiving zones that, combined together, constitute four percent of the land area of the planning area, to the extent that the goal is compatible with the amount and type of human development and activity that would not compromise the integrity of the ecosystem of the planning area.

d. The council shall work with municipalities and the State Planning Commission to identify centers, designated by the State Planning Commission, as voluntary receiving zones for the transfer of development rights program.

e. In consultation with municipal, county, and State entities, the council shall assist municipalities or counties in analyzing voluntary receiving zone capacity.

f. In consultation with municipal, county, and State entities, the council shall work with municipalities outside of the preservation area to assist these municipalities in developing ordinances necessary to implement the transfer of development rights. The council shall also establish advisory or model ordinances and other information for this purpose.

The council shall make assistance available to municipalities that desire to create additional sending zones on any lands within their boundaries which lie within the planning area and are designated for conservation in the regional master plan.

g. Notwithstanding the provisions of P.L.2004, c.2 (C.40:55D-137 et seq.) to the contrary, the council shall perform the real estate analysis for the Highlands Region that is required to be performed by a municipality prior to the adoption or amendment of any development transfer ordinance pursuant to P.L.2004, c.2.

h. (1) The council shall set the initial value of a development right. The Office of Green Acres in the Department of Environmental Protection and the State Agriculture Development Committee shall provide support and technical assistance to the council in the operation of the transfer of development rights program. The council shall establish the initial value of a devel-

opment right considering the Department of Environmental Protection rules and regulations in effect the day before the date of enactment of this act.

(2) The council shall give priority consideration for inclusion in a transfer of development rights program any lands that comprise a major Highlands development that would have qualified for an exemption pursuant to paragraph (3) of subsection a. of section 30 of this act but for the lack of a necessary State permit as specified in subparagraph (b) or (c), as appropriate, of paragraph (3) of subsection a. of section 30 of this act, and for which an application for such a permit had been submitted to the Department of Environmental Protection and deemed by the department to be complete for review on or before March 29, 2004.

i. (1) The council may use the State Transfer of Development Rights Bank established pursuant to section 3 of P.L.1993, c.339 (C.4:1C-51) for the purposes of facilitating the transfer of development potential in accordance with this section and the regional master plan. The council may also establish a development transfer bank for such purposes.

(2) At the request of the council, the Department of Banking and Insurance, the State Transfer of Developments Right Bank, the State Agriculture Development Committee, and the Pinelands Development Credit Bank shall provide technical assistance to the council in establishing and operating a development transfer bank as authorized pursuant to paragraph (1) of this subsection.

(3) Any bank established by the council shall operate in accordance with provisions of general law authorizing the creation of development transfer banks by municipalities and counties.

j. The Office of Smart Growth shall review and coordinate State infrastructure capital investment, community development and financial assistance in the planning area in furtherance of the regional master plan. Prior to the council establishing its transfer of development rights program, the Office of Smart Growth shall establish a transfer of development rights pilot program that includes Highlands Region municipalities.

k. Any municipality in the planning area whose municipal master plan and development regulations have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act, and that amends its development regulations to accommodate voluntary receiving zones within its boundaries which are identified pursuant to subsection c. of this section and which provide for a minimum residential density of five dwelling units per acre, shall, for those receiving zones, be: eligible for an enhanced planning grant from the council of up to $250,000; eligible for a grant to reimburse the reasonable costs of amending the municipal development regulations; authorized to impose impact fees in accordance with subsection m. of this section; entitled to legal representation pursuant

to section 22 of this act; accorded priority status in the Highlands Region for any State capital or infrastructure programs; and eligible for any other appropriate assistance, incentives, or benefits provided pursuant to section 18 of this act.

l. Any municipality located outside of the Highlands Region in any county that has a municipality in the Highlands Region that has received plan endorsement by the State Planning Commission pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), that establishes a receiving zone which provides for a minimum residential density of five dwelling units per acre for the transfer of development rights from a sending zone in the Highlands Region, and that accepts that transfer of development rights shall, for those receiving zones, be eligible for the same grants, authority, and other assistance, incentives, and benefits as provided to municipalities in the planning area pursuant to subsection k. of this section except for legal representation as provided pursuant to section 22 of this act and priority status in the Highlands Region for any State capital or infrastructure programs.

m. (1) A municipality that is authorized to impose impact fees under subsection k. of this section shall exercise that authority by ordinance.

(2) Any impact fee ordinance adopted pursuant to this subsection shall include detailed standards and guidelines regarding: (a) the definition of a service unit, including specific measures of consumption, use, generation or discharge attributable to particular land uses, densities and characteristics of development; and (b) the specific purposes for which the impact fee revenues may be expended.

(3) An impact fee ordinance shall also include a delineation of service areas for each capital improvement whose upgrading or expansion is to be funded out of impact fee revenues, a fee schedule which clearly sets forth the amount of the fee to be charged for each service unit, and a payment schedule.

(4) An impact fee may be imposed by a municipality pursuant to this subsection in order to generate revenue for funding or recouping the costs of new capital improvements or facility expansions necessitated by new development, to be paid by the developer as defined pursuant to section 3.1 of P.L.1975, c.291 (C.40:55D-4). Improvements and expansions for which an impact fee is to be imposed shall bear a reasonable relationship to needs created by the new development, but in no case shall an impact fee assessed pursuant to this subsection exceed $15,000 per dwelling unit unless and until impact fees are otherwise established by law at which time the impact fee shall be 200% of the calculated impact fee.

(5) No impact fee shall be assessed pursuant to this subsection against any low or moderate income housing unit within an inclusionary development as defined under P.L.1985, c.222 (C.52:27D-301 et al.).

No impact fee authorized under this subsection shall include a contribution for any transportation improvement necessitated by a new development in a county which is covered by a transportation development district created pursuant to the "New Jersey Transportation Development District Act of 1989," P.L.1989, c.100 (C.27:1C-1 et al.).

C.13:20-14 Submission of revisions to regional master plan by municipalities, counties in preservation area for conformance.

14. a. Within nine to 15 months after the date of adoption of the regional master plan or any revision thereof, according to a schedule to be established by the council, each municipality located wholly or partially in the preservation area shall submit to the council such revisions of the municipal master plan and development regulations, as applicable to the development and use of land in the preservation area, as may be necessary in order to conform them with the goals, requirements, and provisions of the regional master plan. After receiving and reviewing the revisions, the council shall approve, reject, or approve with conditions the revised plan and development regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

Upon rejecting or conditionally approving any such revised plan or development regulations, the council shall identify such changes therein that it deems necessary for council approval thereof, and the relevant municipality shall adopt and enforce the plan or development regulations as so changed.

b. Within nine to 15 months after the date of adoption of the regional master plan or any revision thereof, according to a schedule to be established by the council, each county located wholly or partially in the preservation area shall submit to the council such revisions of the county master plan and associated regulations, as applicable to the development and use of land in the preservation area, as may be necessary in order to conform them with the goals, requirements, and provisions of the regional master plan. After receiving and reviewing the revisions, the council shall approve, reject, or approve with conditions those revised plans and associated regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

Upon rejecting or conditionally approving any such revised plan or associated regulations, the council shall identify such changes therein that it deems necessary for council approval thereof, and the relevant county shall adopt and enforce the plan or associated regulations as so changed.

c. The council may revoke a conformance approval granted pursuant to this section or section 15 of this act, after conducting a hearing, if the council finds that the local government unit has taken action inconsistent with the regional master plan.

d. In the event that any municipality or county fails to adopt or enforce an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council, as required pursuant to subsection a. or b. of this section, the council shall adopt and enforce such rules and regulations as may be necessary to implement the minimum standards contained in the regional master plan as applicable to any municipality or county within the preservation area. If any municipality or county fails to adopt or enforce an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council, as required pursuant to subsection a. or b. of this section, the council shall have all local enforcement authority provided pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., and this act, as well as the authority to issue stop construction orders, as may be necessary to implement the provisions of this act, any rules and regulations adopted pursuant thereto, and the requirements and provisions of the regional master plan.

e. A municipality or county may adopt revisions to its master plan, development regulations, or other regulations for the purposes of this section that are stricter, as determined by the council, than the minimum necessary to obtain approval of conformance with the regional master plan.

f. The requirements of this section shall not apply to any municipality or county located wholly within the planning area. Any municipality or county located partially within the preservation area and partially within the planning area shall be required to comply with the provisions of this section and the regional master plan only with respect to that portion of the municipality or county lying within the preservation area. Voluntary conformance with the regional master plan as it may apply to those portions of a municipality or county lying within the planning area shall be permitted as provided pursuant to section 15 of this act.

C.13:20-15 Municipalities, counties in planning area may petition council relative to revision.

15. a. (1) For any municipality located wholly in the planning area or for any portion of a municipality lying within the planning area, the municipality may, by ordinance, petition the council of its intention to revise its master plan and development regulations, as applicable to the development and use of land in the planning area, to conform with the goals, requirements, and provisions of the regional master plan.

The municipality shall proceed in revising its master plan and development regulations in accordance with the framework adopted by the council pursuant to subsection a. of section 14 of this act.

After receiving and reviewing those revisions, and after consulting with the State Planning Commission, the council shall approve, reject, or approve with conditions the revised plan and development regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

(2) Upon rejecting or conditionally approving any such revised plan or development regulations, the council shall identify such changes therein that it deems necessary for council approval thereof, and the municipality may adopt and enforce the plan or development regulations as so changed in order for them to be deemed approved in conformance with the regional master plan.

(3) Any municipality approved by the council to be in conformance with the regional master plan pursuant to this subsection shall be entitled to any financial or other assistance or incentives received by a municipality from the State as a benefit or result of obtaining council approval pursuant to section 14 of this act.

(4) Upon the commencement of each reexamination by the municipality of its master plan and development regulations as required pursuant to section 76 of P.L.1975, c.291 (C.40:55D-89) which have been previously approved by the council to be in conformance with the regional master plan pursuant to this subsection, the municipality shall so notify the council and, thereafter, submit to the council the draft revision of its master plan and development regulations for review, by the council, of conformance with the regional master plan. If, after conducting the reexamination, the municipality does not resubmit to the council its master plan and development regulations as they pertain to the planning area and obtain reapproval thereof from the council in accordance with this subsection, or if the council finds the reexamined master plan or development regulations not to be in conformance with the regional master plan, the council may require the municipality to reimburse the council or the State, as appropriate, in whole or in part for any financial or other assistance or incentives received by the municipality from the State as a benefit or result of obtaining council approval pursuant to this subsection.

(5) A municipality may adopt revisions to its master plan or development regulations for the purposes of this subsection that are stricter, as determined by the council, than the minimum necessary to obtain approval of conformance with the regional master plan.

b. (1) Each county with lands in the planning area may, by ordinance or resolution, as appropriate, petition the council of its intention to revise its

master plan and associated regulations, as applicable to the development and use of land in the planning area, to conform with the goals, requirements, and provisions of the regional master plan.

The county shall proceed in revising its master plan and associated regulations in accordance with the framework adopted by the council pursuant to subsection b. of section 14 of this act.

After receiving and reviewing those revisions, and after consulting with the State Planning Commission, the council shall approve, reject, or approve with conditions the revised plan and associated regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

(2) Upon rejecting or conditionally approving any such revised plan or associated regulations, the council shall identify such changes therein that it deems necessary for council approval thereof, and the county may adopt and enforce the plan or associated regulations as so changed in order for them to be deemed approved in conformance with the regional master plan.

(3) Any county approved by the council to be in conformance with the regional master plan pursuant to this subsection shall be entitled to any financial or other assistance or incentives received by a county from the State as a benefit or result of obtaining council approval pursuant to section 14 of this act.

C.13:20-16 Council may provide comments, recommendations on projects.

16. a. The council may provide comments and recommendations on any capital or other project proposed to be undertaken by any State entity or local government unit in the Highlands Region.

b. Within the preservation area, any capital or other project of a State entity or local government unit that involves the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more shall be submitted to the council for review, except that no such submission shall be required for (1) the routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation or infrastructure systems by a State entity or local government unit, provided that the activity is consistent with the goals and purposes of this act and does not result in the construction of any new through-capacity travel lanes, or (2) the construction of transportation safety projects and bicycle and pedestrian facilities, provided that the activity does not result in the construction of any new through-capacity travel lanes. The council shall establish procedures for conducting such reviews and shall have the power to approve, approve with conditions, or disapprove the project. No such project shall proceed without the approval of the council; provided that, in the case of a project of a State entity, if the council disapproves the project, the head of the

appropriate principal department of State government with primary responsibility for the project may override the council's disapproval upon making a written finding, which shall be submitted to the council and the Governor, that the project is necessary for public health, safety, or welfare and including with that finding a factual basis and explanation in support thereof. In the case of a project of an independent State authority or commission or a bi-state entity, any such finding shall be made by the Governor or such other State governmental official as the Governor may designate for that purpose.

The council shall review any submission pursuant to this subsection within 30 days after receipt. If the council fails to act within the 30-day period, or within such other time period as may be mutually agreed upon by the parties, the project shall be deemed approved.

c. Within the planning area, any capital or other project of a State entity or local government unit that provides for the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more shall be submitted to the council for a nonbinding review and comment, except that no such submission shall be required for (1) the routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation or infrastructure systems by a State entity or local government unit, provided that the activity is consistent with the goals and purposes of this act and does not result in the construction of any new through-capacity travel lanes, or (2) the construction of transportation safety projects and bicycle and pedestrian facilities by a State entity or local government unit, provided that the activity does not result in the construction of any new through-capacity travel lanes. The council shall establish procedures for conducting such reviews within 30 days after receipt or within such other time period as may be mutually agreed upon by the parties. The failure of the council to act within the 30-day or other agreed upon time period on any such review pursuant to this subsection shall not be cause for delay of the project, and the project may proceed whether or not the council has conducted the review authorized pursuant to this subsection.

C.13:20-17 Review by council of regional applications for development.

17. a. (1) Subsequent to adoption of the regional master plan, the council may review, within 15 days after any final local government unit approval, rejection, or approval with conditions thereof, any application for development in the preservation area. Upon determining to exercise that authority, the council shall transmit, by certified mail, written notice thereof to the person who submitted the application to the local government unit. The council shall, after public hearing thereon, approve, reject, or approve with conditions any such application or decision within 60 days after transmitting the notice; provided, however, that an application shall not be rejected or

conditionally approved unless the council determines that the development does not conform with the regional master plan, as applicable to the local government unit wherein the development is located, or that the development could result in substantial impairment of the resources of the Highlands Region. Such approval, rejection, or conditional approval shall be binding upon the person who submitted the application, shall supersede any local government unit decision on any such development, and shall be subject only to judicial review as provided in section 28 of this act. Pending completion of the review by the council of any final local government approval or approval with conditions of an application for development in the preservation area and the issuance of the council's decision thereon, the applicant shall not proceed with the development.

(2) No cause of action may be filed in the Superior Court to contest a local government unit decision on an application for development in the preservation area if the council exercises its review authority pursuant to this section. Any such cause of action filed before the date that the council exercises its review authority pursuant to this section shall be dismissed by the court for lack of jurisdiction. Upon determination of the council to exercise its review authority pursuant to this section, judicial review of the decision of the local government unit and of the council pursuant to this section shall proceed as provided pursuant to section 28 of this act.

b. Every person submitting an application for development in the preservation area shall be required to provide a notice of the application to the council in accordance with such procedures therefor as shall be established by the council.

c. Notwithstanding any provision of subsection a. or b. of this section to the contrary, for any municipality or county that has adopted an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council, the requirements of this section shall apply only to applications for development that provide for the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more. The council, however, may provide, pursuant to subsection d. of section 14 of this act, that the requirements of this section apply to any application for development within the preservation area in any municipality or county that fails to adopt or enforce an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council.

d. Any member of the public may request the council to consider reviewing an application for development in the preservation area as provided in this section.

C.13:20-18 Qualification for State aid, grants.

18. a. Any municipality in the Highlands Region whose municipal master plan and development regulations, and any county in the Highlands Region whose county master plan and associated regulations, have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act shall qualify for State aid, planning assistance, technical assistance, and other benefits and incentives that may be awarded or provided by the State to municipalities and counties which have received plan endorsement by the State Planning Commission pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.) or which otherwise practice or implement smart growth strategies and principles. Any such municipality or county shall also qualify for any State aid that may be provided for smart growth projects.

b. The council shall make available grants and other financial and technical assistance to municipalities and counties for any revision of their master plans, development regulations, or other regulations which is designed to bring those plans, development regulations, or other regulations into conformance with the regional master plan or for implementation of a transfer of development rights program pursuant to this act. The grants and other financial assistance shall pay for the reasonable expenses therefor incurred by a municipality or county and shall be distributed according to such procedures and guidelines as may be established by the council. The council shall make the grants and other financial assistance from any State, federal, or other funds that shall be appropriated or otherwise made available to it for that purpose, including monies required to be made available therefor from the "Highlands Protection Fund" created pursuant to section 21 of this act.

C.54:1-85 "Highlands Municipal Property Tax Stabilization Board," and "Fund"; procedures, definitions.

19. a. (1) There is established in the Department of the Treasury the "Highlands Municipal Property Tax Stabilization Board," which shall consist of three members to be appointed by the Governor, who shall be recognized experts in the field of taxation. Members of the board may also be members of the Highlands Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4).

(2) Within 120 days after the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.), the board, in consultation with the Highlands Water Protection and Planning Council, shall establish procedures for determining the valuation base of a qualified municipality, whether fiscal stress has been caused by the implementation of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.) in a qualified municipality,

and the amount due a qualified municipality to compensate for a decline in the aggregate true value of vacant land directly attributable to the implementation of the "Highlands Water Protection and Planning Act."

b. The "Highlands Municipal Property Tax Stabilization Fund" is established in the General Fund as a special nonlapsing fund for the purpose of providing State aid to qualified municipalities pursuant to this section. There shall be credited each State fiscal year from the "Highlands Protection Fund" created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19) to the Highlands Municipal Property Tax Stabilization Fund such sums as shall be necessary to provide State aid to qualified municipalities pursuant to this section. Every qualified municipality shall be eligible for a distribution from the fund pursuant to the provisions of this section.

c. The assessor of every qualified municipality shall certify to the county tax board on a form to be prescribed by the Director of the Division of Taxation in the Department of the Treasury, and on or before December 1 annually, a report of the assessed value of each parcel of vacant land in the base year and the change in the assessed value of each such parcel in the current tax year attributable to successful appeals of assessed values of vacant land to the county tax board pursuant to R.S.54:3-21 et seq. or attributable to a revaluation approved by the director and implemented or a reassessment approved by the county board of taxation. If a judgment or an appeal is overturned or modified, upon a final judgment an appropriate adjustment shall be made by the director in the payment of the entitlement due next following the judgment.

d. (1) Upon receipt of reports filed pursuant to subsection c. of this section and using procedures developed by the board pursuant to subsection a. of this section, the county tax board shall compute and certify to the director on or before December 20 of each year, in such manner as to identify for each qualified municipality the aggregate decline, if any, in the true value of vacant land, comparing the current tax year to the base year. The aggregate changes so identified for each qualified municipality shall constitute its valuation base for purposes of this section.

(2) The Director of the Division of Taxation shall, on or before January 10 of each year, provide the board with all relevant information collected pursuant to the provisions of this section and any other information deemed necessary by the board to determine the valuation base.

(3) Upon receipt of the information, the board shall make a final determination on the valuation base of each qualified municipality; calculate the amount due a qualified municipality, in accordance with the procedures developed pursuant to subsection a. of this section, to compensate for a decline, if any, by multiplying its valuation base by its tax rate; and certify

to the director and the State Treasurer, on or before February 1 of each year, that amount to which each qualified municipality is entitled.

e. Upon receipt of the certification by the board, the State Treasurer shall certify to each qualified municipality, on or before February 15, its property tax stabilization amount. A copy of the certified amounts shall be forwarded to the Director of the Division of Local Government Services in the Department of Community Affairs.

f. (1) The State Treasurer, upon warrant of the Director of the Division of Budget and Accounting in the Department of the Treasury, shall pay to each qualified municipality its entitlement as State aid from the sums available in the "Highlands Municipal Property Tax Stabilization Fund" in two equal installments pursuant to a schedule prescribed by the Division of Local Government Services.

(2) If the amount available in the "Highlands Municipal Property Tax Stabilization Fund" in any year is insufficient to pay the full amount to which each qualified municipality is entitled pursuant to this section, the payments shall be made on a pro rata basis.

(3) Notwithstanding any provisions of this section to the contrary, in the sixth, seventh, eighth, ninth, and tenth years of the State aid program created by this section, a qualified municipality shall be entitled to receive, respectively, 90%, 70%, 50%, 30%, and 10% of the sum it otherwise would have been paid pursuant to this subsection, and thereafter the program shall expire.

g. Any municipality receiving a certification from the State Treasurer pursuant to subsection e. of this section shall anticipate such sums in its annual budget or any amendments or supplements thereto as a direct offset to the amount to be raised by taxation.

h. The Director of the Division of Taxation in reviewing the reports filed pursuant to subsection c. of this section may make such changes therein as the director deems necessary to ensure that the reports accurately reflect the change in the assessed value of vacant land.

i. The Director of the Division of Local Government Services shall make such changes in the budget of any qualified municipality to ensure that all sums received pursuant to this section are utilized as a direct offset to the amount to be raised by taxation and shall make such changes therein as the director deems necessary to ensure that the offset occurs.

j. Any sum received by a qualified municipality pursuant to this section shall not be considered as an exception or exemption under P.L.1976, c.68 (C.40A:4-45.1 et seq.).

k. Notwithstanding the provisions of the "Local Budget Law" (N.J.S.40A:4-1 et seq.), a qualified municipality which is due a property tax stabilization payment pursuant to this section may anticipate the amount of

the entitlement in its annual budget for the year in which the payment is made.

l. The State Treasurer may deduct from the State aid a municipality would otherwise receive pursuant to this section an amount equivalent to that portion of any sums received by a municipality pursuant to section 1 of P.L.1999, c.225 (C.58:29-8) that the State Treasurer, in consultation with the Director of the Division of Local Government Services, determines to be duplicative of any State aid received pursuant to this section.

m. The Director of the Division of Taxation and the Director of the Division of Local Government Services shall each 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.

n. As used in this section:

"Base year" means the calendar year 2003;

"Board" means the Highlands Municipal Property Tax Stabilization Board established pursuant to subsection a. of this section;

"Current tax year" means the most recent year for which a report is filed pursuant to subsection c. of this section;

"Highlands preservation area" means the preservation area of the Highlands Region designated by subsection b. of section 7 of P.L.2004, c.120 (C.13:20-7);

"Qualified municipality" means any municipality located wholly or partially in the Highlands preservation area, provided however, that after the adoption of the Highlands regional master plan by the Highlands Water Protection and Planning Council pursuant to section 8 of P.L.2004, c.120 (C.13:20-8), qualified municipality shall mean only a municipality that has conformed its municipal master plan and development regulations to the Highlands regional master plan pursuant to section 14 of P.L.2004, c.120 (C.13:20-14);

"Tax rate" means that portion of the effective property tax rate for the current tax year which reflects local taxes to be raised for district school purposes and local municipal purposes, calculated by dividing the total of column 12, section C by net valuation on which county taxes are apportioned in column 11, both as reflected in the Abstract of Ratables for the current tax year, and expressed as a rate per $100 of true value;

"True value of vacant land" or "true value" means the aggregate assessed value of vacant land divided by the average ratio of assessed-to-true value of real property (commonly known as the equalization rate) promulgated by the Director of the Division of Taxation in the Department of the Treasury and published in the table of equalized valuation; and

"Valuation base" means the change in the aggregate true value of vacant land directly attributable to the implementation of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.) in a qualified municipality when comparing the current tax year to the base year.

o. This section shall expire July 1 next following one year after the date the last State aid payment is made to a qualified municipality in the tenth year as provided pursuant to paragraph (3) of subsection f. of this section.

C.54:1-84 "Pinelands Property Tax Assistance Fund"; administration, definitions.

20. a. The "Pinelands Property Tax Assistance Fund" is established in the General Fund as a special nonlapsing fund for the purpose of providing State aid to qualifying municipalities in the pinelands area. The Commissioner of Community Affairs shall serve as administrator of the fund.

b. Every qualifying municipality in the pinelands area shall be eligible for State aid made with monies in the fund. The Commissioner of Community Affairs shall annually distribute to each qualifying municipality in the pinelands area a percentage of the monies annually allocated to the fund equal to the percentage the qualifying municipality received of the total sum distributed from the "Pinelands Municipal Property Tax Stabilization Fund" pursuant to P.L.1983, c.551 (C.54:1-68 et seq.).

c. The State Treasurer shall annually credit, in each of the first five years after the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.), to the "Pinelands Property Tax Assistance Fund" from the "Highlands Protection Fund" established pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), the sum of $1,800,000.

d. Any State aid made available with monies from the "Pinelands Property Tax Assistance Fund" pursuant to this section shall be in addition to any other moneys appropriated or otherwise made available pursuant to any other federal or State program for the same category of aid.

e. Any qualifying municipality receiving State aid pursuant to this section shall anticipate those sums in its annual budget or any amendments or supplements thereto as a direct offset to the amount to be raised by taxation.

f. The Director of the Division of Local Government Services in the Department of Community Affairs shall make such changes in the budget of any qualifying municipality to ensure that all sums received pursuant to this section are utilized as a direct offset to the amount to be raised by taxation and shall make such changes therein as the director deems necessary to ensure that the offset occurs.

g. Any sum received by a qualifying municipality pursuant to this section shall not be considered as an exception or exemption under P.L.1976, c.68 (C.40A:4-45.1 et seq.).

h. Notwithstanding the provisions of the "Local Budget Law" (N.J.S.40A:4-1 et seq.), a qualifying municipality which is due a payment pursuant to this section may anticipate the amount of the entitlement in its annual budget for the year in which the payment is made.

i. The Director of the Division of Local Government Services shall 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.

j. As used in this section:

"Pinelands area" means the area so designated in section 10 of P.L.1979, c.111 (C.13:18A-11); and

"Qualifying municipality" means any municipality that received State aid distributed from the "Pinelands Municipal Property Tax Stabilization Fund" pursuant to P.L.1983, c.551 (C.54:1-68 et seq.).

k. This section shall expire July 1 next following one year after the date the last State aid payment is made to a qualifying municipality in the fifth year as provided pursuant to subsection c. of this section.

C.13:20-19 "Highlands Protection Fund"; use.

21. a. There is created in the Department of the Treasury a special non-lapsing fund to be known as the "Highlands Protection Fund." The monies in the fund are dedicated and shall be used only to carry out the purposes enumerated in subsection b. of this section. The fund shall be credited with all revenues collected and deposited in the fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8), all interest and other income received from the investment of monies in the fund, and any monies which, from time to time, may otherwise become available for the purposes of the fund. Pending the use thereof pursuant to the provisions of subsection b. of this section, the monies deposited in the fund shall be held in interest-bearing accounts in public depositories, as defined pursuant to section 1 of P.L.1970, c.236 (C.17:9-41), and may be invested or reinvested in such securities as are approved by the State Treasurer. Interest or other income earned on monies deposited into the fund shall be credited to the fund for use as set forth in subsection b. of this section for other monies in the fund.

b. Monies deposited in the "Highlands Protection Fund" shall be used only for:

(1) payments to the "Highlands Municipal Property Tax Stabilization Fund" established pursuant to subsection b. of section 19 of this act in such amounts as are necessary to provide property tax stabilization aid pursuant to that section;

(2) payments of watershed moratorium offset aid pursuant to section 1 of P.L.1999, c. 225 (C.58:29-8);

(3) the making of grants by the Highlands Water Protection and Planning Council pursuant to sections 13 and 18 of this act; and

(4) allocations to the Pinelands Property Tax Assistance Fund established pursuant to section 20 of this act.

C.13:20-20 Council to provide legal representation to local units, conditions.

22. The council shall provide legal representation to any requesting local government unit located in the Highlands Region in any cause of action filed against the local government unit and contesting an act or decision of the local government unit taken or made under authority granted pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), or this act, provided that:

a. the municipal master plan and development regulations, or, in the case of a county governmental entity, the county master plan and associated regulations, have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act;

b. the council determines that the act or decision of the local government unit which is the subject of the cause of action is consistent with the regional master plan; and

c. the act or decision of the local government unit that is the subject of the cause of action involves an application for development that provides for the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more.

C.13:20-21 Guidelines, instructions to local government units.

23. Within 10 days after the date of enactment of this act, the Department of Community Affairs, in consultation with the Department of Environmental Protection, shall provide guidelines and instructions to all local government units located wholly or partially within the preservation area with respect to the processing, review, and enforcement of applications for development after the date of enactment of this act and before adoption of the regional master plan.

C.13:20-22 Plans, regulations entitled to strong presumption of validity.

24. The municipal master plan and development regulations of any municipality, and the county master plan and associated regulations of any county, located in the Highlands Region which have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act shall be entitled to a strong presumption of validity. In any cause of action filed against such a local government unit and contesting an act or decision of the local government unit taken or made under authority granted pursuant to the "Municipal Land Use Law,"

P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), or this act, the court shall give extraordinary deference to the local government unit, provided that the municipal master plan and development regulations, or, in the case of a county governmental entity, the county master plan and associated regulations, have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act. The plaintiff shall have the burden of proof to demonstrate by clear and convincing evidence that the act or decision of any such local government unit was arbitrary, capricious, or unreasonable or in patent abuse of discretion.

C.13:20-23 Regional master plan considered in allocation of prospective fair housing share.

25. a. The Council on Affordable Housing shall take into consideration the regional master plan prior to making any determination regarding the allocation of the prospective fair share of the housing need in any municipality in the Highlands Region under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) for the fair share period subsequent to 1999.

b. Nothing in this act shall affect protections provided through a grant of substantive certification or a judgment of repose granted prior to the date of enactment of this act.

C.13:20-24 Modification of site improvement standards for residential development.

26. Within 90 days after the first meeting of the Highlands Water Protection and Planning Council, the Site Improvement Advisory Board established pursuant to section 3 of P.L.1993, c.32 (C.40:55D-40.3) and the Commissioner of Community Affairs shall consult with the council and the Commissioner of Environmental Protection concerning whether the site improvement standards for residential development adopted pursuant to P.L.1993, c.32 (C.40:55D-40.1 et seq.) are appropriate and sufficiently protective for the Highlands Region, especially for the preservation area; and if it is determined they are not, those standards shall be modified accordingly as soon as practicable thereafter to meet that objective.

C.13:20-25 Council may institute action, proceeding for injunctive relief.

27. The council may institute an action or proceeding in Superior Court for injunctive relief for any violation of this act, or any rule or regulation adopted pursuant thereto, or, in the preservation area for any violation of, or nonconformance with, the regional master plan. The council may also institute an action or proceeding for injunctive relief for any violation of the regional master plan in the planning area as it relates to a municipality or county that has been approved to be in conformance with the regional master plan pursuant to section 15 of this act. In any action or proceeding brought

pursuant to this section, the court may proceed in a summary manner and may also grant temporary or interlocutory relief.

C.13:20-26 Council decision deemed final agency action, appellate review.

28. Any decision rendered or action taken by the council pursuant to this act shall be a final agency action subject to judicial review in the Appellate Division of the Superior Court of New Jersey in accordance with the Rules of Court. The court may grant such relief as it deems just and proper, and to make and enter an order enforcing, modifying, and enforcing as so modified, remanding for further specific evidence or findings, or setting aside in whole or in part, the decision of the council. The findings of fact upon which the council's decision is based shall be conclusive if supported by substantial evidence on the record considered as a whole.

C.13:20-27 Annual report of council.

29. On or before March 31 in each year the council shall make an annual report of its activities for the preceding calendar year to the Governor, the Legislature, and the governing body and the chief executive officer of each municipality and county in the Highlands Region. Each such report shall set forth a complete operating and financial statement covering its operations during the year.

C.13:20-28 Exemptions.

30. a. The following are exempt from the provisions of this act, the regional master plan, any rules or regulations adopted by the Department of Environmental Protection pursuant to this act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the regional master plan:

(1) the construction of a single family dwelling, for an individual's own use or the use of an immediate family member, on a lot owned by the individual on the date of enactment of this act or on a lot for which the individual has on or before May 17, 2004 entered into a binding contract of sale to purchase that lot;

(2) the construction of a single family dwelling on a lot in existence on the date of enactment of this act, provided that the construction does not result in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more;

(3) a major Highlands development that received on or before March 29, 2004:

(a) one of the following approvals pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.):

(i) preliminary or final site plan approval;

(ii) final municipal building or construction permit;

(iii) minor subdivision approval where no subsequent site plan approval is required;

(iv) final subdivision approval where no subsequent site plan approval is required; or

(v) preliminary subdivision approval where no subsequent site plan approval is required; and

(b) at least one of the following permits from the Department of Environmental Protection, if applicable to the proposed major Highlands development:

(i) a permit or certification pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.);

(ii) a water extension permit or other approval or authorization pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.);

(iii) a certification or other approval or authorization issued pursuant to the "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.); or

(iv) a treatment works approval pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); or

(c) one of the following permits from the Department of Environmental Protection, if applicable to the proposed major Highlands development, and if the proposed major Highlands development does not require one of the permits listed in subsubparagraphs (i) through (iv) of subparagraph (b) of this paragraph:

(i) a permit or other approval or authorization issued pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.); or

(ii) a permit or other approval or authorization issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

The exemption provided in this paragraph shall apply only to the land area and the scope of the major Highlands development addressed by the qualifying approvals pursuant to subparagraphs (a) and (b), or (c) if applicable, of this paragraph, shall expire if any of those qualifying approvals expire, and shall expire if construction beyond site preparation does not commence within three years after the date of enactment of this act;

(4) the reconstruction of any building or structure for any reason within 125% of the footprint of the lawfully existing impervious surfaces on the site, provided that the reconstruction does not increase the lawfully existing impervious surface by one-quarter acre or more. This exemption shall not apply to the reconstruction of any agricultural or horticultural building or structure for a non-agricultural or non-horticultural use;

(5) any improvement to a single family dwelling in existence on the date of enactment of this act, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system;

(6) any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on the date of enactment of this act, including but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility;

(7) an activity conducted in accordance with an approved woodland management plan pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3) or the normal harvesting of forest products in accordance with a forest management plan approved by the State Forester;

(8) the construction or extension of trails with non-impervious surfaces on publicly owned lands or on privately owned lands where a conservation or recreational use easement has been established;

(9) the routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation or infrastructure systems by a State entity or local government unit, provided that the activity is consistent with the goals and purposes of this act and does not result in the construction of any new through-capacity travel lanes;

(10) the construction of transportation safety projects and bicycle and pedestrian facilities by a State entity or local government unit, provided that the activity does not result in the construction of any new through-capacity travel lanes;

(11) the routine maintenance and operations, rehabilitation, preservation, reconstruction, repair, or upgrade of public utility lines, rights of way, or systems, by a public utility, provided that the activity is consistent with the goals and purposes of this act;

(12) the reactivation of rail lines and rail beds existing on the date of enactment of this act;

(13) the construction of a public infrastructure project approved by public referendum prior to January 1, 2005 or a capital project approved by public referendum prior to January 1, 2005;

(14) the mining, quarrying, or production of ready mix concrete, bituminous concrete, or Class B recycling materials occurring or which are permitted to occur on any mine, mine site, or construction materials facility existing on June 7, 2004;

(15) the remediation of any contaminated site pursuant to P.L.1993, c.139 (C.58:10B-1 et seq.);

(16) any lands of a federal military installation existing on the date of enactment of this act that lie within the Highlands Region; and

(17) a major Highlands development located within an area designated as Planning Area 1 (Metropolitan), or Planning Area 2 (Suburban), as designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as of March 29, 2004, that on or before March 29, 2004 has been the subject of a settlement agreement and stipulation of dismissal filed in the Superior Court, or a builder's remedy issued by the Superior Court, to satisfy the constitutional requirement to provide for the fulfillment of the fair share obligation of the municipality in which the development is located. The exemption provided pursuant to this paragraph shall expire if construction beyond site preparation does not commence within three years after receiving all final approvals required pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

b. The exemptions provided in subsection a. of this section shall not be construed to alter or obviate the requirements of any other applicable State or local laws, rules, regulations, development regulations, or ordinances.

c. Nothing in this act shall be construed to alter the funding allocation formulas established pursuant to the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.).

d. Nothing in this act shall be construed to repeal, reduce, or otherwise modify the obligation of counties, municipalities, and other municipal and public agencies of the State to pay property taxes on lands used for the purpose and for the protection of a public water supply, without regard to any buildings or other improvements thereon, pursuant to R.S.54:4-3.3.

C.13:20-29 Agricultural, horticultural development, review required; enforcement.

31. a. (1) Any agricultural or horticultural development in the preservation area that would result in the increase, after the date of enactment of this act either individually or cumulatively, of agricultural impervious cover by three percent or more of the total land area of a farm management unit in the preservation area shall require the review and approval by the local soil conservation district of a farm conservation plan which shall be prepared and submitted by the owner or operator of the farm management unit. Upon approval of the farm conservation plan by the local soil conservation district, the owner or operator of the farm management unit shall implement the plan on the farm management unit. The local soil conservation district shall transmit a copy of an approved farm conservation plan to the State Soil Conservation Committee, and, if any part of the farm management unit is preserved under any farmland preservation program, to the State Agriculture Development Committee.

(2) Any agricultural or horticultural development in the preservation area that would result in the increase, after the date of enactment of this act either individually or cumulatively, of agricultural impervious cover by nine

percent or more of the total land area of a farm management unit in the preservation area shall require the review and approval by the local soil conservation district of a resource management systems plan which shall be prepared and submitted by the owner or operator of the farm management unit.

Prior to the approval of a resource management systems plan by a local soil conservation district, a copy of the resource management systems plan shall be forwarded by the local soil conservation district to the Department of Environmental Protection for review and approval, with or without conditions, or denial within 60 days after receipt by the department. Upon approval of the resource management systems plan by the local soil conservation district and the Department of Environmental Protection, the owner or operator of the farm management unit shall implement the plan on the farm management unit. The local soil conservation district shall transmit a copy of an approved resource management systems plan to the State Soil Conservation Committee, and, if any part of the farm management unit is preserved under any farmland preservation program, to the State Agriculture Development Committee.

(3) A farm conservation plan required pursuant to paragraph (1) of this subsection and a resource management systems plan required pursuant to paragraph (2) of this subsection shall be prepared in accordance with science-based standards, consistent with the goals and purposes of this act, which standards shall be established by the State Board of Agriculture and the Department of Agriculture, in consultation with the Department of Environmental Protection, the State Agriculture Development Committee, Rutgers Cooperative Extension, and the Natural Resources Conservation Service in the United States Department of Agriculture. Within 270 days after the date of enactment of this act, the State Department of Agriculture, in consultation with the Department of Environmental Protection, shall develop and adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), these standards and any other rules and regulations necessary to implement this section.

b. (1) If any person violates any provision of subsection a. of this section, any rule or regulation adopted pursuant to subsection a. of this section, or a farm conservation plan or a resource management systems plan approved pursuant to subsection a. of this section, the Department of Agriculture or the local soil conservation district may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent the violation or violations and the court may proceed in a summary manner.

(2) (a) Any person who violates any provision of subsection a. of this section, any rule or regulation adopted pursuant to subsection a. of this section, or a farm conservation plan or a resource management systems plan

approved pursuant to subsection a. of this section shall be liable to a civil administrative penalty of up to $5,000 for each violation. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. No assessment shall be levied pursuant to this subsection until after the party has been notified by certified mail or personal service and provided an opportunity for a hearing.

(b) Any amount assessed under this subsection shall fall within a range established in a penalty schedule adopted by the Department of Agriculture pursuant to the "Administrative Procedure Act," which shall take into account the seriousness and duration of the violation and whether the violation involves the failure to prepare or to implement a farm conservation plan or resource management systems plan. The schedule shall also provide for an enhanced penalty if the violation causes an impairment to water quality. Any civil administrative penalty assessed under this subsection may be compromised by the Secretary of Agriculture upon the posting of a performance bond by the violator, or upon such terms and conditions as the secretary may establish by regulation.

(c) Any person who fails to pay a civil administrative penalty in full pursuant to this subsection shall be subject, upon order of a court, to a civil penalty of up to $5,000 for each violation. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. 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 subsection.

(d) All penalties collected pursuant to this subsection shall either be used, as determined by the council, by the State Agriculture Development Committee for the preservation of farmland in the preservation area or by any development transfer bank used or established by the council to purchase development potential in the preservation area.

c. Nothing in this act, the regional master plan, any rules or regulations adopted by the Department of Environmental Protection pursuant to this act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the regional master plan shall be construed to alter or compromise the goals, purposes, policies, and provisions of, or lessen the protections afforded to farmers by, the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), and any rules or regulations adopted pursuant thereto.

d. The provisions of this section shall not be construed to alter or obviate the requirements of any other applicable State or local laws, rules, regulations, development regulations, or ordinances.

C.13:20-30 Highlands Preservation Area, major development approvals; required, fee schedule.

32. a. Commencing on the date of enactment of this act and until the effective date of the rules and regulations adopted by the Department of Environmental Protection pursuant to sections 33 and 34 of this act, all major Highlands development in the preservation area shall require a Highlands Preservation Area approval from the department. The Highlands Preservation Area approval shall consist of the related aspects of other regulatory programs which may include, but need not be limited to, the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), and any rules and regulations adopted pursuant thereto. For the purposes of this section, the provisions of P.L.1975, c. 232 (C.13:1D-29 et seq.) shall not apply to an application for a permit pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

b. The Highlands Preservation Area approval shall also require:

(1) a prohibition on major Highlands development within 300 feet of any Highlands open waters, and a 300-foot buffer adjacent to all Highlands open waters; provided, however, that this buffer shall not extend into the planning area. For the purposes of this paragraph, major Highlands development does not include linear development for infrastructure, utilities, and the rights-of-way therefor, provided that there is no other feasible alternative, as determined by the department, for the linear development outside of the buffer. Structures or land uses in the buffer existing on the date of enactment of this act may remain, provided that the area of disturbance shall not be increased. This paragraph shall not be construed to limit the authority of the department to establish buffers of any size or any other protections for category one waters designated by the department pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), or any other law, or any rule or regulation adopted pursuant thereto, for major Highlands development or for other development that does not qualify as major Highlands development;

(2) the quality of all Highlands open waters and waters of the Highlands within the preservation area to be maintained, restored, or enhanced, as required pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, and any new or expanded point source discharge, except discharges from water supply facilities, shall not degrade existing water quality. In the case of water supply facilities, all reasonable measures shall be taken to eliminate or minimize water quality impacts;

(3) notwithstanding the provisions of subsection a. of section 5 of P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted pursuant thereto, to the contrary, any diversion of more than 50,000 gallons per day, and multiple diversions by the same or related entities for the same or related projects or developments of more than 50,000 gallons per day, of waters of the Highlands shall require a permit pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), and any permit issued pursuant thereto shall be based on consideration of individual and cumulative impacts of multiple diversions, maintenance of stream base flows, minimization of depletive use, maintenance of existing water quality, and protection of ecological uses. Any new or increased diversion for nonpotable purposes that is more than 50% consumptive shall require an equivalent reduction in water demand within the same subdrainage area through such means as groundwater recharge of stormwater or reuse. Existing unused allocation or allocations used for nonpotable purposes may be revoked by the department where measures to the maximum extent practicable are not implemented to reduce demand. All new or increased diversions shall be required to implement water conservation measures to the maximum extent practicable;

(4) a zero net fill requirement for flood hazard areas pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.);

(5) the antidegradation provisions of the surface water quality standards and the stormwater regulations applicable to category one waters to be applied to Highlands open waters;

(6) a prohibition on impervious surfaces of greater than three percent of the land area of a lot existing on the date of enactment of this act, except that Highlands open waters shall not be included in the calculation of that land area;

(7) a prohibition on development, except linear development for infrastructure, utilities, and the rights-of-way therefor, provided that no other feasible alternative, as determined by the department, exists for the linear development, on steep slopes with a grade of 20% or greater; and

(8) a prohibition on development that disturbs upland forested areas, in order to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, and protect threatened and endangered animal and plant species sites and designated habitats. Notwithstanding the provisions of this paragraph to the contrary, if a major Highlands development complies with all other applicable requirements for a Highlands Preservation Area approval pursuant to this subsection and disturbance to an upland forested area is unavoidable, the department shall allow the disturbance to an upland forested area of no more than 20 feet directly adjacent to a structure and of no more than 10 feet on each side of a driveway as necessary to access a non-forested area of a site.

c. Application for a Highlands Preservation Area approval shall be made on forms made available by the department and shall be accompanied by a fee established in accordance with a fee schedule issued by the department within 10 days after the date of enactment of this act and published in the New Jersey Register. The fee schedule shall be exempt from the rulemaking requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and shall expire upon the adoption of the rules and regulations required pursuant to subsection a. of section 33 of this act.

d. The requirements and provisions of this section shall not apply in the planning area.

C.13:20-31 Adoption of rules, regulations; procedure.

33. a. Within 270 days after the date of enactment of this act, 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, after consultation with the Department of Agriculture, the Department of Community Affairs, the State Planning Commission, and the Department of Transportation, shall, immediately upon filing proper notice with the Office of Administrative Law, adopt the rules and regulations prepared by the department pursuant to section 34 of this act and any other rules and regulations necessary to establish the Highlands permitting review program established pursuant to section 35 of this act.

b. The rules and regulations adopted pursuant to subsection a. of this section shall be in effect for a period not to exceed one year after the date of the filing. These rules and regulations shall thereafter be adopted, amended, or readopted by the commissioner in accordance with the requirements of the "Administrative Procedure Act," after consultation with the council, the Department of Agriculture, the Department of Community Affairs, the State Planning Commission, and the Department of Transportation.

c. The requirements and provisions of sections 33 through 43 of this act shall not apply in the planning area.

C.13:20-32 Rules, regulations, standards.

34. The Department of Environmental Protection shall prepare rules and regulations establishing the environmental standards for the preservation area upon which the regional master plan adopted by the council and the Highlands permitting review program administered by the department pursuant to this act shall be based. These rules and regulations shall provide for at least the following:

a. a prohibition on major Highlands development within 300 feet of any Highlands open waters, and the establishment of a 300-foot buffer adjacent to all Highlands open waters; provided, however, that this buffer shall not extend into the planning area. For the purposes of this subsection, major Highlands development does not include linear development for infrastructure, utilities, and the rights-of-way therefor, provided that there is no other feasible alternative, as determined by the department, for the linear development outside of the buffer. Structures or land uses in the buffer existing on the date of enactment of this act may remain, provided that the area of disturbance shall not be increased. This subsection shall not be construed to limit any authority of the department to establish buffers of any size or any other protections for category one waters designated by the department pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), or any other law, or any rule or regulation adopted pursuant thereto, for major Highlands development or for other development that does not qualify as major Highlands development;

b. measures to ensure that existing water quality shall be maintained, restored, or enhanced, as required pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, in all Highlands open waters and waters of the Highlands, and to provide that any new or expanded point source discharge, except discharges from water supply facilities, shall not degrade existing water quality. In the case of water supply facilities, all reasonable measures shall be taken to eliminate or minimize water quality impacts;

c. notwithstanding the provisions of section 23 of P.L.1987, c.156 (C.13:9B-23), or any rule or regulation adopted pursuant thereto, to the contrary, the criteria for the type of activity or activities eligible for the use of a general permit for any portion of an activity located within a freshwater wetland or freshwater wetland transition area located in the preservation area, provided that these criteria are at least as protective as those provided in section 23 of P.L.1987, c.156 (C.13:9B-23);

d. notwithstanding the provisions of subsection a. of section 5 of P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted pursuant

thereto, to the contrary, a system for the regulation of any diversion of more than 50,000 gallons per day, and multiple diversions by the same or related entities for the same or related projects or developments of more than 50,000 gallons per day, of waters of the Highlands pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), and any permit issued pursuant thereto shall be based on consideration of individual and cumulative impacts of multiple diversions, maintenance of stream base flows, minimization of depletive use, maintenance of existing water quality, and protection of ecological uses. Any new or increased diversion for nonpotable purposes that is more than 50% consumptive shall require an equivalent reduction in water demand within the same subdrainage area through such means as groundwater recharge of stormwater or reuse. Existing unused allocation or allocations used for nonpotable purposes may be revoked by the department where measures to the maximum extent practicable are not implemented to reduce demand. All new or increased diversions shall be required to implement water conservation measures to the maximum extent practicable;

e. a septic system density standard established at a level to prevent the degradation of water quality, or to require the restoration of water quality, and to protect ecological uses from individual, secondary, and cumulative impacts, in consideration of deep aquifer recharge available for dilution;

f. a zero net fill requirement for flood hazard areas pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.);

g. the antidegradation provisions of the surface water quality standards and the stormwater regulations applicable to category one waters to be applied to Highlands open waters;

h. a prohibition on impervious surfaces of greater than three percent of the land area, except that Highlands open waters shall not be included in the calculation of that land area;

i. notwithstanding the provisions of the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, a limitation or prohibition on the construction of new public water systems or the extension of existing public water systems to serve development in the preservation area, except in the case of a demonstrated need to protect public health and safety;

j. a prohibition on development, except linear development for infrastructure, utilities, and the rights-of-way therefor, provided that no other feasible alternative, as determined by the department, exists for the linear development, on steep slopes in the preservation area with a grade of 20% or greater, and standards for development on slopes in the preservation area exhibiting a grade of between 10% and 20%. The standards shall assure that developments on slopes exhibiting a grade of between 10% and 20% pre-

serve and protect steep slopes from the negative consequences of development on the site and the cumulative impact in the Highlands Region. The standards shall be developed to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, protect threatened and endangered animal and plant species sites and designated habitats, provide for minimal practicable degradation of unique or irreplaceable land types, historical or archeological areas, and existing scenic attributes at the site and within the surrounding area, protect upland forest, and restrict impervious surface; and shall take into consideration differing soil types, soil erodability, topography, hydrology, geology, and vegetation types; and

k. a prohibition on development that disturbs upland forested areas, in order to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, and protect threatened and endangered animal and plant species sites and designated habitats; and standards to protect upland forested areas that require all appropriate measures be taken to avoid impacts or disturbance to upland forested areas, and where avoidance is not possible that all appropriate measures have been taken to minimize and mitigate impacts to upland forested areas and to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, and protect threatened and endangered animal and plant species sites and designated habitats.

C.13:20-33 Highlands permitting review program.

35. a. The Department of Environmental Protection shall establish a Highlands permitting review program to provide for the coordinated review of any major Highlands development in the preservation area based upon the rules and regulations adopted by the department pursuant to sections 33 and 34 of this act. The Highlands permitting review program established pursuant to this section shall consolidate the related aspects of other regulatory programs which may include, but need not be limited to, the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), and any rules and regulations adopted pursuant thereto, and the rules and regulations adopted pursuant to sections 33 and 34 of this act. For the purposes of this section, the provisions of P.L.1975, c.232 (C.13:1D-29 et seq.) shall not apply to an application for a

permit pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

b. The Highlands permitting review program established pursuant to this section shall include:

(1) a provision that may allow for a waiver of any provision of a Highlands permitting review on a case-by-case basis if determined to be necessary by the department in order to protect public health and safety;

(2) a provision that may allow for a waiver of any provision of a Highlands permitting review on a case-by-case basis for redevelopment in certain previously developed areas in the preservation area identified by the council pursuant to subsection b. of section 9 or subparagraph (h) of paragraph (6) of subsection a. of section 11 of this act; and

(3) a provision that may allow for a waiver of any provision of the Highlands permitting review on a case-by-case basis in order to avoid the taking of property without just compensation.

The grant of a waiver pursuant to this subsection by the department shall be conditioned upon the department's determination that the major Highlands development meets the requirements prescribed for a finding as listed in subsection a. of section 36 of this act to the maximum extent possible.

c. The waiver provisions of subsection b. of this section are limited to the provisions of the rules and regulations adopted pursuant to section 34 of this act, and shall not limit the department's jurisdiction or authority pursuant to any other provision of law, or any rule or regulation adopted pursuant thereto, that is incorporated into the Highlands permitting review program.

d. The Highlands permitting review program established pursuant to this section may provide for the issuance of a general permit, provided that the department adopts rules and regulations which identify the activities subject to general permit review and establish the criteria for the approval or disapproval of a general permit.

e. Any person proposing to construct or cause to be constructed, or to undertake or cause to be undertaken, as the case may be, a major Highlands development in the preservation area shall file an application for a Highlands permitting review with the department, on forms and in a manner prescribed by the department.

f. The department shall, in accordance with a fee schedule adopted as a rule or regulation, establish and charge reasonable fees necessary to meet the administrative costs of the department associated with the processing, review, and enforcement of any application for a Highlands permitting review. These fees shall be deposited in the "Environmental Services Fund," established pursuant to section 5 of P.L.1975, c.232 (C.13:1D-33), and kept separate and apart from all other State receipts and appropriated only as

provided herein. There shall be appropriated annually to the department revenue from that fund sufficient to defray in full the costs incurred in the processing, review, and enforcement of applications for Highlands permitting reviews.

C.13:20-34 Review of applications.

36. a. The Commissioner of Environmental Protection shall review filed applications for Highlands permitting reviews, including any information presented at public hearings or during a comment period, or submitted during the application review period.

Except as otherwise provided by subsection b. of this section, a Highlands permitting review approval may be issued only upon a finding that the proposed major Highlands development:

(1) would have a de minimis impact on water resources and would not cause or contribute to a significant degradation of surface or ground waters. In making this determination, the commissioner shall consider the extent of any impacts on water resources resulting from the proposed major Highlands development, including, but not limited to, the regenerative capacity of aquifers or other surface or ground water supplies, increases in stormwater generated, increases in impervious surface, increases in stormwater pollutant loading, changes in land use, and changes in vegetative cover;

(2) would cause minimal feasible interference with the natural functioning of animal, plant, and other natural resources at the site and within the surrounding area, and minimal feasible individual and cumulative adverse impacts to the environment both onsite and offsite of the major Highlands development;

(3) will result in minimum feasible alteration or impairment of the aquatic ecosystem including existing contour, vegetation, fish and wildlife resources, and aquatic circulation of a freshwater wetland;

(4) will not jeopardize the continued existence of species listed pursuant to "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.) or the "Endangered Plant Species List Act," P.L.1989, c.56 (C.13:1B-15.151 et seq.), or which appear on the federal endangered or threatened species list, and will not result in the likelihood of the destruction or adverse modification of habitat for any rare, threatened, or endangered species of animal or plant;

(5) is located or constructed so as to neither endanger human life or property nor otherwise impair the public health, safety, and welfare;

(6) would result in minimal practicable degradation of unique or irreplaceable land types, historical or archeological areas, and existing public scenic attributes at the site and within the surrounding area; and

(7) meets all other applicable department standards, rules, and regulations and State laws.

b. A Highlands permitting review approval may be issued to a major Highlands development granted a waiver pursuant to the provisions of subsection b. of section 35 of this act notwithstanding the inability to make the finding required pursuant to subsection a. of this section.

C.13:20-35 Violations, certain, civil actions, penalties.

37. a. Whenever the Commissioner of Environmental Protection finds that a person has violated any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, the commissioner may:

(1) Issue an order requiring any such person to comply in accordance with subsection b. of this section; or

(2) Bring a civil action in accordance with subsection c. of this section; or

(3) Levy a civil administrative penalty in accordance with subsection d. of this section; or

(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.

Recourse to any of the remedies available under this section shall not preclude recourse to any of the other remedies prescribed in this section or by any other applicable law.

b. Whenever, on the basis of available information, the commissioner finds a person in violation of any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, the commissioner may issue an order: (1) specifying the provision or provisions of the law, rule, regulation, permit, approval, or authorization of which the person is in violation; (2) citing the action which constituted the violation; (3) requiring compliance with the provision or provisions violated; (4) requiring the restoration of the area which is the site of the violation; and (5) providing notice to the person of the right to a hearing on the matters contained in the order.

c. The commissioner is authorized to institute a civil action in Superior Court for appropriate relief from any violation of any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act. Such relief may include, singly or in combination:

(1) A temporary or permanent injunction;

(2) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;

(3) Assessment of the violator for any costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any unauthorized regulated activity for which legal action under this subsection may have been brought;

(4) Assessment against the violator for compensatory damages for any loss or destruction of wildlife, fish or aquatic life, and for any other actual damages caused by an unauthorized regulated activity;

(5) A requirement that the violator restore the site of the violation to the maximum extent practicable and feasible.

d. The commissioner is authorized to assess a civil administrative penalty of up to $25,000 for each violation of any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, and each day during which each violation continues shall constitute an additional, separate, and distinct offense. Any amount assessed under this subsection shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, and duration. In adopting rules and regulations establishing the amount of any penalty to be assessed, the commissioner may take into account the economic benefits from the violation gained by the violator. No assessment shall be levied pursuant to this section until after the party has been notified by certified mail or personal service. The notice shall: (1) identify the section of the law, rule, regulation, permit, approval, or authorization violated; (2) recite the facts alleged to constitute a violation; (3) state the amount of the civil penalties to be imposed; and (4) affirm the rights of the alleged violator to a hearing. The ordered party shall have 20 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 an administrative penalty is in addition to all other enforcement provisions in this act and in any other applicable law, rule, or regulation, 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. Any civil administrative penalty assessed under

this section may be compromised by the commissioner upon the posting of a performance bond by the violator, or upon such terms and conditions as the commissioner may establish by regulation.

e. A person who violates any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, 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 a civil administrative penalty in full pursuant to subsection d. of this section, shall be subject, upon order of a court, to a civil penalty not to exceed $10,000 per day of such violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil 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.). In addition to any penalties, costs or interest charges, the court may assess against the violator the amount of actual economic benefit accruing to the violator from the violation. 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 purposely or negligently violates any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, shall be guilty, upon conviction, of a crime of the fourth degree and, notwithstanding any provision of N.J.S.2C:43-3 to the contrary, shall be subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, in addition to any other applicable penalties and provisions under Title 2C of the New Jersey Statutes. A second or subsequent offense under this subsection shall subject the violator to a fine, notwithstanding any provision of N.J.S.2C:43-3 to the contrary, of not less than $5,000 nor more than $50,000 per day of violation, in addition to any other applicable penalties and provisions under Title 2C of the New Jersey Statutes. 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 shall be guilty, upon conviction, of a crime of the fourth degree and, notwithstanding any provision of N.J.S.2C:43-3 to the contrary, shall be subject to a fine of not more than $10,000, in addition to any other applicable penalties and provisions under Title 2C of the New Jersey Statutes.

g. In addition to the penalties prescribed in this section, a notice of violation of any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, shall be re-

corded on the deed of the property wherein the violation occurred, on order of the commissioner, by the clerk or register of deeds and mortgages of the county wherein the affected property is located and with the clerk of the Superior Court and shall remain attached thereto until such time as the violation has been remedied and the commissioner orders the notice of violation removed.

h. The department may require an applicant or permittee to provide any information the department requires to determine compliance with any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act.

i. Any person who knowingly, recklessly, or negligently makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under this act shall be in violation of this act and shall be subject to the penalties assessed pursuant to subsections d. and e. of this section.

j. All penalties collected pursuant to this section shall either be used, as determined by the council, by the department for the acquisition of lands in the preservation area or by any development transfer bank used or established by the council to purchase development potential in the preservation area.

k. The department shall have the authority to enter any property, facility, premises, or site for the purpose of conducting inspections or sampling of soil or water, and for otherwise determining compliance with the provisions of sections 32 through 36 of this act.

C.13:9B-5.1 Regulation of freshwater wetlands area.

38. Notwithstanding the provisions of P.L.1987, c.156 (C.13:9B-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, major Highlands development as defined in section 3 of P.L.2004, c.120 (C.13:20-3) that includes a regulated activity as defined in section 3 of P.L.1987, c.156 (C.13:9B-3) in a freshwater wetland or freshwater wetland transition area located in the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3) shall also be regulated pursuant to sections 32 through 37 of P.L.2004, c.120 (C.13:20-30 through C.13:20-35).

C.58:1A-5.1 Establishment of permit system for certain diversions of water.

39. Notwithstanding the provisions of subsection a. of section 5 of P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted pursuant thereto, to the contrary, the Department of Environmental Protection, pursuant to section 34 of P.L.2004, c.120 (C.13:20-32), shall establish a permit system to provide for review of allocations or reallocations, for other than agricultural or horticultural purposes, of waters of the Highlands, as defined

in section 3 of P.L.2004, c.120 (C.13:20-3), to provide for the issuance of permits for diversions either individually or cumulatively of more than 50,000 gallons per day of waters of the Highlands in the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

C.58:11-24.1 Establishment of septic system density standard.

40. Notwithstanding the provisions of the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) and the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, the Department of Environmental Protection, pursuant to section 34 of P.L.2004, c.120 (C.13:20-32), shall establish a septic system density standard at a level to prevent the degradation of water quality or to require the restoration of water quality, as required pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, and to protect ecological uses from individual, secondary, and cumulative impacts, in consideration of deep aquifer recharge available for dilution, which standard shall be applied to any major Highlands development as defined in section 3 of P.L.2004, c.120 (C.13:20-3) located in the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

C.58:12A-4.1 Limitation on construction of new or extension of public water systems.

41. Notwithstanding the provisions of the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, the Department of Environmental Protection, pursuant to section 34 of P.L.2004, c.120 (C.13:20-32), within the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3), shall limit or prohibit the construction of new public water systems or the extension of existing public water systems to serve development in the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3), except in the case of a demonstrated need to protect public health and safety, and except to serve development in the Highlands preservation area that is exempt from the provisions of P.L.2004, c.120 (C.13:20-1 et al.) pursuant to subsection a. of section 30 of P.L.2004, c.120 (C.13:20-28).

C.58:11A-7.1 Designated sewer service areas, certain, approvals revoked.

42. Notwithstanding the provisions of the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) and the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, within the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3), designated sewer service

areas for which wastewater collection systems have not been installed on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) are hereby revoked, and any associated treatment works approvals in the impacted areas shall expire on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.), except that any designated sewer service area shall not be revoked and any associated treatment works approvals shall not expire if necessary to serve development in the Highlands preservation area that is exempt from the provisions of P.L.2004, c.120 (C.13:20-1 et al.) pursuant to subsection a. of section 30 of P.L.2004, c.120 (C.13:20-28). The Department of Environmental Protection shall implement measures to amend any water quality management plan as appropriate to reflect the revocation of designated sewer service areas pursuant to this section.

C.58:16A-60.1 Zero net fill requirement in flood hazard areas, certain.

43. Notwithstanding the provisions of the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, the Department of Environmental Protection, pursuant to section 34 of P.L.2004, c.120 (C.13:20-32), shall establish a zero net fill requirement within any flood hazard area located in the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

44. Section 24 of P.L.1983, c.32 (C.4:1C-31) is amended to read as follows:

C.4:1C-31 Development easement purchases.

24. a. Any landowner applying to the board to sell a development easement pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24) shall offer to sell the development easement at a price which, in the opinion of the landowner, represents a fair value of the development potential of the land for nonagricultural purposes, as determined in accordance with the provisions of P.L.1983, c.32.

b. Any offer shall be reviewed and evaluated by the board and the committee in order to determine the suitability of the land for development easement purchase. Decisions regarding suitability shall be based on the following criteria:

(1) Priority consideration shall be given, in any one county, to offers with higher numerical values obtained by applying the following formula:

$$\frac{\text{nonagricultural developmental value} - \text{agricultural value} - \text{landowner's asking price}}{\text{nonagricultural development value} - \text{agricultural value}}$$

(2) The degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture; and

(3) The degree of imminence of change of the land from productive agriculture to nonagricultural use.

The board and the committee shall reject any offer for the sale of development easements which is unsuitable according to the above criteria and which has not been approved by the board and the municipality.

c. Two independent appraisals paid for by the board shall be conducted for each parcel of land so offered and deemed suitable. The appraisals shall be conducted by independent, professional appraisers selected by the board and the committee from among members of recognized organizations of real estate appraisers. The appraisals shall determine the current overall value of the parcel for nonagricultural purposes, as well as the current market value of the parcel for agricultural purposes. The difference between the two values shall represent an appraisal of the value of the development easement. If Burlington County or a municipality therein has established a development transfer bank pursuant to the provisions of P.L.1989, c.86 (C.40:55D-113 et seq.) or if any county or any municipality in any county has established a development transfer bank pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158) or the Highlands Water Protection and Planning Council has established a development transfer bank pursuant to section 13 of P.L.2004, c.120 (C.13:20-13), the municipal average of the value of the development potential of property in a sending zone established by the bank may be the value used by the board in determining the value of the development easement. If a development easement is purchased using moneys appropriated from the fund, the State shall provide no more than 80%, except 100% under emergency conditions specified by the committee pursuant to rules or regulations, of the cost of the appraisals conducted pursuant to this section.

d. Upon receiving the results of the appraisals, or in Burlington county or a municipality therein or elsewhere where a municipal average has been established under subsection c. of this section, upon receiving an application from the landowners, the board and the committee shall compare the appraised value, or the municipal average, as the case may be, and the landowner's offer and, pursuant to the suitability criteria established in subsection b. of this section:

(1) Approve the application to sell the development easement and rank the application in accordance with the criteria established in subsection b. of this section; or

(2) Disapprove the application, stating the reasons therefor.

e. Upon approval by the committee and the board, the secretary is authorized to provide the board, within the limits of funds appropriated

therefor, an amount equal to no more than 80%, except 100% under emergency conditions specified by the committee pursuant to rules or regulations, of the purchase price of the development easement, as determined pursuant to the provisions of this section. The board shall provide its required share and accept the landowner's offer to sell the development easement. The acceptance shall cite the specific terms, contingencies and conditions of the purchase.

f. The landowner shall accept or reject the offer within 30 days of receipt thereof. Any offer not accepted within that time shall be deemed rejected.

g. Any landowner whose application to sell a development easement has been rejected for any reason other than insufficient funds may not reapply to sell a development easement on the same land within two years of the original application.

h. No development easement shall be purchased at a price greater than the appraised value determined pursuant to subsection c. of this section or the municipal average, as the case may be.

i. The appraisals conducted pursuant to this section or the fair market value of land restricted to agricultural use shall not be used to increase the assessment and taxation of agricultural land pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

j. (1) In determining the suitability of land for development easement purchase, the board and the committee may also include as additional factors for consideration the presence of a historic building or structure on the land and the willingness of the landowner to preserve that building or structure, but only if the committee first adopts, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations implementing this subsection. The committee may, by rule or regulation adopted pursuant to the "Administrative Procedure Act," assign any such weight it deems appropriate to be given to these factors.

(2) The provisions of paragraph (1) of this subsection may also be applied in determining the suitability of land for fee simple purchase for farmland preservation purposes as authorized by P.L.1983, c.31 (C.4:1C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999, c.152 (C.13:8C-1 et seq.).

(3) (a) For the purposes of paragraph (1) of this subsection: "historic building or structure" means the same as that term is defined pursuant to subsection c. of section 2 of P.L.2001, c.405 (C.13:8C-40.2).

(b) For the purposes of paragraph (2) of this subsection, "historic building or structure" means the same as that term is defined pursuant to subsection c. of section 1 of P.L.2001, c.405 (C.13:8C-40.1).

45. Section 29 of P.L.1983, c.32 (C.4:1C-36) is amended to read as follows:

C.4:1C-36 Pinelands area, Highlands Region, farmland preservation.

29. Nothing herein contained shall be construed to prohibit the creation of a municipally approved program or other farmland preservation program, the purchase of development easements, or the extension of any other benefit herein provided on land, and to owners thereof, in the Pinelands area, as defined pursuant to section 3 of P.L.1979, c. 111 (C.13:18A-3), or in the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

46. Section 4 of P.L.1993, c.339 (C.4:1C-52) is amended to read as follows:

C.4:1C-52 Powers of board.

4. The board shall have the following powers:

a. To purchase, or to provide matching funds for the purchase of 80% of, the value of development potential and to otherwise facilitate development transfers, from the owner of record of the property from which the development potential is to be transferred or from any person, or entity, public or private, holding the interest in development potential that is subject to development transfer; provided that, in the case of providing matching funds for the purchase of 80% of the value of development potential, the remaining 20% of that value is contributed by the affected municipality or county, or both, after public notice thereof in the New Jersey Register and in one newspaper of general circulation in the area affected by the purchase. The remaining 20% of the value of the development potential to be contributed by the affected municipality or county, or both, to match funds provided by the board, may be obtained by purchase from, or donation by, the owner of record of the property from which the development potential is to be transferred or from any person, or entity, public or private, holding the interest in development potential that is subject to development transfer. The value of development potential may be determined by either appraisal, municipal averaging based upon appraisal data, or by a formula supported by appraisal data. The board may also engage in development transfer by sale, exchange, or other method of conveyance, provided that in doing so, the board shall not substantially impair the private sale, exchange or other method of conveyance of development potential. The board may not, nor shall anything in this act be construed as permitting the board to, engage in development transfer from one municipality to another, which transfer is not in accordance with the ordinances of both municipalities;

b. To adopt and, from time to time, amend or repeal suitable bylaws for the management of its affairs;

c. To adopt and use an official seal and alter that seal at its pleasure;

d. To apply for, receive, and accept, from any federal, State, or other public or private source, grants or loans for, or in aid of, the board's authorized purposes;

e. To enter into any agreement or contract, execute any legal document, and perform any act or thing necessary, convenient, or desirable for the purposes of the board or to carry out any power expressly given in this act;

f. To adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this act;

g. To call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, commission, or agency as may be required and made available for these purposes;

h. To retain such staff as may be necessary in the career service and to appoint an executive director thereof. The executive director shall serve as a member of the senior executive or unclassified service and may be appointed without regard to the provisions of Title 11A of the New Jersey Statutes;

i. To review and analyze innovative techniques that may be employed to maximize the total acreage reserved through the use of perpetual easements;

j. To provide, through the State TDR Bank, a financial guarantee with respect to any loan to be extended to any person that is secured using development potential as collateral for the loan. Financial guarantees provided under this act shall be in accordance with procedures, terms and conditions, and requirements, including rights and obligations of the parties in the event of default on any loan secured in whole or in part using development potential as collateral, to be established by rule or regulation adopted by the board pursuant to the "Administrative Procedure Act";

k. To enter into agreement with the State Agriculture Development Committee for the purpose of acquiring development potential through the acquisition of development easements on farmland so that the board may utilize the existing processes, procedures, and capabilities of the State Agriculture Development Committee as necessary and appropriate to accomplish the goals and objectives of the board as provided for pursuant to this act;

l. To enter into agreements with other State agencies or entities providing services and programs authorized by law so that the board may utilize the existing processes, procedures, and capabilities of those other agencies or entities as necessary and appropriate to accomplish the goals and objectives of the board as provided for pursuant to this act;

m. To provide planning assistance grants to municipalities for up to 50% of the cost of preparing, for development potential transfer purposes, a utility service plan element or a development transfer plan element of a master plan pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28), a real estate market analysis required pursuant to section 12 of P.L.2004, c.2 (C.40:55D-148), and a capital improvement program pursuant to section 20 of P.L.1975, c.291 (C.40:55D-29) and incurred by a municipality, or $40,000, whichever is less, which grants shall be made utilizing moneys deposited into the bank pursuant to section 8 of P.L.1993, c.339, as amended by section 31 of P.L.2004, c.2;

n. To provide funding in the form of grants or loans for the purchase of development potential to development transfer banks established by a municipality or county pursuant to P.L.1989, c.86 (C.40:55D-113 et seq.) or section 22 of P.L.2004, c.2 (C.40:55D-158);

o. To serve as a development transfer bank designated by the governing body of a municipality or county pursuant to section 22 of P.L.2004, c.2 (C. 40:55D-158);

p. To provide funding to (1) any development transfer bank that may be established by the Highlands Water Protection and Planning Council pursuant to section 13 of P.L.2004, c.120 (C.13:20-13), for the purchase of development potential by the Highlands development transfer bank, and (2) the council to provide planning assistance grants to municipalities in the Highlands Region that are participating in a transfer of development rights program implemented by the council pursuant to section 13 of P.L.2004, c.120 (C.13:20-13) in such amounts as the council deems appropriate to the municipalities notwithstanding any provision of subsection m. of this section or of section 8 of P.L.1993, c.339, as amended by section 31 of P.L.2004, c.2, to the contrary; and

q. To serve as a development transfer bank for the Highlands Region if requested to do so by the Highlands Water Protection and Planning Council pursuant to section 13 of P.L.2004, c.120 (C.13:20-13).

47. Section 11 of P.L.1983, c.560 (C.13:1B-15.143) is amended to read as follows:

C.13:1B-15.143 Appointment of officers, employees; qualifications.

11. Subject to the provisions of Title 11A of the New Jersey Statutes, and within the limits of funds appropriated or otherwise made available, the commissioner may appoint any officer or employee to the department necessary to carry out the provisions of P.L.1983, c.560 (C.13:1B-15.133 et seq.) , fix and determine their qualifications, which may include a knowl-

edge of and familiarity with the pinelands area or the Highlands Region and the residents thereof.

48. Section 1 of P.L.1997, c.64 (C.13:1B-15.159) is amended to read as follows:

C.13:1B-15.159 Establishment of natural resources inventory.

1. The Department of Environmental Protection, in cooperation with the Division of Travel and Tourism in the New Jersey Commerce and Economic Growth Commission, in consultation with the Pinelands Commission as it affects the pinelands area designated pursuant to section 10 of P.L.1979, c.111 (C.13:18A-11), and in consultation with the Highlands Water Protection and Planning Council as it affects the Highlands Region designated pursuant to section 7 of P.L.2004, c.120 (C.13:20-7), shall establish a natural resources inventory, using the Geographic Information System, for the purpose of encouraging ecologically based tourism and recreation in New Jersey. This inventory shall contain information on New Jersey's natural, historic, and recreational resources, and shall include, to the greatest extent possible, but need not be limited to, federal, State, county and local parks, wildlife management areas, hatcheries, natural areas, historic sites, State forests, recreational areas, ecological and biological study sites, reservoirs, marinas, boat launches, campgrounds, waterfront access points, winter sports recreation areas, and national wildlife refuges.

49. Section 1 of P.L.1995, c.306 (C.13:1D-58) is amended to read as follows:

C.13:1D-58 Nonapplicability of C.13:1D-51 et seq.; hearing, determination.

1. a. The provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) shall not apply in the case of conveyances by the State or the department involving an exchange of lands within the pinelands area, as defined in section 10 of P.L.1979, c.111 (C.13:18A-11), or within the Hackensack Meadowlands District, as defined in section 4 of P.L.1968, c.404 (C.13:17-4), or within the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3), to the federal government or any agency or entity thereof, another State agency or entity, or a local unit, provided the lands to be conveyed are used for recreation or conservation purposes, shall continue to be used for recreation or conservation purposes and it has been determined pursuant to subsection c. of this section that the proposed recreation and conservation purposes for the lands do not significantly alter the ecological and environmental value of the lands being exchanged.

b. Prior to any conveyance of lands that is exempted from the provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) pursuant to subsection a. of this

section, the Department of Environmental Protection shall conduct at least one public hearing on the proposed conveyance in the municipality in which the lands proposed to be conveyed are located. The local unit proposing the recreation or conservation use of the lands being exchanged shall present its proposal for the use of the lands being exchanged at the public hearing, including a description of the proposed recreation or conservation use of the lands and any proposed alterations to the lands for the recreation or conservation purposes.

c. As a condition of any conveyance of lands that is exempted from the provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) pursuant to subsection a. of this section, and prior to any public hearing required pursuant to subsection b. of this section, the Pinelands Commission, the New Jersey Meadowlands Commission, or the Highlands Water Protection and Planning Council, as appropriate, after consultation with the local units in which the lands to be conveyed are located, shall determine that the proposed recreation or conservation purpose does not significantly alter the ecological and environmental value of the lands being exchanged. The appropriate commission or council shall determine that the proposed recreation or conservation purpose does not significantly alter the ecological and environmental value of the lands being exchanged, if:

(1) the appropriate commission or council determines that any proposed recreation or conservation use of the lands being exchanged is consistent with the law, rules and regulations governing the protection and development of the pinelands area or pinelands preservation area, as appropriate and as defined in section 10 of P.L.1979, c.111 (C.13:18A-11), the Hackensack Meadowlands District, as defined in section 4 of P.L.1968, c.404 (C.13:17-4), or the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), and the requirements of the law, rules or regulations have been met to the satisfaction of the appropriate commission or council; and

(2) a portion of the lands would be maintained in an undeveloped or pre-conveyance state and no wetlands would be negatively affected in violation of State or federal law, or any rules or regulations adopted pursuant thereto.

The determinations required pursuant to this subsection shall be made available to the public at the time of the public hearing required pursuant to subsection b. of this section.

d. For the purposes of this section, "local unit" means a municipality, county, or other political subdivision of the State, or any agency thereof authorized to administer, protect, develop and maintain lands for recreation and conservation purposes.

50. Section 18 of P.L.1985, c.432 (C.13:1M-18) is amended to read as follows:

C.13:1M-18 Municipal, county regulation of oil, gas exploration.

18. a. Nothing in this act shall be construed to supersede or prohibit the adoption, by the governing body of any municipality or county, of any ordinance or resolution regulating or prohibiting the exploration beyond the reconnaissance phase, drilling for and the extraction of oil and natural gas or uranium. As used in this section, "reconnaissance" means:

(1) A geologic and mineral resource appraisal of a region by searching and analyzing published literature, aerial photography, and geologic maps;

(2) Use of geophysical, geochemical, and remote sensing techniques that do not involve road building, land clearing or the introduction of chemicals to a land or water area;

(3) Surface geologic, topographic or other mapping and property surveying; or

(4) Sample collections which do not involve excavation or drilling equipment or the introduction of chemicals to land or water area.

b. A municipality or county shall submit a copy of any ordinance or regulation specifically pertaining to activities regulated by this act, or a rule or regulation promulgated pursuant to this act, to the department.

c. The department shall, within 90 days of submittal, approve or disapprove any ordinance or regulation submitted pursuant to subsection b. of this section. An ordinance or regulation shall be disapproved only if the department finds it unreasonable and provides in writing its reasons for the finding. The failure of the department to act within 90 days of submittal shall constitute approval.

d. Nothing in this section shall be construed to limit the authority of a municipality or county or board of health to enact ordinances or regulations of general applicability to all industrial or commercial activities, including, but not limited to, ordinances and regulations limiting noise, light, and odor.

e. The department shall not approve any ordinance or regulation submitted pursuant to subsection b. of this section which governs activities within the Pinelands area designated in the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), unless the Pinelands Commission has approved the ordinance or regulation. The department shall not disapprove an ordinance or regulation, or portion thereof, which has been certified by the Pinelands Commission as consistent with the requirements of the Comprehensive Management Plan as required by the "Pinelands Protection Act."

f. The department shall not approve any ordinance or regulation submitted pursuant to subsection b. of this section which governs activities within the Highlands preservation area designated in the "Highlands Water

Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), unless the Highlands Water Protection and Planning Council has approved the ordinance or regulation. The department shall not disapprove an ordinance or regulation, or portion thereof, which has been certified by the Highlands Water Protection and Planning Council as consistent with the requirements of the Highlands regional master plan as required by the "Highlands Water Protection and Planning Act."

51. Section 25 of P.L.1999, c.152 (C.13:8C-25) is amended to read as follows:

C.13:8C-25 Biennial progress report to Governor, Legislature by the trust.

25. Within one year after the date of enactment of this act, and biennially thereafter until and including 2008, the Garden State Preservation Trust, after consultation with the Department of Environmental Protection, the State Agriculture Development Committee, the New Jersey Historic Trust, the Pinelands Commission, the Highlands Water Protection and Planning Council, and the Office of State Planning in the Department of Community Affairs, shall prepare and submit to the Governor and the Legislature a written report, which shall:

a. Describe the progress being made on achieving the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition and development of lands for recreation and conservation purposes, the preservation of farmland, and the preservation of historic properties, and provide recommendations with respect to any legislative, administrative, or local action that may be required to ensure that those goals and objectives may be met in the future;

b. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of lands acquired for recreation and conservation purposes and of farmland preserved for farmland preservation purposes that have been applied toward meeting the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition of lands for recreation and conservation purposes and the preservation of farmland;

c. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of any donations of land that have been applied toward meeting the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition of lands for recreation and conservation purposes and the preservation of farmland;

d. List, both for the reporting period and cumulatively, and by project name, project sponsor, and location by county and municipality, all historic

preservation projects funded with constitutionally dedicated moneys in whole or in part;

e. Indicate those areas of the State where, as designated by the Department of Environmental Protection in the Open Space Master Plan prepared pursuant to section 5 of P.L.2002, c.76 (C.13:8C-25.1), the acquisition and development of lands by the State for recreation and conservation purposes is planned or is most likely to occur, and those areas of the State where there is a need to protect water resources, including the identification of lands where protection is needed to assure adequate quality and quantity of drinking water supplies in times of drought, indicate those areas of the State where the allocation of constitutionally dedicated moneys for farmland preservation purposes is planned or is most likely to occur, and provide a proposed schedule and expenditure plan for those acquisitions, developments, and allocations, for the next reporting period, which shall include an explanation of how those acquisitions, developments, and allocations will be distributed throughout all geographic regions of the State to the maximum extent practicable and feasible;

f. List any surplus real property owned by the State or an independent authority of the State that may be utilizable for recreation and conservation purposes or farmland preservation purposes, and indicate what action has been or must be taken to effect a conveyance of those lands to the department, the committee, local government units, qualifying tax exempt nonprofit organizations, or other entities or persons so that the lands may be preserved and used for those purposes;

g. List, for the reporting period, all projects for which applications for funding under the Green Acres, farmland preservation, and historic preservation programs were received but not funded with constitutionally dedicated moneys during the reporting period, and the reason or reasons why those projects were not funded;

h. Provide, for the reporting period, a comparison of the amount of constitutionally dedicated moneys annually appropriated 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.) to the average amount of Green Acres bond act moneys annually appropriated for such projects in the years 1984 through 1998; and

i. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of lands acquired for recreation and conservation purposes that protect water resources and that protect flood-prone areas.

52. Section 5 of P.L.2002, c.76 (C.13:8C-25.1) is amended to read as follows:

C.13:8C-25.1 Submission of Open Space Master Plan.

5. a. Within one year after the date of enactment of P.L.2002, c.76 (C.13:8C-25.1 et al.), and annually thereafter, the Department of Environmental Protection, in consultation with the Office of State Planning in the Department of Community Affairs, the Pinelands Commission, and the Highlands Water Protection and Planning Council, shall prepare and submit to the Governor and the Legislature an Open Space Master Plan, which shall indicate those areas of the State where the acquisition and development of lands by the State for recreation and conservation purposes is planned or is most likely to occur, and those areas of the State where there is a need to protect water resources, including the identification of lands where protection is needed to assure adequate quality and quantity of drinking water supplies in times of drought, and which shall provide a proposed schedule and expenditure plan for those acquisitions and developments for the next reporting period, which shall include an explanation of how those acquisitions and developments will be distributed throughout all geographic regions of the State to the maximum extent practicable and feasible.

b. The department shall provide any information the Garden State Preservation Trust deems necessary in preparing its biennial report pursuant to section 25 of P.L.1999, c.152 (C.13:8C-25).

53. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to read as follows:

C.13:8C-26 Allocation of funds appropriated; conditions.

26. a. Moneys appropriated from the Garden State Green Acres Preservation Trust Fund to the Department of Environmental Protection shall be used by the department to:

(1) Pay the cost of acquisition and development of lands by the State for recreation and conservation purposes;

(2) Provide grants and loans to assist local government units to pay the cost of acquisition and development of lands for recreation and conservation purposes; and

(3) Provide grants to assist qualifying tax exempt nonprofit organizations to pay the cost of acquisition and development of lands for recreation and conservation purposes.

b. The expenditure and allocation of constitutionally dedicated moneys for recreation and conservation purposes shall reflect the geographic diversity of the State to the maximum extent practicable and feasible.

c. (1) Notwithstanding the provisions of section 5 of P.L.1985, c.310 (C.13:18A-34) or this act, or any rule or regulation adopted pursuant thereto, to the contrary, the value of a pinelands development credit, allocated to a

parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, shall be made utilizing a value to be determined by either appraisal, regional averaging based upon appraisal data, or a formula supported by appraisal data. The appraisal and appraisal data shall consider as appropriate: land values in the pinelands regional growth areas; land values in counties, municipalities, and other areas reasonably contiguous to, but outside of, the pinelands area; and other relevant factors as may be necessary to maintain the environmental, ecological, and agricultural qualities of the pinelands area.

(2) No pinelands development credit allocated to a parcel of land pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto that is acquired or obtained in connection with the acquisition of the parcel for recreation and conservation purposes by the State, a local government unit, or a qualifying tax exempt nonprofit organization using constitutionally dedicated moneys in whole or in part may be conveyed in any manner. All such pinelands development credits shall be retired permanently.

d. (1) (a) For State fiscal years 2000 through 2004 only, when the department, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the land use zoning of the lands (i) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if that land use zoning is still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this subparagraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(b) After the date of enactment of P.L.2001, c.315 and through June 30, 2004, in determining the two values required pursuant to subparagraph (a) of this paragraph, the appraisal shall be made using not only the land use zoning but also the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (i) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the land use zoning of the lands at the time of proposed acquisition, and the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition, have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection c. of this section;

(d) apply to projects funded using constitutionally dedicated moneys appropriated pursuant to the annual appropriations act for State fiscal year 2000 (P.L.1999, c.138); or

(e) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

e. Moneys appropriated from the fund may be used to match grants, contributions, donations, or reimbursements from federal aid programs or from other public or private sources established for the same or similar purposes as the fund.

f. Moneys appropriated from the fund shall not be used by local government units or qualifying tax exempt nonprofit organizations to acquire lands that are already permanently preserved for recreation and conservation purposes, as determined by the department.

g. Whenever lands are donated to the State by a public utility, as defined pursuant to Title 48 of the Revised Statutes, for recreation and conservation purposes, the commissioner may make and keep the lands accessible to the public, unless the commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith.

h. Whenever the State acquires land for recreation and conservation purposes, the agency in the Department of Environmental Protection responsible for administering the land shall, within six months after the date of acquisition, inspect the land for the presence of any buildings or structures thereon which are or may be historic properties and, within 60 days after completion of the inspection, provide to the New Jersey Historic Preservation Office in the department (1) a written notice of its findings, and (2) for any buildings or structures which are or may be historic properties discovered on the land, a request for determination of potential eligibility for inclusion of the historic building or structure in the New Jersey Register of

Historic Places. Whenever such a building or structure is discovered, a copy of the written notice provided to the New Jersey Historic Preservation Office shall also be sent to the New Jersey Historic Trust and to the county historical commission or advisory committee, the county historical society, the local historic preservation commission or advisory committee, and the local historical society if any of those entities exist in the county or municipality wherein the land is located.

i. (1) Commencing July 1, 2004 and until five years after the date of enactment of P.L.2001, c.315, when the department, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (a) in effect at the time of proposed acquisition, and (b) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph. A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection c. of this section; or

(d) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

j. (1) Commencing on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) or July 1, 2004, whichever is later, and through June 30, 2009, when the department, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using (a) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect at the time of proposed acquisition, and (b) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect on January 1, 2004. The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

The provisions of this paragraph shall be applicable only to lands the owner of which at the time of proposed acquisition is the same person who owned the lands on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) and who has owned the lands continuously since that enactment date, or is an immediate family member of that person.

(2) A landowner whose lands are subject to the provisions of paragraph (1) of this subsection shall choose to have the lands appraised in accordance with this subsection or in accordance with the provisions of either subsection d. or subsection i. of this section to the extent that the subsection is applicable and has not expired.

(3) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(4) This subsection shall not:

(a) apply in the case of lands to be acquired with federal moneys in whole or in part;

(b) apply in the case of lands to be acquired in accordance with subsection c. of this section; or

(c) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

(5) For the purposes of this subsection, "immediate family member" means a spouse, child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, or half sister, whether the individual is related by blood, marriage, or adoption.

k. The department shall adopt guidelines for the evaluation and priority ranking process which shall be used in making decisions concerning the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund and from any other source. The guidelines shall be designed to provide, to the maximum extent practicable and feasible, that such moneys are spent equitably among the geographic areas of the State. The guidelines, and any subsequent revisions thereto, shall be published in the New Jersey Register. The adoption of the guidelines or of the revisions thereto, shall not be subject to the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

l. In making decisions concerning the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund, in the evaluation and priority ranking process the department shall accord three times the weight to acquisitions of lands that would protect water resources, and two times the weight to acquisitions of lands that would protect flood-prone areas, as those criteria are compared to the other criteria in the priority ranking process.

m. The department, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations that establish standards and requirements regulating any activity on lands acquired by the State for recreation and conservation purposes using constitutionally dedicated moneys to assure that the activity on those lands does not diminish the protection of surface water or groundwater resources.

Any rules and regulations adopted pursuant to this subsection shall not apply to activities on lands acquired prior to the adoption of the rules and regulations.

n. (1) The department, within three months after the date of the first meeting of the Highland Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), shall consult with and solicit recommendations from the council concerning land preservation strategies and acquisition plans in the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

The council's recommendations shall also address strategies and plans concerning establishment by the department of a methodology for prioritizing the acquisition of land in the Highlands preservation area, as

defined in section 3 of P.L.2004, c.120 (C.13:20-3), for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund, especially with respect to (a) any land that has declined substantially in value due to the implementation of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and (b) any major Highlands development, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), that would have qualified for an exemption pursuant to paragraph (3) of subsection a. of section 30 of P.L.2004, c.120 (C.13:20-28) but for the lack of a necessary State permit as specified in subparagraph (b) or (c), as appropriate, of paragraph (3) of subsection a. of section 30 of P.L.2004, c.120 (C.13:20-28), and for which an application for such a permit had been submitted to the Department of Environmental Protection and deemed by the department to be complete for review on or before March 29, 2004. The recommendations may also include a listing of specific parcels in the Highlands preservation area that the council is aware of that meet the criteria of subparagraph (a) or (b) of this paragraph and for that reason should be considered by the department as a priority for acquisition, but any such list shall remain confidential notwithstanding any provision of P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary.

(2) In making decisions concerning applications for funding submitted by municipalities in the Highlands planning area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), to acquire or develop lands for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund, in the evaluation and priority ranking process the department shall accord a higher weight to any application submitted by a municipality in the Highlands planning area that has amended its development regulations in accordance with section 13 of P.L.2004, c.120 (C.13:20-13) to establish one or more receiving zones for the transfer of development potential from the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than that which is accorded to comparable applications submitted by other municipalities in the Highlands planning area that have not made such amendments to their development regulations.

o. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-1 et seq.) to the contrary, for State fiscal years 2005 through 2009, the sum spent by the department in each of those fiscal years for the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund in each county of the State shall be not less, and may be greater if additional sums become available, than the average annual sum spent by the department therefor in each such county, respectively, for State fiscal years 2002 through 2004, provided there is sufficient and appropriate lands within the county to be so acquired by the State for such purposes.

54. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to read as follows:

C.13:8C-38 Acquisitions, grants with respect to farmland preservation.

38. a. All acquisitions or grants made pursuant to section 37 of P.L.1999, c.152 (C.13:8C-37) shall be made with respect to farmland devoted to farmland preservation under programs established by law.

b. The expenditure and allocation of constitutionally dedicated moneys for farmland preservation purposes shall reflect the geographic diversity of the State to the maximum extent practicable and feasible.

c. The committee shall implement the provisions of section 37 of P.L.1999, c.152 (C.13:8C-37) in accordance with the procedures and criteria established pursuant to the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.) except as provided otherwise by this act.

d. The committee shall adopt the same or a substantially similar method for determining, for the purposes of this act, the committee's share of the cost of a development easement on farmland to be acquired by a local government as that which is being used by the committee on the date of enactment of this act for prior farmland preservation funding programs.

e. Notwithstanding the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant thereto, to the contrary, whenever the value of a development easement on farmland to be acquired using constitutionally dedicated moneys in whole or in part is determined based upon the value of any pinelands development credits allocated to the parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, the committee shall determine the value of the development easement by:

(1) conducting a sufficient number of fair market value appraisals as it deems appropriate to determine the value for farmland preservation purposes of the pinelands development credits;

(2) considering development easement values in counties, municipalities, and other areas (a) reasonably contiguous to, but outside of, the pinelands area, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection, and (b) in the pinelands area where pinelands development credits are or may be utilized, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection;

(3) considering land values in the pinelands regional growth areas;

(4) considering the importance of preserving agricultural lands in the pinelands area; and

(5) considering such other relevant factors as may be necessary to increase participation in the farmland preservation program by owners of agricultural lands located in the pinelands area.

f. No pinelands development credit that is acquired or obtained in connection with the acquisition of a development easement on farmland or fee simple title to farmland by the State, a local government unit, or a qualifying tax exempt nonprofit organization using constitutionally dedicated moneys in whole or in part may be conveyed in any manner. All such pinelands development credits shall be retired permanently.

g. (1) (a) For State fiscal years 2000 through 2004 only, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the land use zoning of the lands (i) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if that land use zoning is still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this subparagraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(b) After the date of enactment of P.L.2001, c.315 and through June 30, 2004, in determining the two values required pursuant to subparagraph (a) of this paragraph, the appraisal shall be made using not only the land use zoning but also the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (i) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the land use zoning of the lands at the time of proposed acquisition, and the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associ-

ated requirements and standards applicable to the lands at the time of proposed acquisition, have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection e. of this section;

(d) apply to projects funded using constitutionally dedicated moneys appropriated pursuant to the annual appropriations act for State fiscal year 2000 (P.L.1999, c.138); or

(e) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

h. Any farmland for which a development easement or fee simple title has been acquired pursuant to section 37 of P.L.1999, c.152 (C.13:8C-37) shall be entitled to the benefits conferred by the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et al.).

i. (1) Commencing July 1, 2004 and until five years after the date of enactment of P.L.2001, c.315, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (a) in effect at the time of proposed acquisition, and (b) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph. A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associ-

ated requirements and standards applicable to the lands at the time of proposed acquisition have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection e. of this section; or

(d) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

j. (1) Commencing on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) or July 1, 2004, whichever is later, and through June 30, 2009, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using (a) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect at the time of proposed acquisition, and (b) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect on January 1, 2004. The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

The provisions of this paragraph shall be applicable only to lands the owner of which at the time of proposed acquisition is the same person who owned the lands on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) and who has owned the lands continuously since that enactment date, is an immediate family member of that person, or is a farmer as defined by the committee.

(2) A landowner whose lands are subject to the provisions of paragraph (i) of this subsection shall choose to have the lands appraised in accordance with this subsection or in accordance with the provisions of either subsection g. or subsection i. of this section to the extent that the subsection is applicable and has not expired.

(3) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(4) This subsection shall not:

(a) apply in the case of lands to be acquired with federal moneys in whole or in part;

(b) apply in the case of lands to be acquired in accordance with subsection e. of this section; or

(c) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

(5) For the purposes of this subsection, "immediate family member" means a spouse, child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, or half sister, whether the individual is related by blood, marriage, or adoption.

k. The committee and the Department of Environmental Protection, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and regulations that establish standards and requirements regulating any improvement on lands acquired by the State for farmland preservation purposes using constitutionally dedicated moneys to assure that any improvement does not diminish the protection of surface water or groundwater resources.

Any rules and regulations adopted pursuant to this subsection shall not apply to improvements on lands acquired prior to the adoption of the rules and regulations.

l. (1) The committee, within three months after the date of the first meeting of the Highland Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), shall consult with and solicit recommendations from the council concerning farmland preservation strategies and acquisition plans in the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

The council's recommendations shall also address strategies and plans concerning establishment by the committee of a methodology for prioritizing the acquisition of development easements and fee simple titles to farmland in the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), for farmland preservation purposes using moneys from the Garden State Farmland Preservation Trust Fund, especially with respect to farmland that has declined substantially in value due to the implementation of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.). The recommendations may also include a listing of specific parcels in the Highlands preservation area that the council is aware

of that have experienced a substantial decline in value and for that reason should be considered by the committee as a priority for acquisition, but any such list shall remain confidential notwithstanding any provision of P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary.

(2) In prioritizing applications for funding submitted by local government units in the Highlands planning area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), to acquire development easements on farmland in the Highlands planning area using moneys from the Garden State Farmland Preservation Trust Fund, the committee shall accord a higher weight to any application submitted by a local government unit to preserve farmland in a municipality in the Highlands planning area that has amended its development regulations in accordance with section 13 of P.L.2004, c.120 (C.13:20-13) to establish one or more receiving zones for the transfer of development potential from the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than that which is accorded to comparable applications submitted by other local government units to preserve farmland in municipalities in the Highlands planning area that have not made such amendments to their development regulations.

m. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-1 et seq.) to the contrary, for State fiscal years 2005 through 2009, the sum spent by the committee in each of those fiscal years for the acquisition by the committee of development easements and fee simple titles to farmland for farmland preservation purposes using moneys from the Garden State Farmland Preservation Trust Fund in each county of the State shall be not less, and may be greater if additional sums become available, than the average annual sum spent by the department therefor in each such county, respectively, for State fiscal years 2002 through 2004, provided there is sufficient and appropriate farmland within the county to be so acquired by the committee for such purposes.

55. Section 13 of P.L.1974, c.118 (C.13:13A-13) is amended to read as follows:

C.13:13A-13 Master plan for physical development of park; review of State projects, permits.

13. a. The commission shall prepare, or cause to be prepared, and, after a public hearing, or public hearings, and pursuant to the provisions provided for in subsection 13 b. of this act, adopt a master plan or portion thereof for the physical development of the park, which plan may include proposals for various stages in the future development of the park, or amend the master plan. The master plan shall include a report presenting the objectives, assumptions, standards and principles which are embodied in the various interlocking portions of the master plan. The master plan shall be a compos-

ite of the one or more written proposals recommending the physical development and expansion of the park either in its entirety or a portion thereof which the commission shall prepare after meetings with the governing bodies of the affected municipalities and counties, and any agencies and instrumentalities thereof.

b. In preparing the master plan or any portion thereof or amendment thereto the commission shall give due consideration to: (1) the function of the canal as a major water supply facility in the State; (2) the necessity to provide recreational activities to the citizens of this State, including but not limited to, facilities, design capacities, and relationship to other available recreational areas; (3) existing historical sites and potential restorations or compatible development; (4) the range of uses and potential uses of the canal in the urban environments of the older, intensively developed communities through which it passes; and (5) designated wilderness areas to be kept as undeveloped, limited-access areas restricted to canoeing and hiking. In preparing the master plan or any portion thereof or amendment thereto the commission shall consider existing patterns of development and any relevant master plan or other plan of development, and shall insure widespread citizen involvement and participation in the planning process.

c. The commission shall act in support of local suggestions or desires to complement the park master plan. Consultation, planning, and technical expertise will be made available to local planning bodies that wish to implement land-use policy to enhance the park area. The commission shall act on or refer complaints by citizens' groups or private residents who discover hazardous situations, pollution, or evidence of noncompliance with use regulations.

d. The commission shall review and approve, reject or modify, any State project planned or State permits issued in the park, and submit its decision to the Governor.

e. The commission shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), on any provision of the park master plan that may impact upon or otherwise affect the Highlands Region or the Highlands regional master plan, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), and any such provision shall be consistent with the Highlands regional master plan adopted by the council pursuant to that act.

56. Section 14 of P.L.1974, c.118 (C.13:13A-14) is amended to read as follows:

C.13:13A-14 Review zone designated.

14. a. The commission shall determine, after a public hearing, or public hearings held in Hunterdon, Somerset, Mercer, and Middlesex counties

respectively, the extent and limits of the region to be designated the review zone. Any subsequent modification of the review zone shall be made by the commission only after public hearings in the county or counties in which the modification is to be made. All public hearings required pursuant to this section shall be held only after giving prior notice thereof by public advertisement once each week for two consecutive weeks in such newspaper or newspapers selected by the chairman of the commission as will best give notice thereof. The last publication of such notice shall be not less than 10 days prior to the date set for the hearing.

b. The commission shall approve all State actions within the review zone that impact on the park, and insure that these actions conform as nearly as possible to the commission's master plan and relevant local plans or initiatives. The State actions which the commission shall review will include the operations of the Division of Water Resources concerning water supply and quality; the Division of Parks and Forestry in developing recreation facilities; and the activities of any other State department or agency that might affect the park.

c. The commission shall review and approve, reject, or modify any project within the review zone. The initial application for a proposed project within the zone shall be submitted by the applicant to the appropriate municipal reviewing agency. If approved by the agency, the application shall be sent to the commission for review. The commission shall review each proposed project in terms of its conformity with, or divergence from, the objectives of the commission's master plan and shall: (1) advise the appropriate municipal reviewing agency that the project can proceed as proposed; (2) reject the application and so advise the appropriate municipal reviewing agency and the governing body of the municipality; or (3) require modifications or additional safeguards on the part of the applicant, and return the application to the appropriate municipal reviewing agency, which shall be responsible for insuring that these conditions are satisfied before issuing a permit. If no action is taken by the commission within a period of 45 days from the date of submission of the application to the commission by the municipal reviewing agency, this shall constitute an approval by the commission. The commission's decision shall be final and binding on the municipality, and the commission may, in the case of any violation or threat of a violation of a commission's decision by a municipality, or by the appropriate municipal reviewing agency, as the case may be, institute civil action (1) for injunctive relief; (2) to set aside and invalidate a decision made by a municipality in violation of this subsection; or (3) to restrain, correct or abate such violation. As used herein: (1) "project" means any structure, land use change, or public improvements for which a permit from, or determination by, the municipality is required, which shall include, but not be

limited to, building permits, zoning variances, and excavation permits; and (2) "agency" means any body or instrumentality of the municipality responsible for the issuance of permits or the approval of projects, as herein defined, which shall include, but not be limited to, governing bodies, planning and zoning boards, building inspectors, managers and municipal engineers.

d. To the extent that any action the commission takes pursuant to this section may impact upon or otherwise affect the Highlands Region or the Highlands regional master plan, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the commission shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), and any such action taken shall be consistent with the Highland regional master plan adopted by the council pursuant to that act.

57. Section 2 of P.L.1997, c.144 (C.27:5-9.1) is amended to read as follows:

C.27:5-9.1 Billboard, outdoor advertising sign; subject to regulation.

2. Any billboard or outdoor advertising sign licensed and permitted pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.), and proposed to be erected on or above any State right-of-way or any real property of the department shall be subject to local government zoning ordinances, applicable local government building permit requirements, and in the pinelands area, shall be subject to the provisions of the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8), and in the Highlands Region, shall be subject to the provisions of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), any rules and regulations adopted pursuant thereto, and the Highlands regional master plan adopted by the Highlands Water Protection and Planning Council pursuant to section 8 of that act .

58. R.S.32:14-5 is amended to read as follows:

Lands included in, purpose of park; authority to acquire.

32:14-5. a. Palisades Interstate Park Commission shall, from time to time, select and locate such lands lying between the top or steep edge of the Palisades or the crest of the slope in places where the steep Palisade rocks are absent and the high-water line of the Hudson river, from the New York State line on the north, to a line beginning at the intersection of the southern line of the old Fort Lee dock or landing with the high-water line of the Hudson river and running thence in a westerly direction and at right angles to said high-water line of the Hudson river to the east side of the river road running from Edgewater to Fort Lee, in Bergen county, on the south, and

such lands or rights in lands belonging to persons other than the State, as may lie between the exterior bulkhead line established in the Hudson river and the high-water line of the Hudson river, as may, in the opinion of the Palisades Interstate Park Commission, be proper and necessary to be reserved for the purpose of establishing a park and thereby preserving the scenic beauty of the Palisades.

b. The Palisades Interstate Park Commission, in cooperation with the North Jersey District Water Supply Commission and in consultation with the New Jersey Department of Environmental Protection and the Highlands Water Protection and Planning Council, may, from time to time, select and locate such lands lying within the Highlands or Skylands areas of Bergen, Hunterdon, Morris, Passaic, Somerset and Warren counties in the State of New Jersey, including lands in those areas lying within the North Jersey Water Supply District, as may, in the opinion of the Palisades Interstate Park Commission and the North Jersey District Water Supply Commission, in consultation with the department and the Highlands Water Protection and Planning Council, be proper and necessary to be reserved for establishing a park:

(1) to preserve the scenic beauty of those areas;

(2) for the purposes of recreation and conservation, which shall include hunting and fishing, or historic preservation; or

(3) for the purposes of watershed conservation or protecting, maintaining, or enhancing the quality and quantity of water supplies.

c. Except as authorized for the purposes specified by R.S.32:15-1 et seq. and R.S.32:16-1 et seq. with regard to the location, construction, maintenance, and operation of the Henry Hudson Drive and the Palisades Interstate Parkway in Bergen county, the Palisades Interstate Park Commission shall not acquire by condemnation any lands described in subsections a. and b. of this section. Any such lands shall be acquired by the Palisades Interstate Park Commission only through a sale by a willing seller.

59. Section 5 of P.L.1999, c.402 (C.32:20A-5) is amended to read as follows:

C.32:20A-5 Duties of commission.

5. a. The duties of the commission shall be to:

(1) assess present and projected development, land use, and land management practices and patterns, and identify actual and potential environmental threats and problems, around Greenwood Lake and within its watershed, and determine the effects of those practices and patterns, threats, and problems upon the natural, scenic, and recreational resources of Greenwood Lake and its watershed;

(2) develop recommended regulations, procedures, policies, planning strategies, and model ordinances and resolutions pertaining to the protection, preservation, maintenance, management, and enhancement of Greenwood Lake and its watershed, which would be implemented as appropriate on a voluntary basis by those entities with representatives on the commission;

(3) coordinate environmental clean up, maintenance, and protection efforts undertaken, for the benefit of Greenwood Lake and its watershed, by those entities with representatives on the commission;

(4) coordinate with the New Jersey Department of Environmental Protection's watershed management program for the area that includes Greenwood Lake;

(5) recommend appropriate State legislation and administrative action pertaining to the protection, preservation, maintenance, management, and enhancement of Greenwood Lake and its watershed;

(6) advocate, and where appropriate, act as a coordinating, distributing, or recipient agency for, federal, State, or private funding of environmental cleanup, maintenance, and protection projects for Greenwood Lake and its watershed, which projects may include the work of the commission; and

(7) take such other action as may be appropriate or necessary to further the purpose of this act.

b. The commission shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), in carrying out its duties as prescribed pursuant to subsection a. of this section. Any action taken by the commission that may impact upon or otherwise affect the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), shall be consistent with the Highlands regional master plan adopted by the council pursuant to section 8 of that act.

60. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to read as follows:

C.40:55D-28 Preparation; contents; modification.

19. Preparation; contents; modification.

a. The planning board may prepare and, after public hearing, adopt or amend a master plan or component parts thereof, to guide the use of lands within the municipality in a manner which protects public health and safety and promotes the general welfare.

b. The master plan shall generally comprise a report or statement and land use and development proposals, with maps, diagrams and text, presenting, at least the following elements (1) and (2) and, where appropriate, the following elements (3) through (14):

(1) A statement of objectives, principles, assumptions, policies and standards upon which the constituent proposals for the physical, economic and social development of the municipality are based;

(2) A land use plan element (a) taking into account and stating its relationship to the statement provided for in paragraph (1) hereof, and other master plan elements provided for in paragraphs (3) through (14) hereof and natural conditions, including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands; (b) showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes; and stating the relationship thereof to the existing and any proposed zone plan and zoning ordinance; and (c) showing the existing and proposed location of any airports and the boundaries of any airport safety zones delineated pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.); and (d) including a statement of the standards of population density and development intensity recommended for the municipality;

(3) A housing plan element pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310), including, but not limited to, residential standards and proposals for the construction and improvement of housing;

(4) A circulation plan element showing the location and types of facilities for all modes of transportation required for the efficient movement of people and goods into, about, and through the municipality, taking into account the functional highway classification system of the Federal Highway Administration and the types, locations, conditions and availability of existing and proposed transportation facilities, including air, water, road and rail;

(5) A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities, and including any storm water management plan required pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.). If a municipality prepares a utility service plan element as a condition for adopting a development transfer ordinance pursuant to subsection c. of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan element shall address the provision of utilities in the receiving zone as provided thereunder;

(6) A community facilities plan element showing the existing and proposed location and type of educational or cultural facilities, historic sites, libraries, hospitals, firehouses, police stations and other related facilities, including their relation to the surrounding areas;

(7) A recreation plan element showing a comprehensive system of areas and public sites for recreation;

(8) A conservation plan element providing for the preservation, conservation, and utilization of natural resources, including, to the extent appropriate, energy, open space, water supply, forests, soil, marshes, wetlands, harbors, rivers and other waters, fisheries, endangered or threatened species wildlife and other resources, and which systemically analyzes the impact of each other component and element of the master plan on the present and future preservation, conservation and utilization of those resources;

(9) An economic plan element considering all aspects of economic development and sustained economic vitality, including (a) a comparison of the types of employment expected to be provided by the economic development to be promoted with the characteristics of the labor pool resident in the municipality and nearby areas and (b) an analysis of the stability and diversity of the economic development to be promoted;

(10) A historic preservation plan element: (a) indicating the location and significance of historic sites and historic districts; (b) identifying the standards used to assess worthiness for historic site or district identification; and (c) analyzing the impact of each component and element of the master plan on the preservation of historic sites and districts;

(11) Appendices or separate reports containing the technical foundation for the master plan and its constituent elements;

(12) A recycling plan element which incorporates the State Recycling Plan goals, including provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance, and for the collection, disposition and recycling of recyclable materials within any development proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet or more of land;

(13) A farmland preservation plan element, which shall include: an inventory of farm properties and a map illustrating significant areas of agricultural land; a statement showing that municipal ordinances support and promote agriculture as a business; and a plan for preserving as much farmland as possible in the short term by leveraging monies made available by P.L.1999, c.152 (C.13:8C-1 et al.) through a variety of mechanisms including, but not limited to, utilizing option agreements, installment purchases, and encouraging donations of permanent development easements; and

(14) A development transfer plan element which sets forth the public purposes, the locations of sending and receiving zones and the technical details of a development transfer program based on the provisions of section 5 of P.L.2004, c.2 (C.40:55D-141).

c. The master plan and its plan elements may be divided into subplans and subplan elements projected according to periods of time or staging sequences.

d. The master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan to (1) the master plans of contiguous municipalities, (2) the master plan of the county in which the municipality is located, (3) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.) and (4) the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) of the county in which the municipality is located.

In the case of a municipality situated within the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan, to the Highlands regional master plan adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).

61. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read as follows:

C.46:15-8 County, State sharing of fee proceeds.

4. a. The proceeds of the fees collected by the county recording officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be accounted for and remitted to the county treasurer.

b. (1) The county portion of the basic fee collected pursuant to paragraph (1) of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7) shall be retained by the county treasurer for the use of the county.

(2) The State portion of the basic fee, the additional fee, and the general purpose fee shall be paid to the State Treasurer for the use of the State. Payments shall be made to the State Treasurer on the tenth day of each month following the month of collection.

c. (1) Amounts, not in excess of $25,000,000, paid during the State fiscal year to the State Treasurer from the payment of the State portion of the basic fee shall be credited to the "Shore Protection Fund" created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), in the manner established under that section.

(2) In addition to the amounts credited to the "Shore Protection Fund" pursuant to paragraph (1) of this subsection, amounts equal to $12,000,000 in each of the first 10 years after the date of enactment of the "Highlands Water Protection and Planning Act,"P.L.2004, c.120 (C.13:20-1 et al.) and

to $5,000,000 in each year thereafter, paid during the State fiscal year to the State Treasurer from the payment of fees collected by the county recording officer other than the additional fee of $0.75 for each $500.00 of consideration or fractional part thereof recited in the deed in excess of $150,000.00 shall be credited to the "Highlands Protection Fund" created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), in the manner established under that section. No monies shall be credited to the "Highlands Protection Fund" pursuant to this paragraph until and unless the full amount of $25,000,000 has first been credited to the "Shore Protection Fund" pursuant to paragraph (1) of this subsection.

d. All amounts paid to the State Treasurer from the payment of the additional fee shall be credited to the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), in the manner established under section 20 thereof (C.52:27D-320).

62. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to read as follows:

C.46:15-10.2 Required provisions of annual appropriations act.

2. a. The annual appropriations act for each State fiscal year shall, without other conditions, limitations or restrictions on the following:

(1) credit amounts paid to the State Treasurer, if any, in payment of fees collected pursuant to paragraph (1) or paragraph (2) of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7) to the "Shore Protection Fund" created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320), and the "Highlands Protection Fund" created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), pursuant to the requirements of section 4 of P.L.1968, c.49 (C.46:15-8);

(2) appropriate the balance of the "Shore Protection Fund" created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), for the purposes of that fund;

(3) appropriate the balance of the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320), for the purposes of that fund; and

(4) appropriate the balance of the "Highlands Protection Fund" created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), for the purposes of that fund.

b. If the requirements of subsection a. of this section are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State

fiscal year should violate any of the requirements of subsection a. of this section, the Director of the Division of Budget and Accounting in the Department of the Treasury shall, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates any of the requirements of subsection a. of this section, certify to the Director of the Division of Taxation that the requirements of subsection a. of this section have not been met.

63. Section 1 of P.L.1985, c.398 (C.52:18A-196) is amended to read as follows:

C.52:18A-196 Findings, declarations.

1. The Legislature finds and declares that:

a. New Jersey, the nation's most densely populated State, requires sound and integrated Statewide planning and the coordination of Statewide planning with local and regional planning in order to conserve its natural resources, revitalize its urban centers, protect the quality of its environment, and provide needed housing and adequate public services at a reasonable cost while promoting beneficial economic growth, development and renewal;

b. Significant economies, efficiencies and savings in the development process would be realized by private sector enterprise and by public sector development agencies if the several levels of government would cooperate in the preparation of and adherence to sound and integrated plans;

c. It is of urgent importance that the State Development Guide Plan be replaced by a State Development and Redevelopment Plan designed for use as a tool for assessing suitable locations for infrastructure, housing, economic growth and conservation;

d. It is in the public interest to encourage development, redevelopment and economic growth in locations that are well situated with respect to present or anticipated public services and facilities, giving appropriate priority to the redevelopment, repair, rehabilitation or replacement of existing facilities and to discourage development where it may impair or destroy natural resources or environmental qualities that are vital to the health and well-being of the present and future citizens of this State;

e. A cooperative planning process that involves the full participation of State, regional, county and local governments as well as other public and private sector interests will enhance prudent and rational development, redevelopment and conservation policies and the formulation of sound and consistent regional plans and planning criteria;

f. Since the overwhelming majority of New Jersey land use planning and development review occurs at the local level, it is important to provide local governments in this State with the technical resources and guidance

necessary to assist them in developing land use plans and procedures which are based on sound planning information and practice, and to facilitate the development of local plans which are consistent with State and regional plans and programs;

g. An increasing concentration of the poor and minorities in older urban areas jeopardizes the future well-being of this State, and a sound and comprehensive planning process will facilitate the provision of equal social and economic opportunity so that all of New Jersey's citizens can benefit from growth, development and redevelopment;

h. An adequate response to judicial mandates respecting housing for low- and moderate-income persons requires sound planning to prevent sprawl and to promote suitable use of land; and

i. These purposes can be best achieved through the establishment of a State planning commission consisting of representatives from the executive and legislative branches of State government, local government, the general public and the planning community.

64. Section 4 of P.L.1985, c.398 (C.52:18A-199) is amended to read as follows:

C.52:18A-199 Duties of the commission.

4. The commission shall:

a. Prepare and adopt within 36 months after the enactment of P.L.1985, c.398 (C.52:18A-196 et al.) , and revise and readopt at least every three years thereafter, the State Development and Redevelopment Plan, which shall provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions and which shall identify areas for growth, agriculture, open space conservation and other appropriate designations;

b. Prepare and adopt as part of the plan a long-term Infrastructure Needs Assessment, which shall provide information on present and prospective conditions, needs and costs with regard to State, county and municipal capital facilities, including water, sewerage, transportation, solid waste, drainage, flood protection, shore protection and related capital facilities;

c. Develop and promote procedures to facilitate cooperation and coordination among State agencies, regional entities, and local governments with regard to the development of plans, programs and policies which affect land use, environmental, capital and economic development issues;

d. Provide technical assistance to local governments and regional entities in order to encourage the use of the most effective and efficient planning and development review data, tools and procedures;

e. Periodically review State, regional, and local government planning procedures and relationships and recommend to the Governor and the Legislature administrative or legislative action to promote a more efficient and effective planning process;

f. Review any bill introduced in either house of the Legislature which appropriates funds for a capital project and may study the necessity, desirability and relative priority of the appropriation by reference to the State Development and Redevelopment Plan, and may make recommendations to the Legislature and to the Governor concerning the bill; and

g. Take all actions necessary and proper to carry out the provisions of P.L.1985, c.398 (C.52:18A-196 et al.).

65. Section 5 of P.L.1985, c.398 (C.52:18A-200) is amended to read as follows:

C.52:18A-200 State Development and Redevelopment Plan.

5. The State Development and Redevelopment Plan shall be designed to represent a balance of development and conservation objectives best suited to meet the needs of the State. The plan shall:

a. Protect the natural resources and qualities of the State, including, but not limited to, agricultural development areas, fresh and saltwater wetlands, flood plains, stream corridors, aquifer recharge areas, steep slopes, areas of unique flora and fauna, and areas with scenic, historic, cultural and recreational values;

b. Promote development and redevelopment in a manner consistent with sound planning and where infrastructure can be provided at private expense or with reasonable expenditures of public funds. This should not be construed to give preferential treatment to new construction;

c. Consider input from State, regional, county and municipal entities concerning their land use, environmental, capital and economic development plans, including to the extent practicable any State and regional plans concerning natural resources or infrastructure elements;

d. Identify areas for growth, limited growth, agriculture, open space conservation and other appropriate designations that the commission may deem necessary;

e. Incorporate a reference guide of technical planning standards and guidelines used in the preparation of the plan; and

f. Coordinate planning activities and establish Statewide planning objectives in the following areas: land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination.

66. Section 6 of P.L.1985, c.398 (C.52:18A-201) is amended to read as follows:

C.52:18A-201 Office of State Planning.

6. a. There is established in the Department of the Treasury the Office of State Planning. The director of the office shall be appointed by and serve at the pleasure of the Governor. The director shall supervise and direct the activities of the office and shall serve as the secretary and principal executive officer of the State Planning Commission.

b. The Office of State Planning shall assist the commission in the performance of its duties and shall:

(1) Publish an annual report on the status of the State Development and Redevelopment Plan which shall describe the progress towards achieving the goals of the plan, the degree of consistency achieved among municipal, county, regional, and State plans, the capital needs of the State, and progress towards providing housing where such need is indicated;

(2) Provide planning service to other agencies or instrumentalities of State government, review the plans prepared by them, and coordinate planning to avoid or mitigate conflicts between plans;

(3) Provide advice and assistance to regional, county and local planning units;

(4) Review and comment on the plans of interstate agencies where the plans affect this State;

(5) Compile quantitative current estimates and Statewide forecasts for population, employment, housing and land needs for development and redevelopment; and

(6) Prepare and submit to the State Planning Commission, as an aid in the preparation of the State Development and Redevelopment Plan, alternate growth and development strategies which are likely to produce favorable economic, environmental and social results.

c. The director shall ensure that the responsibilities and duties of the commission are fulfilled, and shall represent the commission and promote its activities before government agencies, public and private interest groups and the general public, and shall undertake or direct such other activities as the commission shall direct or as may be necessary to carry out the purposes of P.L.1985, c.398 (C.52:18A-196 et al.).

d. With the consent of the commission, the director shall assign to the commission from the staff of the office at least two full-time planners, a full-time liaison to local and county governments and regional entities, and such other staff, clerical, stenographic and expert assistance as the director shall deem necessary for the fulfillment of the commission's responsibilities and duties.

67. Section 7 of P.L.1985, c.398 (C.52:18A-202) is amended to read as follows:

C.52:18A-202 Advice of other entities; plan cross-acceptance.

7. a. In preparing, maintaining and revising the State Development and Redevelopment Plan, the commission shall solicit and give due consideration to the plans, comments and advice of each county and municipality, State agencies designated by the commission, the Highlands Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), and other local and regional entities. Prior to the adoption of each plan, the commission shall prepare and distribute a preliminary plan to each county planning board, municipal planning board and other requesting parties, including State agencies, the Highlands Water Protection and Planning Council, and metropolitan planning organizations. Not less than 45 nor more than 90 days thereafter, the commission shall conduct a joint public informational meeting with each county planning board in each county and with the Highlands Water Protection and Planning Council for the purpose of providing information on the plan, responding to inquiries concerning the plan, and receiving informal comments and recommendations from county and municipal planning boards, local public officials, the Highlands Water Protection and Planning Council, and other interested parties.

b. The commission shall negotiate plan cross-acceptance with each county planning board, which shall solicit and receive any findings, recommendations and objections concerning the plan from local planning bodies. Each county planning board shall negotiate plan cross-acceptance among the local planning bodies within the county, unless it shall notify the commission in writing within 45 days of the receipt of the preliminary plan that it waives this responsibility, in which case the commission shall designate an appropriate entity, or itself, to assume this responsibility. Each board or designated entity shall, within ten months of receipt of the preliminary plan, file with the commission a formal report of findings, recommendations and objections concerning the plan, including a description of the degree of consistency and any remaining inconsistency between the preliminary plan and county and municipal plans. In any event, should any municipality's plan remain inconsistent with the State Development and Redevelopment Plan after the completion of the cross-acceptance process, the municipality may file its own report with the State Planning Commission, notwithstanding the fact that the county planning board has filed its report with the State Planning Commission. The term cross-acceptance means a process of comparison of planning policies among governmental levels with the purpose of attaining compatibility between local, county, regional, and State plans. The process

is designed to result in a written statement specifying areas of agreement or disagreement and areas requiring modification by parties to the cross-acceptance.

c. Upon consideration of the formal reports of the county planning boards, the commission shall prepare and distribute a final plan to county and municipal planning boards, the Highlands Water Protection and Planning Council, and other interested parties. The commission shall conduct not less than six public hearings in different locations throughout the State for the purpose of receiving comments on the final plan. The commission shall give at least 30 days' public notice of each hearing in advertisements in at least two newspapers which circulate in the area served by the hearing and at least 30 days' notice to the governing body and planning board of each county and municipality in the area served by the hearing and to the Highlands Water Protection and Planning Council for any area in the Highlands Region served by the hearing.

d. Taking full account of the testimony presented at the public hearings, the commission shall make revisions in the plan as it deems necessary and appropriate and adopt the final plan by a majority vote of its authorized membership no later than 60 days after the final public hearing.

68. Section 2 of P.L.1989, c.332 (C.52:18A-202.2) is amended to read as follows:

C.52:18A-202.2 Studies; review.

2. a. The Office of State Planning in consultation with the Office of Economic Policy, shall utilize the following:

(1) Conduct portions of these studies using its own staff;

(2) Contract with other State agencies to conduct portions of these studies; and

(3) Contract with an independent firm or an institution of higher learning to conduct portions of these studies.

b. Any portion of the studies conducted by the Office of State Planning, or any other State agency, shall be subject to review by an independent firm or an institution of higher learning.

c. The Assessment Study and the oversight review shall be submitted in the form of a written report to the State Planning Commission for distribution to the Governor, the Legislature, appropriate regional entities, and the governing bodies of each county and municipality in the State during the cross-acceptance process and prior to the adoption of the Final Plan.

d. A period extending from at least 45 days prior to the first of six public hearings, which are required under the State Planning Act, P.L.1985, c.398 (C.52:18A-196 et seq.), to 30 days following the last public hearing shall be provided for counties and municipalities to review and respond to

the studies. Requests for revisions to the Interim Plan shall be considered by the State Planning Commission in the formulation of the Final Plan.

69. Section 8 of P.L.1985, c.398 (C.52:18A-203) is amended to read as follows:

C.52:18A-203 Rules, regulations.

8. a. The commission shall adopt rules and regulations to carry out its purposes, including procedures to facilitate the solicitation and receipt of comments in the preparation of the preliminary and final plan and to ensure a process for comparison of the plan with county and municipal master plans and regional plans, and procedures for coordinating the information collection, storage and retrieval activities of the various State agencies, and to establish a process for the endorsement of municipal, county, and regional plans that are consistent with the State Development and Redevelopment Plan.

b. Any municipality or county or portion thereof located in the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3) shall be exempt from the plan endorsement process established in the rules and regulations adopted pursuant to subsection a. of this section. Upon the State Planning Commission endorsing the regional master plan adopted by the Highlands Water Protection and Planning Council pursuant to section 8 of P.L.2004, c.120 (C.13:20-8), any municipal master plan and development regulations or county master plan and associated regulations that have been approved by the Highlands Water Protection and Planning Council pursuant to section 14 or 15 of P.L.2004, c.120 (C.13:20-14 or C.13:20-15) shall be deemed the equivalent of having those plans endorsed by the State Planning Commission.

70. Section 9 of P.L.1985, c.398 (C.52:18A-204) is amended to read as follows:

C.52:18A-204 Assistance of personnel of other entities.

9. The commission shall be entitled to call to its assistance any personnel of any State agency, regional entity, or county, municipality or political subdivision thereof as it may require in order to perform its duties. The officers and personnel of any State agency, regional entity, or county, municipality or political subdivision thereof and any other person may serve at the request of the commission upon any advisory committee as the commission may create without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

71. Section 10 of P.L.1985, c.398 (C.52:18A-205) is amended to read as follows:

C.52:18A-205 Provision of data by other entities.

10. Each State agency, regional entity, or county, municipality or political subdivision thereof shall make available to the commission any studies, surveys, plans, data and other materials or information concerning the capital, land use, environmental, transportation, economic development and human services plans and programs of the agency, entity, county, municipality or political subdivision.

72. Section 11 of P.L.1985, c.398 (C.52:18A-206) is amended to read as follows:

C.52:18A-206 Other plans, regulations unaffected; adoption of coastal planning policies.

11. a. The provisions of P.L.1985, c.398 (C.52:18A-196 et al.) shall not be construed to affect the plans and regulations of the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), the New Jersey Meadowlands Commission pursuant to the "Hackensack Meadowlands Reclamation and Development Act," P.L.1968, c.404 (C.13:17-1 et seq.), or the Highlands Water Protection and Planning Council pursuant to the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.) for that portion of the Highlands Region lying within the preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3). The State Planning Commission shall rely on the adopted plans and regulations of these entities in developing the State Development and Redevelopment Plan.

b. The State Planning Commission may adopt, after the enactment date of P.L.1993, c.190 (C.13:19-5.1 et al.), the coastal planning policies of the rules and regulations adopted pursuant to P.L.1973, c.185 (C.13:19-1 et seq.), the coastal planning policies of the rules and regulations adopted pursuant to subsection b. of section 17 of P.L.1973, c.185 (C.13:19-17) and any coastal planning policies of rules and regulations adopted pursuant to P.L.1973, c.185 (C.13:19-1 et seq.) thereafter as the State Development and Redevelopment Plan for the coastal area as defined in section 4 of P.L.1973, c.185 (C.13:19-4).

73. Section 13 of P.L.1981, c.262 (C.58:1A-13) is amended to read as follows:

C.58:1A-13 New Jersey Statewide Water Supply Plan.

13. a. The department shall prepare and adopt the New Jersey Statewide Water Supply Plan, which plan shall be revised and updated at least once every five years.

b. The plan shall include, but need not be limited to, the following:

(1) An identification of existing Statewide and regional ground and surface water supply sources, both interstate and intrastate, and the current usage thereof;

(2) Projections of Statewide and regional water supply demands for the duration of the plan;

(3) Recommendations for improvements to existing State water supply facilities, the construction of additional State water supply facilities, and for the interconnection or consolidation of existing water supply systems;

(4) Recommendations for the diversion or use of fresh surface or ground waters and saline surface or ground waters for aquaculture purposes;

(5) Recommendations for legislative and administrative actions to provide for the maintenance and protection of watershed areas; and

(6) Identification of lands purchased by the State for water supply facilities that currently are not actively used for water supply purposes, including, but not limited to, the Six Mile Run Reservoir Site, with recommendations as to the future use of these lands for water supply purposes within or outside of the planning horizon for the plan.

c. Prior to adopting the plan, including any revisions and updates thereto, the department shall:

(1) Prepare and make available to all interested persons a copy of the proposed plan or proposed revisions and updates to the current plan;

(2) Conduct public meetings in the several geographic areas of the State on the proposed plan or proposed revisions and updates to the current plan; and

(3) Consider the comments made at these meetings, make any revisions to the proposed plan or proposed revisions and updates to the current plan as it deems necessary, and adopt the plan.

d. Prior to the adoption of any revision to the New Jersey Statewide Water Supply Plan pursuant to this section, the department shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), concerning the possible effects and impact of the plan upon the Highlands regional master plan, adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8), and the water and other natural resources of the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

74. Section 10 of P.L.1993, c.202 (C.58:1A-15.1) is amended to read as follows:

C.58:1A-15.1 Actions consistent with Pinelands, Highlands regulation.

10. No action taken by the department pursuant to the provisions of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202 (C.58:1A-7.3 et al.)

shall be inconsistent with the provisions of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), the comprehensive management plan for the pinelands area adopted pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8), the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), or the Highlands regional master plan adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).

75. Section 6 of P.L.1981, c.293 (C.58:1B-6) is amended to read as follows:

C.58:1B-6 Powers and duties of authority.

6. a. The authority is hereby empowered to design, initiate, acquire, construct, maintain, repair and operate projects or cause the same to be operated pursuant to a lease, sublease, or agreement with any person or governmental agency, and to issue bonds of the authority to finance these projects, payable from the revenues and other funds of the authority. All projects undertaken by the authority shall conform to the recommendations of the New Jersey Statewide Water Supply Plan.

b. The authority shall be subject to compliance with all State health and environmental protection statutes and regulations and any other statutes and regulations not inconsistent herewith. The authority may, upon the request of a governmental agency, enter into a contract to provide services for any project.

c. The authority shall consult with the Water Supply Advisory Council from time to time prior to final action on any project or undertaking authorized pursuant to this section.

d. The authority shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), from time to time prior to final action on any project or undertaking authorized pursuant to this section in the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3). The provisions of section 16 of P.L.2004, c.120 (C.13:20-16) shall apply to the authority.

76. Section 7 of P.L.2000, c.175 (C.58:4B-7) is amended to read as follows:

C.58:4B-7 Development of stormwater, nonpoint source pollution management plan.

7. The Lake Hopatcong Commission shall, in conjunction with each Lake Hopatcong municipality, develop a stormwater and nonpoint source pollution management plan for the region. The stormwater management and nonpoint source pollution plan shall be designed to reduce siltation and prevent pollution caused by stormwater runoff or nonpoint sources that would otherwise degrade the water quality of Lake Hopatcong and its

tributaries, interfere with water-based recreation, or adversely affect aquatic life. The goals and purposes of the plan shall be to improve the quality of stormwater runoff entering Lake Hopatcong, identify cost effective measures to control stormwater runoff and nonpoint source pollution, and identify funding mechanisms for implementation of such measures. The commission shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), in developing the stormwater and nonpoint source pollution management plan pursuant to this section. Any plan developed pursuant to this section that may impact upon or otherwise affect the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), shall be consistent with the Highlands regional master plan adopted by the council pursuant to section 8 of that act.

77. Section 9 of P.L.2000, c.175 (C.58:4B-9) is amended to read as follows:

C.58:4B-9 Notice of amendments, revisions to municipal master plans.

9. Each municipality represented on the commission shall provide the commission notice of proposed amendments and revisions to municipal master plans, zoning and other ordinances governing land use and development, and applications for specific development projects, and request that the commission review and evaluate the proposed amendment, revision, or application to assess its potential impact upon Lake Hopatcong and its watershed and provide the commission's recommendations for appropriate action thereon. As part of the commission's review and evaluation, the commission shall consider the consistency of the amendment or revision with the Highlands regional master plan, adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8), if it may impact upon or otherwise affect the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), and shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), on any such matter.

78. R.S.58:5-12 is amended to read as follows:

Plans for water supply; estimated cost; report; form of contract.

58:5-12. The district water supply commission shall thereupon proceed to formulate plans for obtaining a water supply or a new or additional water supply for the municipality and any other municipalities that may desire water from such joint water supply, as provided for herein, and to estimate the cost thereof, the annual cost of operating the same, the probable share of the cost which each of the municipalities will be called upon to pay for

its share of water supply and plant used in common with the other municipalities, and the cost of any distribution system, water supply or plant acquired or constructed for its individual use, and shall report the plans to the municipalities, together with a form of contract, providing for the raising and payment of the necessary funds to meet the cost of acquisition and operation.

If the plans to be formulated pursuant to this section involve obtaining water from the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the district water supply commission shall consult with the Highlands Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4) prior to moving forward with any such plans or entering into any such contracts. The provisions of section 16 of P.L.2004, c.120 (C.13:20-16) shall apply to the district water supply commission.

79. Section 1 of P.L.1993, c.351 (C.58:10A-7.2) is amended to read as follows:

C.58:10A-7.2 Groundwater remedial action; contents of application for permit, request for consent; definitions.

1. a. An application for a permit issued by the Department of Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.) for the discharge of groundwater to surface water involving a groundwater remedial action necessitated by a discharge from an underground storage tank containing petroleum products or a groundwater remedial action involving petroleum products, shall contain, in addition to a properly filled application form:

(1) such documentation or other information on the permit application as may be prescribed by the department on a checklist made available to a prospective applicant;

(2) if the discharge from the proposed groundwater remedial action is located within a wastewater service district or area of a local public entity, a certified statement that a request, dated at least 60 days prior to the filing of the permit application, had been made to the local public entity to discharge the groundwater into the wastewater collection or treatment facilities of that entity, and that no reply has been received from that entity, or a written statement by the local public entity, dated not more than 60 days prior to the filing of the permit application with the department, that the entity has approved or rejected a written request by the applicant to discharge the treated groundwater into the wastewater collection or treatment facilities of that entity. Notwithstanding that a local public entity has approved the request to discharge groundwater into its facilities, the department may approve the applicant's permit to discharge the groundwater to surface water upon a finding that it is in the public interest;

(3) a certified statement that a copy of the completed application form along with a consent request, as prescribed in subsection b. of this section, have been filed with the clerk of the municipality in which the site of the proposed groundwater remedial action is located, and setting forth the date of the filing with the host municipality, which filing shall be made prior to, or concurrent with, the filing of the application with the department;

(4) within the pinelands area, documentation from the Pinelands Commission that the application is consistent with the requirements of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.) or any regulations promulgated pursuant thereto and section 502 of the "National Parks and Recreation Act of 1978" (Pub.L. 95-625); and

(5) within the Highlands preservation area, documentation from the Highlands Water Protection and Planning Council that the application is consistent with the requirements of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and any rules and regulations and the Highlands regional master plan adopted pursuant thereto.

b. The department shall prescribe the form and content of a request for consent filed with a municipality pursuant to paragraph (3) of subsection a. of this section. The municipal consent request shall be limited to an identification of all municipal approvals with which the applicant is required to comply, the status of any applications filed therefor, and whether or not the municipality consents to the application and the specific reasons therefor. The request for consent form shall also advise that documentation and other information relating to the application have been filed and are available for review at the department. A municipality receiving a request for consent form shall have 30 days from the date of receipt of a copy of the application and request for consent form to file with the department the information requested, and its consent of, or objections to, the application. Municipal consent or objection to a groundwater remedial action shall be by resolution of the governing body of the municipality unless the governing body has, by resolution, delegated such authority to a qualified officer or entity thereof, in which case the endorsement shall be signed by the designated officer or official of the entity. Notwithstanding that a municipality objects to a permit application or fails to file a consent or objection to the permit application, the department may approve the applicant's permit application to discharge groundwater to surface water.

c. An application pursuant to subsection a. of this section shall be deemed complete, for the purposes of departmental review, within 30 days of the filing of the application with the department unless the department notifies the applicant, in writing, prior to expiration of the 30 days that the application has failed to satisfy one or more of the items identified in subsection a. of this section. If an application is determined to be complete, the

department shall review and take final action on the completed application within 60 days from commencement of the review, or, if the parties mutually agree to a 30-day extension, within 90 days therefrom. The review period for a completed application shall commence immediately upon termination of the 30-day period, or upon determination by the department that the application is complete, whichever occurs first. If the department fails to take final action on a permit application for a general permit in the time frames set forth in this subsection, that general permit shall be deemed to have been approved by the department. The department shall review an application for a permit pursuant to subsection a. of this section and shall take action on that application pursuant to the time frames set forth in this subsection, notwithstanding that all of the municipal approvals have not been obtained, unless such approvals would materially affect the terms and conditions of the permit, except that in such instances the department may condition its approval of the application on the necessary municipal approvals being subject to the terms and conditions of the application.

d. The department may issue a general permit for the discharge of groundwater to surface water pursuant to a groundwater remedial action of discharged petroleum products as provided in subsection a. of this section.

e. (1) The department may not require a municipal consent of a treatment works application for a groundwater remedial action for which a permit application is submitted pursuant to subsection a. of this section.

(2) If a completed application for a treatment works approval for a groundwater remedial action is filed with the department at the same time as an application for a general permit therefor, the department shall concurrently review the two applications, except that the review of the application for the treatment works approval for a groundwater remedial action shall not be subject to the time frames set forth in subsection c. of this section.

f. The provisions of this section shall apply to applications filed on or after the effective date of this act, except that the Department of Environmental Protection may implement any of the provisions of this section prior to that date.

g. The department may, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations to implement the provisions of this act.

h. For purposes of this section:

"General permit" means a permit issued by the department for similar discharges.

"Groundwater remedial action" means the removal or abatement of one or more pollutants in a groundwater source.

"Local public entity" means a sewerage authority established pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.), a municipal authority established

pursuant to P.L.1957, c.183 (C.40:14B-1 et seq.), the Passaic Valley Sewerage Commissioners continued pursuant to R.S.58:14-2, a joint meeting established pursuant to R.S.40:63-68 et seq. or a local unit authorized to operate a sewerage facility pursuant to N.J.S.40A:26A-1 et seq., or any predecessor act.

"Underground storage tank" shall have the same meaning as in section 2 of P.L.1986, c.102 (C.58:10A-22), except that as used herein underground storage tanks shall include:

(1) farm underground storage tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

(2) underground storage tanks used to store heating oil for on-site consumption in a nonresidential building with a capacity of 2,000 gallons or less; and

(3) underground storage tanks used to store heating oil for on-site consumption in a residential building.

80. Section 24 of P.L.1993, c.139 (C.58:10B-2) is amended to read as follows:

C.58:10B-2 Rules, regulations, deviations from regulations.

24. a. The department shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations establishing criteria and minimum standards necessary for the submission, evaluation and approval of plans or results of preliminary assessments, site investigations, remedial investigations, and remedial action workplans and for the implementation thereof. The documents for the preliminary assessment, site investigation, remedial investigation, and remedial action workplan required to be submitted for a remediation, shall not be identical to the criteria and standards used for similar documents submitted pursuant to federal law, except as may be required by federal law. In establishing criteria and minimum standards for these terms the department shall strive to be result oriented, provide for flexibility, and to avoid duplicate or unnecessarily costly or time consuming conditions or standards.

b. The regulations adopted by the department pursuant to subsection a. of this section shall provide that a person performing a remediation may deviate from the strict adherence to the regulations, in a variance procedure or by another method prescribed by the department, if that person can demonstrate that the deviation and the resulting remediation would be as protective of human health, safety, and the environment, as appropriate, as the department's regulations and that the health risk standards established in subsection d. of section 35 of P.L.1993, c.139 (C.58:10B-12) and any applicable environmental standards would be met. Factors to be considered

in determining if the deviation should be allowed are whether the alternative method:

(1) has been either used successfully or approved by the department in writing or similar situations;

(2) reflects current technology as documented in peer-reviewed professional journals;

(3) can be expected to achieve the same or substantially the same results or objectives as the method which it is to replace; and

(4) furthers the attainment of the goals of the specific remedial phase for which it is used.

The department shall make available to the public, and shall periodically update, a list of alternative remediation methods used successfully or approved by the department as provided in paragraph (1) of this subsection.

c. To the extent practicable and in conformance with the standards for remediations as provided in section 35 of P.L.1993, c.139 (C.58:10-12), the department shall adopt rules and regulations that allow for certain remedial actions to be undertaken in a manner prescribed by the department without having to obtain prior approval from or submit detailed documentation to the department. A person who performs a remedial action in the manner prescribed in the rules and regulations of the department, and who certifies this fact to the department, shall obtain a no further action letter from the department for that particular remedial action.

d. The department shall develop regulatory procedures that encourage the use of innovative technologies in the performance of remedial actions and other remediation activities.

e. Notwithstanding any other provisions of this section, all remediation standards and remedial actions that involve real property located in the pinelands area shall be consistent with the provisions of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), any rules and regulations adopted pursuant thereto, and with section 502 of the "National Parks and Recreation Act of 1978," 16 U.S.C. s.471i.

f. Notwithstanding any other provisions of this section, all remediation standards and remedial actions that involve real property located in the Highlands preservation area shall be consistent with the provisions of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and any rules and regulations and the Highlands regional master plan adopted pursuant thereto.

81. Section 35 of P.L.1993, c.139 (C.58:10B-12) is amended to read as follows:

C.58:10B-12 Adoption of remedial standards.

35. a. The Department of Environmental Protection shall adopt minimum remediation standards for soil, groundwater, and surface water quality necessary for the remediation of contamination of real property. The remediation standards shall be developed to ensure that the potential for harm to public health and safety and to the environment is minimized to acceptable levels, taking into consideration the location, the surroundings, the intended use of the property, the potential exposure to the discharge, and the surrounding ambient conditions, whether naturally occurring or man-made.

Until the minimum remediation standards for the protection of public health and safety as described herein are adopted, the department shall apply public health and safety remediation standards for contamination at a site on a case-by-case basis based upon the considerations and criteria enumerated in this section.

The department shall not propose or adopt remediation standards protective of the environment pursuant to this section, except standards for groundwater or surface water, until recommendations are made by the Environment Advisory Task Force created pursuant to section 37 of P.L.1993, c.139. Until the Environment Advisory Task Force issues its recommendations and the department adopts remediation standards protective of the environment as required by this section, the department shall continue to determine the need for and the application of remediation standards protective of the environment on a case-by-case basis in accordance with the guidance and regulations of the United States Environmental Protection Agency pursuant to the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," 42 U.S.C. s.9601 et seq. and other statutory authorities as applicable.

The department may not require any person to perform an ecological evaluation of any area of concern that consists of an underground storage tank storing heating oil for on-site consumption in a one to four family residential building.

b. In developing minimum remediation standards the department shall:

(1) base the standards on generally accepted and peer reviewed scientific evidence or methodologies;

(2) base the standards upon reasonable assumptions of exposure scenarios as to amounts of contaminants to which humans or other receptors will be exposed, when and where those exposures will occur, and the amount of that exposure;

(3) avoid the use of redundant conservative assumptions. The department shall avoid the use of redundant conservative assumptions by the use

of parameters that provide an adequate margin of safety and which avoid the use of unrealistic conservative exposure parameters and which guidelines make use of the guidance and regulations for exposure assessment developed by the United States Environmental Protection Agency pursuant to the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 42 U.S.C. s.9601 et seq. and other statutory authorities as applicable;

(4) where feasible, establish the remediation standards as numeric or narrative standards setting forth acceptable levels or concentrations for particular contaminants; and

(5) consider and utilize, in the absence of other standards used or developed by the Department of Environmental Protection and the United States Environmental Protection Agency, the toxicity factors, slope factors for carcinogens and reference doses for non-carcinogens from the United States Environmental Protection Agency's Integrated Risk Information System (IRIS).

c. (1) The department shall develop residential and nonresidential soil remediation standards that are protective of public health and safety. For contaminants that are mobile and transportable to groundwater or surface water, the residential and nonresidential soil remediation standards shall be protective of groundwater and surface water. Residential soil remediation standards shall be set at levels or concentrations of contamination for real property based upon the use of that property for residential or similar uses and which will allow the unrestricted use of that property without the need of engineering devices or any institutional controls and without exceeding a health risk standard greater than that provided in subsection d. of this section. Nonresidential soil remediation standards shall be set at levels or concentrations of contaminants that recognize the lower likelihood of exposure to contamination on property that will not be used for residential or similar uses, which will allow for the unrestricted use of that property for nonresidential purposes, and that can be met without the need of engineering controls. Whenever real property is remediated to a nonresidential soil remediation standard, except as otherwise provided in paragraph (3) of subsection g. of this section, the department shall require, pursuant to section 36 of P.L.1993, c.139 (C.58:10B-13), that the use of the property be restricted to nonresidential or other uses compatible with the extent of the contamination of the soil and that access to that site be restricted in a manner compatible with the allowable use of that property.

(2) The department may develop differential remediation standards for surface water or groundwater that take into account the current, planned, or potential use of that water in accordance with the "Clean Water Act" (33

U.S.C. s.1251 et seq.) and the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

d. The department shall develop minimum remediation standards for soil, groundwater, and surface water intended to be protective of public health and safety taking into account the provisions of this section. In developing these minimum health risk remediation standards the department shall identify the hazards posed by a contaminant to determine whether exposure to that contaminant can cause an increase in the incidence of an adverse health effect and whether the adverse health effect may occur in humans. The department shall set minimum soil remediation health risk standards for both residential and nonresidential uses that:

(1) for human carcinogens, as categorized by the United States Environmental Protection Agency, will result in an additional cancer risk of one in one million;

(2) for noncarcinogens, will limit the Hazard Index for any given effect to a value not exceeding one.

The health risk standards established in this subsection are for any particular contaminant and not for the cumulative effects of more than one contaminant at a site.

e. Remediation standards and other remediation requirements established pursuant to this section and regulations adopted pursuant thereto shall apply to remediation activities required pursuant to 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 "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. However, nothing in this subsection shall be construed to limit the authority of the department to establish discharge limits for pollutants or to prescribe penalties for violations of those limits pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), or to require the complete removal of nonhazardous solid waste pursuant to law.

f. (1) A person performing a remediation of contaminated real property, in lieu of using the established minimum soil remediation standard for either residential use or nonresidential use adopted by the department pursuant to subsection c. of this section, may submit to the department a request to use

an alternative residential use or nonresidential use soil remediation standard. The use of an alternative soil remediation standard shall be based upon site specific factors which may include (1) physical site characteristics which may vary from those used by the department in the development of the soil remediation standards adopted pursuant to this section; or (2) a site specific risk assessment. If a person performing a remediation requests to use an alternative soil remediation standard based upon a site specific risk assessment, that person shall demonstrate to the department that the requested deviation from the risk assessment protocol used by the department in the development of soil remediation standards pursuant to this section is consistent with the guidance and regulations for exposure assessment developed by the United States Environmental Protection Agency pursuant to the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 42 U.S.C.s.9601 et seq. and other statutory authorities as applicable. A site specific risk assessment may consider exposure scenarios and assumptions that take into account the form of the contaminant present, natural biodegradation, fate and transport of the contaminant, available toxicological data that are based upon generally accepted and peer reviewed scientific evidence or methodologies , and physical characteristics of the site, including, but not limited to, climatic conditions and topographic conditions. Nothing in this subsection shall be construed to authorize the use of an alternative soil remediation standard in those instances where an engineering control is the appropriate remedial action, as determined by the department, to prevent exposure to contamination.

Upon a determination by the department that the requested alternative remediation standard satisfies the department's regulations, is protective of public health and safety, as established in subsection d. of this section, and is protective of the environment pursuant to subsection a. of this section, the alternative residential use or nonresidential use soil remediation standard shall be approved by the department. The burden to demonstrate that the requested alternative remediation standard is protective rests with the person requesting the alternative standard and the department may require the submission of any documentation as the department determines to be necessary in order for the person to meet that burden.

(2) The department may, upon its own initiative, require an alternative remediation standard for a particular contaminant for a specific real property site, in lieu of using the established minimum residential use or nonresidential use soil remediation standard adopted by the department for a particular contaminant pursuant to this section. The department may require an alternative remediation standard pursuant to this paragraph upon a determination by the department, based on the weight of the scientific evidence, that due to specific physical site characteristics of the subject real property, including,

but not limited to, its proximity to surface water, the use of the adopted residential use or nonresidential use soil remediation standards would not be protective , or would be unnecessarily overprotective, of public health or safety or of the environment, as appropriate.

g. The development, selection, and implementation of any remediation standard or remedial action shall ensure that it is protective of public health, safety, and the environment, as applicable, as provided in this section. In determining the appropriate remediation standard or remedial action that shall occur at a site, the department and any person performing the remediation, shall base the decision on the following factors:

(1) Unrestricted use remedial actions, limited restricted use remedial actions and restricted use remedial actions shall be allowed except that unrestricted use remedial actions and limited restricted use remedial actions shall be preferred over restricted use remedial actions. The department, however, may not disapprove the use of a restricted use remedial action or a limited restricted use remedial action so long as the selected remedial action meets the health risk standard established in subsection d. of this section, and where, as applicable, is protective of the environment. The choice of the remedial action to be implemented shall be made by the person performing the remediation in accordance with regulations adopted by the department and that choice of the remedial action shall be approved by the department if all the criteria for remedial action selection enumerated in this section , as applicable, are met. The department may not require a person to compare or investigate any alternative remedial action as part of its review of the selected remedial action;

(2) Contamination may, upon the department's approval, be left onsite at levels or concentrations that exceed the minimum soil remediation standards for residential use if the implementation of institutional or engineering controls at that site will result in the protection of public health, safety and the environment at the health risk standard established in subsection d. of this section and if the requirements established in subsections a., b., c. and d. of section 36 of P.L.1993, c.139 (C.58:10B-13) are met;

(3) Real property on which there is soil that has not been remediated to the residential soil remediation standards, or real property on which the soil, groundwater, or surface water has been remediated to meet the required health risk standard by the use of engineering or institutional controls, may be developed or used for residential purposes, or for any other similar purpose, if (a) all areas of that real property at which a person may come into contact with soil are remediated to meet the residential soil remediation standards and (b) it is clearly demonstrated that for all areas of the real property, other than those described in subparagraph (a) above, engineering and institutional controls can be implemented and maintained on the real

property sufficient to meet the health risk standard as established in subsection d. of this section;

(4) Remediation shall not be required beyond the regional natural background levels for any particular contaminant. The department shall develop regulations that set forth a process to identify background levels of contaminants for a particular region. For the purpose of this paragraph "regional natural background levels" means the concentration of a contaminant consistently present in the environment of the region of the site and which has not been influenced by localized human activities;

(5) Remediation shall not be required of the owner or operator of real property for contamination coming onto the site from another property owned and operated by another person, unless the owner or operator is the person who is liable for cleanup and removal costs pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.);

(6) Groundwater that is contaminated shall not be required to be remediated to a level or concentration for any particular contaminant lower than the level or concentration that is migrating onto the property from another property owned and operated by another person;

(7) The technical performance, effectiveness and reliability of the proposed remedial action in attaining and maintaining compliance with applicable remediation standards and required health risk standards shall be considered. In reviewing a proposed remedial action, the department shall also consider the ability of the owner or operator to implement the proposed remedial action within a reasonable time frame without jeopardizing public health, safety or the environment;

(8) The use of a remedial action for soil contamination that is determined by the department to be effective in its guidance document created pursuant to section 38 of P.L.1993, c.139 (C.58:10B-14), is presumed to be an appropriate remedial action if it is to be implemented on a site in the manner described by the department in the guidance document and applicable regulations and if all of the conditions for remedy selection provided for in this section are met. The burden to prove compliance with the criteria in the guidance document is with the person performing the remediation;

(9) (Deleted by amendment, P.L.1997, c.278).

The burden to demonstrate that a remedial action is protective of public health, safety and the environment, as applicable, and has been selected in conformance with the provisions of this subsection is with the person proposing the remedial action.

The department may require the person performing the remediation to supply the information required pursuant to this subsection as is necessary for the department to make a determination.

h. (1) The department shall adopt regulations which establish a procedure for a person to demonstrate that a particular parcel of land contains large quantities of historical fill material. Upon a determination by the department that large quantities of historic fill material exist on that parcel of land, there is a rebuttable presumption that the department shall not require any person to remove or treat the fill material in order to comply with applicable health risk or environmental standards. In these areas the department shall establish by regulation the requirement for engineering or institutional controls that are designed to prevent exposure of these contaminants to humans, that allow for the continued use of the property, that are less costly than removal or treatment, which maintain the health risk standards as established in subsection d. of this section, and, as applicable, are protective of the environment. The department may rebut the presumption only upon a finding by the preponderance of the evidence that the use of engineering or institutional controls would not be effective in protecting public health, safety, and the environment. The department may not adopt any rule or regulation that has the effect of shifting the burden of rebutting the presumption. For the purposes of this paragraph "historic fill material" means generally large volumes of non-indigenous material, no matter what date they were emplaced on the site, used to raise the topographic elevation of a site, which were contaminated prior to emplacement and are in no way connected with the operations at the location of emplacement and which include, but are not limited to, construction debris, dredge spoils, incinerator residue, demolition debris, fly ash, and non-hazardous solid waste. Historic fill material shall not include any material which is substantially chromate chemical production waste or any other chemical production waste or waste from processing of metal or mineral ores, residues, slags or tailings.

(2) The department shall develop recommendations for remedial actions in large areas of historic industrial contamination. These recommendations shall be designed to meet the health risk standards established in subsection d. of this section, and to be protective of the environment and shall take into account the industrial history of these sites, the extent of the contamination that may exist, the costs of remedial actions, the economic impacts of these policies, and the anticipated uses of these properties. The department shall issue a report to the Senate Environment Committee and to the Assembly Agriculture and Waste Management Committee, or their successors, explaining these recommendations and making any recommendations for legislative or regulatory action.

(3) The department may not, as a condition of allowing the use of a nonresidential use soil remediation standard, or the use of institutional or engineering controls, require the owner of that real property, except as

provided in section 36 of P.L.1993, c.139 (C.58:10B-13), to restrict the use of that property through the filing of a deed easement, covenant, or condition.

i. The department may not require a remedial action workplan to be prepared or implemented or engineering or institutional controls to be imposed upon any real property unless sampling performed at that real property demonstrates the existence of contamination above the applicable remediation standards.

j. Upon the approval by the department of a remedial action workplan, or similar plan that describes the extent of contamination at a site and the remedial action to be implemented to address that contamination, the department may not subsequently require a change to that workplan or similar plan in order to compel a different remediation standard due to the fact that the established remediation standards have changed; however, the department may compel a different remediation standard if the difference between the new remediation standard and the remediation standard approved in the workplan or other plan differs by an order of magnitude. The limitation to the department's authority to change a workplan or similar plan pursuant to this subsection shall only apply if the workplan or similar plan is being implemented in a reasonable timeframe, as may be indicated in the approved remedial action workplan or similar plan.

k. Notwithstanding any other provisions of this section, all remediation standards and remedial actions that involve real property located in the Pinelands area shall be consistent with the provisions of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), any rules and regulations promulgated pursuant thereto, and with section 502 of the "National Parks and Recreation Act of 1978," 16 U.S.C. s.471i; and all remediation standards and remedial actions that involve real property located in the Highlands preservation area shall be consistent with the provisions of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and any rules and regulations and the Highland regional master plan adopted pursuant thereto.

l. Upon the adoption of a remediation standard for a particular contaminant in soil, groundwater, or surface water pursuant to this section, the department may amend that remediation standard only upon a finding that a new standard is necessary to maintain the health risk standards established in subsection d. of section 35 of P.L.1993, c.139 (C.58:10B-12) or to protect the environment, as applicable. The department may not amend a public health based soil remediation standard to a level that would result in a health risk standard more protective than that provided for in subsection d. of section 35 of P.L.1993, c.139 (C.58:10B-12).

m. Nothing in P.L.1993, c.139 shall be construed to restrict or in any way diminish the public participation which is otherwise provided under the

provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.).

n. Notwithstanding any provision of subsection a. of section 36 of P.L.1993, c.139 (C.58:10B-13) to the contrary, the department may not require a person intending to implement a remedial action at an underground storage tank facility storing heating oil for on-site consumption at a one to four family residential dwelling to provide advance notice to a municipality prior to implementing that remedial action.

o. A person who has remediated a site pursuant to the provisions of this section, who was liable for the cleanup and removal costs of that discharge pursuant to the provisions of paragraph (1) of subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), and who remains liable for the discharge on that site due to a possibility that a remediation standard may change, undiscovered contamination may be found, or because an engineering control was used to remediate the discharge, shall maintain with the department a current address at which that person may be contacted in the event additional remediation needs to be performed at the site. The requirement to maintain the current address shall be made part of the conditions of the no further action letter issued by the department.

82. Section 1 of P.L.1999, c.225 (C.58:29-8) is amended to read as follows:

C.58:29-8 Annual appropriation to municipalities for lands subject to moratorium on conveyance of watershed lands.

1. There shall be appropriated each State fiscal year from the "Highlands Protection Fund" created pursuant to section 19 of P.L.2004, c.120 (C.54:1-85) to each municipality within which any lands subject to the moratorium on the conveyance of watershed lands imposed pursuant to section 1 of P.L.1988, c.163, as amended by section 1 of P.L.1990, c.19, are located an amount of $47 per acre of such lands located within the municipality. Notwithstanding the provisions of this section to the contrary, the per acre amount of watershed moratorium offset aid prescribed by this section shall be adjusted annually in direct proportion to the increase or decrease in the Consumer Price Index for all urban consumers in the New York City area as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of the year in which the adjustment is made.

83. This act shall take effect immediately.

Approved August 10, 2004.

CHAPTER 121

AN ACT establishing a pilot project for the public financing of the campaigns of candidates seeking election to the office of member of the General Assembly.

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

1. This act shall be known and may be cited as the "New Jersey Fair and Clean Elections Pilot Project."

2. The Legislature finds and declares that:

a. It is the opinion of many residents of this State that the current system of privately-financed campaigns for office of member of the Legislature allows individuals and committees who contribute large amounts of money to have an undue influence on the political process.

b. There is also the belief among many residents that under the current system, the free-speech rights of those candidates and voters who are not wealthy are diminished because the political process is influenced by individuals and committees who can afford to spend large amounts of money on political communications.

c. The result of these beliefs is an erosion in public confidence in the democratic process and democratic institutions, leaving much of the electorate questioning whether their elected officials are accountable mostly to the major contributors who finance their campaigns.

d. It is possible that a voluntary clean money campaign finance system for legislative candidates would strengthen democracy in New Jersey by removing access to wealth as a major determinant of a citizen's influence within the political process.

e. Establishment of a clean elections pilot project would provide selected candidates for the offices of member of the General Assembly with equal resources with which to communicate with voters, reverse the escalating cost of elections and free those candidates from the chore of raising money, thus allowing them more time to conduct their official duties and communicate with their constituents.

f. This pilot project, based on the laws currently in effect in Maine and Arizona, would be a significant step towards strengthening public confidence in this State's democratic processes and institutions.

3. As used in this act:

"Certified candidate" means a candidate seeking election to the office of member of the General Assembly who chooses to seek such office pursuant to the provisions of the "New Jersey Fair and Clean Elections Pilot Project" and is certified as a New Jersey Fair and Clean Elections candidate pursuant to section 9 of this act.

"Commission" means the Election Law Enforcement Commission, established pursuant to section 5 of P.L.1973, c.83 (C.19:44A-5).

"Department" means the Department of the Treasury.

"Fund" means the New Jersey Fair and Clean Elections Fund established pursuant to section 5 of this act.

"New Jersey Fair and Clean Elections candidate" means a candidate who is a certified candidate.

"NJCCEC" means the New Jersey Citizens' Clean Elections Commission established pursuant to section 17 of this act.

"Nonparticipating candidate" means a candidate seeking election to the office of member of the General Assembly who does not seek office pursuant to the provisions of this act and is not certified as a New Jersey Fair and Clean Elections candidate pursuant to section 9 of this act.

"Participating candidate" means a candidate seeking election to the office of member of the General Assembly who chooses to seek such office pursuant to the provisions of this act and is seeking certification as a New Jersey Fair and Clean Elections candidate pursuant to section 9 of this act.

"Qualifying contribution" means any contribution of money made to a participating candidate by any individual:

a. who is a voter registered to vote in the legislative district the candidate represents or seeks to represent;

b. contributed during the designated qualifying period and received with the knowledge and approval of the candidate;

c. that is acknowledged by a written receipt that identifies the name and mailing address of the contributor, and the occupation of that person and the name and mailing address of the person's employer on forms provided by the commission; and

d. that equals for a candidate seeking election to the office of member of the General Assembly in 2005, at least 1,000 contributions of $5 and at least 500 contributions of $30 in the form of a check or money order payable to the fund in support of a participating candidate.

"Qualifying period" means for a participating candidate seeking election to the office of member of the General Assembly in 2005, the period of time beginning the 25th day following the day of the primary election that year and ending at 4 p.m. on the 62nd day prior to the day of the next immediate general election.

"Seed money contribution" means a contribution of money of no more than $200 per individual made to a participating candidate and includes a contribution from the candidate or from a member of the candidate's immediate family.

4. There is hereby established a pilot project for the public financing of the campaign of candidates seeking election to the office of member of the General Assembly from two legislative districts in 2005. The pilot project shall be open to certified candidates for those offices nominated directly by petition. Candidates participating in this pilot project shall comply with all applicable provisions of the "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (C.19:44A-1 et seq.), unless otherwise provided by this act.

5. a. There is established in the Department of the Treasury a fund to be known as the "New Jersey Fair and Clean Elections Fund," hereinafter referred to as the fund, to be held separate and apart from all other funds of the State. The department shall administer the fund and moneys in the fund shall be used to finance the election campaigns of New Jersey Fair and Clean Elections candidates, certified as such by the commission pursuant to section 9 of this act, seeking election to the office of member of the General Assembly, as provided by this act. All moneys on deposit pursuant to subsection b. of this section shall be appropriated for the fiscal year in which there is an election to elect members of the General Assembly, as required pursuant to this act.

b. Moneys from the following sources shall be deposited in the fund:

(1) the qualifying contributions required to be submitted to the commission pursuant to section 9 of this act;

(2) seed money contributions remaining unspent after a candidate has become a certified candidate;

(3) voluntary donations made directly to the fund;

(4) all earnings received from the investment of money in the fund;

(5) fines and penalties collected by the commission pursuant to section 18 of this act; and

(6) money appropriated to the fund.

6. The participants in the New Jersey Fair and Clean Elections Pilot Project shall be selected as follows:

a. The chair of the State political party whose candidate for the office of Governor received the largest number of votes in the most recent gubernatorial election shall select one of the following three legislative districts: the 6th, 7th or 15th district, which districts were approved by the Apportionment

Commission on April 11, 2001 and described in the corrected plan for legislative districts filed with the New Jersey Secretary of State on April 17, 2001, and the individuals who are candidates for election to the office of member of the General Assembly in 2005 from the selected district and members of the same political party as the chair shall be deemed participating candidates; and

b. The chair of the State political party whose candidate for the office of Governor received the next largest number of votes in the most recent gubernatorial election shall select one of the following three legislative districts: the 9th, 11th or 13th district, which districts were approved by the Apportionment Commission on April 11, 2001 and described in the corrected plan for legislative districts filed with the New Jersey Secretary of State on April 17, 2001, and the individuals who are candidates for election to the office of member of the General Assembly in 2005 from the selected district and members of the same political party as the chair shall be deemed participating candidates.

c. The selections required by subsections a. and b. of this section shall be made by the respective State chairs no later than the 20th day following the day of the primary election in 2005.

d. In the event that one or both of the State chairs refuse to make such a selection by the deadline provided for in subsection c. of this section, there shall be established an alternative selection committee to make such a selection from the districts stated in subsection a. or subsection b. of this section, as may be appropriate. The committee shall be comprised of three members: one former Governor of this State and one other person, each to be appointed by the Speaker of the General Assembly and one person to be appointed by the Minority Leader of the General Assembly. The appointments to the committee shall be made no later than the 21st day following the day of the primary election. The committee shall select the district or districts to participate in the pilot project no later than the 24th following the day of the primary election.

7. a. Upon selection pursuant to section 6 of this act, each participating candidate shall:

(1) sign and file a declaration of intent to seek certification as a New Jersey Fair and Clean Elections candidate and to comply with the requirements of this act and it shall be filed with the commission prior to or during the qualifying period using the forms and procedures developed by the commission pursuant to section 19 of this act;

(2) submit a declaration of intent prior to accepting qualifying contributions under section 8 of this act; and

(3) (a) suspend, for the time the person is a participating or certified candidate, all access the candidate or any member of the candidate committee has to the funds of the candidate committee of that candidate, including those that the candidate has as part of a joint candidates committee, which have been raised prior to selection, except as provided in subsection b.; and

(b) certify on a form to be developed by the commission that he or she will not seek to use such funds in any way that would assist the candidate once certified as a New Jersey Fair and Clean Elections candidate.

b. A participating candidate may use funds raised and reported to the commission pursuant to P.L.1973, c.83 (C.19:44A-1 et seq.) prior to becoming such a candidate as the seed money required of a participating candidate, but only to the extent that such money can be attributable to contributions of $200 or less from individuals.

8. a. Subsequent to being selected as a participating candidate and prior to certification as a certified candidate, a participating candidate shall not accept contributions other than qualifying contributions, nor shall a participating candidate accept seed money contributions greater than $3,000 in the aggregate for a candidate seeking election to the office of member of the General Assembly in 2005.

b. For a participating candidate seeking election to the office of member of the General Assembly in 2005 to show that he or she has sufficient support, the candidate shall obtain qualifying contributions during the qualifying period from no fewer than 1,500 voters registered to vote in the legislative district the candidate represents or seeks to represent.

No payment, gift or other thing of value shall be given in exchange for a qualifying contribution.

c. A participating candidate shall submit qualifying contributions to the commission in accordance with procedures developed by the commission.

9. Upon receipt of the final submittal of qualifying contributions within the qualifying period by a participating candidate, the commission shall certify that candidate as a New Jersey Fair and Clean Elections candidate if the candidate has:

a. signed and filed a declaration of intent to participate in the election as a New Jersey Fair and Clean Elections candidate, pursuant to section 7 of this act;

b. received the appropriate amount of valid qualifying contributions, pursuant to section 8 of this act;

c. not accepted other contributions, except for seed money contributions, and otherwise complied with the contribution restrictions of this act;

d. in the case of candidates seeking election to the offices of member of the General Assembly by direct nomination, submitted to the Attorney General a petition of nomination with the required number of valid signatures, as required by chapter 13 of Title 19 of the Revised Statutes; and

e. otherwise met the requirements to be considered a New Jersey Fair and Clean Elections candidate pursuant to this act.

No participating candidate, other than such a candidate seeking office by means of direct nomination by petition, shall be certified as a New Jersey Fair and Clean Elections candidate unless both candidates for election to the office of member of the General Assembly in 2005 who are members of the same political party in the legislative district the candidates represent or seek to represent, meet the criteria established by this section and are otherwise eligible to be certified as New Jersey Fair and Clean Elections candidates.

The commission shall certify a participating candidate as soon as possible, and in any case no later than three days, after the candidate makes his or her final submission of qualifying contributions. Upon certification, a candidate shall transfer to the fund any unspent seed money contributions. A certified candidate shall comply with the provisions of this act after the candidate has been certified through the period of the general election, for candidates for election to the office of member of the General Assembly in 2005.

To be eligible for certification, a candidate shall accept and spend only seed money contributions after becoming a participating candidate and throughout the qualifying period. A participating candidate shall not accept or spend seed money contributions after certification as a New Jersey Fair and Clean Elections candidate. All seed money contributions shall be reported to the commission in accordance with procedures developed thereby pursuant to section 19 of this act.

After certification, a candidate shall limit his or her campaign expenditures and obligations, including outstanding obligations, to the moneys distributed to the candidate from the fund and shall not accept any other contributions unless specifically authorized by the commission. All such funds distributed to certified candidates from the fund shall be used only for the purposes provided in section 17 of P.L.1993, c.65 (C.19:44A-11.2).

A certified candidate shall not appear, or authorize his or her name, image or photograph to be used, in any advertisements promoting the election of a nonparticipating candidate seeking public office in the same district as the certified candidate.

Once certified, a candidate shall be permitted to withdraw from being a certified candidate and become a nonparticipating candidate at any time prior to the day of the election with the approval of the NJCCEC, which shall consider such requests on a case by case basis. Any candidate who

withdraws from being a certified candidate shall remit to the fund any money received therefrom pursuant to this act unless directed otherwise by the NJCCEC and the commission may access a penalty for such a withdrawal.

10. Each participating candidate certified as a New Jersey Fair and Clean Elections candidate in 2005 and seeking election to the office of member of the General Assembly shall be provided with an amount of money from the fund equal to 75 percent of the average amount of money expended by candidates who are members of the political parties seeking the office of member of the General Assembly in the legislative districts of those certified candidates in the two immediately preceding general elections for that office, as determined by the commission, but in no event shall the amount of money thus provided exceed $100,000.

All such money shall be provided by the department from the fund established in section 5 of this act no later than the third day following certification in accordance with such procedures as the department and the commission shall establish.

11. a. If the certified candidates seeking election to the office of member of the General Assembly in 2005 are opposed for election from the legislative district in which they seek office by nonparticipating candidates, each such certified candidate shall receive from the fund an amount of the money equal to the amount of money that would have been issued to each nonparticipating candidate from the fund pursuant to section 10 of this act if that nonparticipating candidate had been a certified candidate.

b. If a campaign report of a nonparticipating candidate for election to the office of member of the General Assembly in 2005 shows that the aggregate amount of the contributions, alone or in conjunction with money spent on behalf of such a candidate by a person or a political committee, continuing political committee, political party committee, candidate committee, joint candidates committee or legislative leadership committee not acting in concert with that nonparticipating candidate, exceeds the amount of money provided to each certified candidate pursuant to section 10 of this act for such candidates in the district, the department shall issue to each certified candidate, as soon as practicable, an additional amount of money from the fund equivalent to the excess amount, up to a maximum of $50,000.

c. If certified candidates or nonparticipating candidates are determined by the commission to be benefiting from money spent on behalf of such candidates by a person or a political committee, continuing political committee, political party committee, candidate committee, joint candidates committee or legislative leadership committee not acting in concert with those certified candidates or nonparticipating candidates, each of the certified

candidates seeking election to the office of member of the General Assembly in 2005 in the same legislative district who are not benefiting from such an expenditure of money shall be provided with money from the fund, following a procedure to be determined by the commission, in an amount not to exceed $50,000.

d. These amounts of money shall be in addition to the money from the fund provided to a certified candidate seeking election to the office of member of the General Assembly in 2005, pursuant to section 10 of this act.

12. A candidate seeking the office of member of the General Assembly in 2005 by means of direct nomination by petition, pursuant to chapter 13 of Title 19 of the Revised Statutes, and who is certified by the commission shall be eligible for moneys from the fund at the same time as the other certified candidates seeking election to that office who have been nominated in a primary election, but in an amount equal to not more than half of the amount provided to the other certified candidates, as provided in section 10 of this act.

13. Notwithstanding the provisions of section 16 of P.L.1973, c.83 (C.19:44A-16) or any other law, rule or regulation relating to the reporting of campaign contributions by a candidate to the contrary, certified candidates shall report all contributions and expenditures, obligations and related activities to the commission on a schedule and according to procedures developed by the commission. In developing such schedule and procedures, the commission shall use to the greatest extent possible the existing campaign reporting schedule and procedures established in section 16 of P.L.1973, c.83 (C.19:44A-16) for candidate committees and joint candidates committees.

Each certified candidate who is defeated in a general election in 2005 shall, upon the filing of a final report relative to the election, return to the commission for deposit into the fund all unspent fund moneys.

The commission shall insure public access to the campaign finance reports required pursuant to this section and, wherever possible, shall use electronic means for the reporting, storing and display of such information.

The commission shall also prepare a voter's guide for the general public for each of the elections in which certified candidates are seeking office in 2005. The guide shall list the names of each candidate seeking office at that election and both certified candidates and nonparticipating candidates shall be invited by the commission to submit a statement, not to exceed 500 words in length for inclusion in the guide. It shall identify the candidates that are certified candidates and the candidates that are nonparticipating candidates.

Copies of the guide shall be posted on the web site of the commission as soon as may be practicable.

14. Whenever any certified candidate makes, incurs, or authorizes an expenditure to finance a communication aiding or promoting the election of the candidate alone or in conjunction with the other certified candidate who is a member of the same political party and seeking the office of member of the General Assembly from the same legislative district, or the defeat of such candidate's or candidates' opponent or opponents, the communication shall include:

(a) in the case of radio, an audio statement in the candidate's own voice, or if in conjunction with the other certified candidate each candidate's own voice, that identifies the candidate, the office the candidate is seeking, and that the candidate has approved the communication; or

(b) in the case of television, the Internet or any other similar form of communication containing audio and visual, a statement in the candidate's own voice, or if in conjunction with the other certified candidate in each candidate's own voice, that identifies the candidate, the office the candidate is seeking, and that the candidate has approved the communication, that is either spoken by the candidate during an unobscured full-screen view of the candidate or through a voice-over by the candidate accompanied by a clearly identifiable photograph or similar image of the candidate that occupies at least eighty percent of the vertical screen height, and includes the candidate's statement at the end of the communication in clearly readable writing in letters equal to at least four percent of the vertical picture height and visible for at least four seconds, except that an Internet communication consisting of printed material only, with or without photographs, shall include the written statement described above; or

(c) in the case of any other form of communication, the communication shall include the written statement described in subparagraph (b) above.

A certified candidate alone or in conjunction with the other certified candidate who is a member of the same party and seeking the office of member of the General Assembly from the same legislative district may include in any communication made pursuant to this section a statement that he or she is a New Jersey Fair and Clean Elections candidate.

15. a. A candidate who has been denied certification by the commission as a New Jersey Fair and Clean Elections candidate or an opponent for a public office of a candidate who has been certified as a New Jersey Fair and Clean Elections candidate may challenge a certification decision by the commission as follows.

A candidate or an opponent may appeal to the commission within three days of the decision to grant or deny a certification. The appeal shall be in writing and shall set forth the reasons for the appeal.

Within five days after an appeal is filed, the commission shall hold a hearing thereon after notice is given of the hearing to the challenger. The challenger has the burden of providing evidence to demonstrate that the decision of the commission to certify, or to deny certification of, the candidate was improper. The commission shall rule on the appeal within three days after the completion of the hearing.

A challenger may appeal to Superior Court a decision on an appeal rendered by the commission pursuant to this section and the court shall hear the appeal and render a decision thereon in an expedited manner.

b. Any candidate whose certification by the commission is revoked as a result of an appeal to Superior Court shall return to the commission for deposit into the fund any unspent moneys received to date from the fund.

c. If the commission or the court finds that an appeal was made frivolously or to cause delay or hardship, the commission or court may require the challenger to pay the expenses of the commission, the court and the challenged candidate, if any such expenses have been incurred.

16. The commission shall sponsor at least two debates among the candidates participating in the pilot project established by this act. All certified candidates shall be required to participate in the debates. The manner in which such debates are conducted shall be determined by the commission, which shall also specify by rule or regulation the penalty a certified candidate shall incur for failure to participate in such a debate. All certified candidates shall be announced as to their certification and the meaning of that certification during the debate, in a manner to be determined by the commission. The commission shall invite and permit nonparticipating candidates to participate in the debates.

17. a. There is established a commission, to be known as the New Jersey Citizens' Clean Elections Commission, to consist of nine members. The Governor shall appoint one person who is a member of the public, and the Senate President and the Speaker of the General Assembly shall each appoint two persons, each of whom are members of the public. No more than three of the public members shall be members of the same political party.

The Senate President shall appoint one member of the Senate, who shall be a member of the same political party as the Senate President. The Senate Minority Leader shall appoint one member of the Senate, who shall be a member of the same political party as the Senate Minority Leader. The Speaker of the General Assembly shall appoint one member of the General

Assembly, who shall be a member of the same political party as the Speaker. The Minority Leader of the General Assembly shall appoint one member of the General Assembly, who shall be a member of the same political party as the General Assembly Minority Leader. A vacancy in the membership of the NJCCEC shall be filled in the same manner in which the original appointment was made.

b. The members of the NJCCEC shall be appointed no later than the 30th day following January 1, 2005 and shall hold their initial organizational meeting no later than the 30th day following their appointment. The members shall elect one of the members to serve as chair and the chair may appoint a secretary, who need not be a member of the NJCCEC. The members of the NJCCEC shall serve without compensation, but shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their official duties within the limits of funds appropriated or otherwise made available to the NJCCEC.

c. The NJCCEC shall meet at the call of the chair. The NJCCEC shall elicit testimony from the public at such times and places as the chair shall designate and shall hold at least three public hearings in different parts of the State following the 2005 general election. A meeting of the NJCCEC shall be called at the request of five of the NJCCEC's members and five members of the NJCCEC shall constitute a quorum at any meeting thereof.

d. It shall be the duty of the NJCCEC to:

(1) examine the experience, both positive and negative, of the New Jersey Fair and Clean Elections Pilot Project with respect to the election of members of the General Assembly in 2005;

(2) review and recommend criteria for selecting districts to participate in the pilot project in 2007 and provide information to candidates in those districts seeking nomination for election and election to the office of member of the Senate and the office of member of the General Assembly regarding:

(a) the seed money contribution amount, qualifying contribution amount and the qualifying period for candidates seeking the office of member of the Senate; and

(b) the amount of money from the fund provided to, and the qualifying period for, candidates in a primary election for the general election, and the criteria for selection of legislative districts to participate in the New Jersey Fair and Clean Elections Pilot Project as candidates seeking the office of member of the Senate and candidates seeking the office of member of the General Assembly;

(3) determine the feasibility of establishing the New Jersey Fair and Clean Elections Pilot Project as the public financing system for candidates for the offices of member of the Senate and General Assembly in this State;

(4) examine the means by which to finance the New Jersey Fair and Clean Elections Pilot Project for candidates in this State; and

(5) consider such other matters relating to the issue of "clean elections" and campaign finance as the members of the NJCCEC may deem appropriate.

e. The NJCCEC shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, bureau, commission or agency, as it may require and as may be available for its purposes, and to employ stenographic and clerical assistance.

f. The NJCCEC shall:

(1) issue a preliminary report to the Legislature on the pilot project established by this act with respect to the 2005 general election no later than the 90th day following the day of that election; and

(2) issue a final report to the Legislature on its findings and recommendations relative to the pilot project with respect to the 2005 general election, including, but not limited to, any suggestions for changes in the project for the 2007 primary and general elections, no later than the 180th day following the day of the 2005 general election and the final report shall contain such legislation as prepared by the NJCCEC and recommended thereby for enactment.

18. a. (1) Any person, including any candidate, treasurer or other official associated with the campaign of a certified or participating candidate, with the responsibility for the preparation, certification, filing or retention of any reports, records, notices or other documents in paper or electronic form, who fails, neglects or omits to prepare, certify, file or retain any such report, record, notice or document at the time or during the time period, as the case may be, and in the manner prescribed by law, or who omits or incorrectly states or certifies any of the information required by law to be included in such report, record, notice or document, and any other person who in any way violates any of the provisions of this act, shall, in addition to any other penalty provided by law, be liable to a penalty of not more than $6,000 for the first offense and not more than $12,000 for the second and each subsequent offense. Upon receiving evidence of a violation, the commission shall use the procedure provided for in section 22 of P.L.1973, c.83 (C.19:44A-22) for investigating the violation and assessing a penalty, if deemed appropriate.

(2) The fine imposed for a violation of paragraph (1) of this subsection shall, upon payment to the commission, be deposited in the fund.

b. Any individual found to have knowingly and willfully given any amount of money to another person for the purpose of having that other

person give such money, or a part thereof, to a participating candidate as a qualifying contribution is guilty of a crime of the fourth degree.

c. (1) Any person, including any candidate, treasurer or other official associated with the campaign of a certified or participating candidate, who knowingly and willfully makes a false statement or files a false report, record, notice or document in paper or electronic form or so violates any other provision of this act is guilty of a crime of the third degree.

(2) Any individual found to be in violation of paragraph (1) of this subsection shall remit in an expedited manner to the commission for deposit into the fund all moneys distributed to the candidate since he or she was certified as a New Jersey Fair and Clean Elections candidate for the election cycle in which the offense occurred.

d. Any participating candidate who files a report found to be in violation of section 8 of this act shall be disqualified as a candidate for the public office sought or shall forfeit office if elected.

19. The commission shall promulgate such rules and regulations as it deems necessary to implement the provisions of this act. These rules and regulations shall include, but not be limited to, procedures for obtaining qualifying contributions, obtaining certification as a New Jersey Fair and Clean Elections candidate, the collection of moneys for the fund, the distribution of fund moneys to certified candidates and the return of unspent distributed fund moneys from certified candidates.

20. The Fair and Clean Elections Pilot Project established by this act shall be reauthorized by the Legislature and the Governor in sufficient time to permit candidates in each of four legislative districts to be able to seek nomination for election and election to the office of member of the Senate and the office of member of the General Assembly in 2007 pursuant to this project. The act reauthorizing the project shall consider the findings and recommendations contained in the final report of the NJCCEC, pursuant to section 16 of this act (P.L.2004, c.121).

21. This act shall take effect immediately, except that:

a. sections 1 through 16 and sections 18 through 19 shall expire on the day the NJCCEC issues its final report; and

b. section 17 shall expire on the 180th day following the day the NJCCEC issues its final report.

Approved August 11, 2004.

CHAPTER 122

AN ACT concerning advanced practice nurses and amending P.L.1947, c.262 and P.L.1991, c.377.

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

1. Section 1 of P.L.1947, c.262 (C.45:11-23) is amended to read as follows:

C.45:11-23 Definitions.

1. As used in this act:

a. The words "the board" mean the New Jersey Board of Nursing created by this act.

b. The practice of nursing as a registered professional nurse is defined as diagnosing and treating human responses to actual or potential physical and emotional health problems, through such services as casefinding, health teaching, health counseling, and provision of care supportive to or restorative of life and well-being, and executing medical regimens as prescribed by a licensed or otherwise legally authorized physician or dentist. Diagnosing in the context of nursing practice means the identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing regimen within the scope of practice of the registered professional nurse. Such diagnostic privilege is distinct from a medical diagnosis. Treating means selection and performance of those therapeutic measures essential to the effective management and execution of the nursing regimen. Human responses means those signs, symptoms, and processes which denote the individual's health need or reaction to an actual or potential health problem.

The practice of nursing as a licensed practical nurse is defined as performing tasks and responsibilities within the framework of casefinding; reinforcing the patient and family teaching program through health teaching, health counseling and provision of supportive and restorative care, under the direction of a registered nurse or licensed or otherwise legally authorized physician or dentist.

The terms "nursing," "professional nursing," and "practical nursing" as used in this act shall not be construed to include nursing by students enrolled in a school of nursing accredited or approved by the board performed in the prescribed course of study and training, nor nursing performed in hospitals, institutions and agencies approved by the board for this purpose by graduates of such schools pending the results of the first licensing examination sched-

uled by the board following completion of a course of study and training and the attaining of age qualification for examination, or thereafter with the approval of the board in the case of each individual pending results of subsequent examinations; nor shall any of said terms be construed to include nursing performed for a period not exceeding 12 months unless the board shall approve a longer period, in hospitals, institutions or agencies by a nurse legally qualified under the laws of another state or country, pending results of an application for licensing under this act, if such nurse does not represent or hold himself or herself out as a nurse licensed to practice under this act; nor shall any of said terms be construed to include the practice of nursing in this State by any legally qualified nurse of another state whose engagement made outside of this State requires such nurse to accompany and care for the patient while in this State during the period of such engagement, not to exceed six months in this State, if such nurse does not represent or hold himself or herself out as a nurse licensed to practice in this State; nor shall any of said terms be construed to include nursing performed by employees or officers of the United States Government or any agency or service thereof while in the discharge of his or her official duties; nor shall any of said terms be construed to include services performed by nurses aides, attendants, orderlies and ward helpers in hospitals, institutions and agencies or by technicians, physiotherapists, or medical secretaries, and such duties performed by said persons aforementioned shall not be subject to rules or regulations which the board may prescribe concerning nursing; nor shall any of said terms be construed to include first aid nursing assistance, or gratuitous care by friends or members of the family of a sick or infirm person, or incidental care of the sick by a person employed primarily as a domestic or housekeeper, notwithstanding that the occasion for such employment may be sickness, if such incidental care does not constitute professional nursing and such person does not claim or purport to be a licensed nurse; nor shall any of said terms be construed to include services rendered in accordance with the practice of the religious tenets of any well-recognized church or denomination which subscribes to the art of healing by prayer. A person who is otherwise qualified shall not be denied licensure as a professional nurse or practical nurse by reason of the circumstances that such person is in religious life and has taken a vow of poverty.

c. "Homemaker-home health aide" means a person who is employed by a home care services agency and who is performing delegated nursing regimens or nursing tasks delegated through the authority of a duly licensed registered professional nurse. "Home care services agency" means home health agencies, assisted living residences, comprehensive personal care homes, assisted living programs or alternate family care sponsor agencies licensed by the Department of Health and Senior Services pursuant to

P.L.1971, c.136 (C.26:2H-1 et al.), nonprofit homemaker-home health aide agencies, and health care service firms regulated by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety and the Attorney General pursuant to P.L.1989, c.331 (C.34:8-43 et seq.) and P.L.1960, c.39 (C.56:8-1 et seq.) respectively, which are engaged in the business of procuring or offering to procure employment for homemaker-home health aides, where a fee may be exacted, charged or received directly or indirectly for procuring or offering to procure that employment.

d. "Advanced practice nurse" means a person who holds a certification in accordance with section 8 or 9 of P.L.1991, c.377 (C.45:11-47 or 45:11-48).

e. "Collaborating physician" means a person licensed to practice medicine and surgery pursuant to chapter 9 of Title 45 of the Revised Statutes who agrees to work with an advanced practice nurse.

Nothing in this act shall confer the authority to a person licensed to practice nursing to practice another health profession as currently defined in Title 45 of the Revised Statutes.

2. Section 10 of P.L.1991, c.377 (C.45:11-49) is amended to read as follows:

C.45:11-49 Permitted duties of advanced practice nurse.

10. a. In addition to all other tasks which a registered professional nurse may, by law, perform, an advanced practice nurse may manage preventive care services, and diagnose and manage deviations from wellness and long-term illnesses, consistent with the needs of the patient and within the scope of practice of the advanced practice nurse, by:

(1) initiating laboratory and other diagnostic tests;

(2) prescribing or ordering medications and devices, as authorized by subsections b. and c. of this section; and

(3) prescribing or ordering treatments, including referrals to other licensed health care professionals, and performing specific procedures in accordance with the provisions of this subsection.

b. An advanced practice nurse may order medications and devices in the inpatient setting, subject to the following conditions:

(1) the collaborating physician and advanced practice nurse shall address in the joint protocols whether prior consultation with the collaborating physician is required to initiate an order for a controlled dangerous substance;

(2) the order is written in accordance with standing orders or joint protocols developed in agreement between a collaborating physician and the advanced practice nurse, or pursuant to the specific direction of a physician;

(3) the advanced practice nurse authorizes the order by signing his own name, printing the name and certification number, and printing the collaborating physician's name;

(4) the physician is present or readily available through electronic communications;

(5) the charts and records of the patients treated by the advanced practice nurse are reviewed by the collaborating physician and the advanced practice nurse within the period of time specified by rule adopted by the Commissioner of Health and Senior Services pursuant to section 13 of P.L.1991, c.377 (C.45:11-52);

(6) the joint protocols developed by the collaborating physician and the advanced practice nurse are reviewed, updated and signed at least annually by both parties; and

(7) the advanced practice nurse has completed six contact hours of continuing professional education in pharmacology related to controlled substances, including pharmacologic therapy and addiction prevention and management, in accordance with regulations adopted by the New Jersey Board of Nursing. The six contact hours shall be in addition to New Jersey Board of Nursing pharmacology education requirements for advanced practice nurses related to initial certification and recertification of an advanced practice nurse as set forth in N.J.A.C.13:37-7.2 and 13:37-7.5.

c. An advanced practice nurse may prescribe medications and devices in all other medically appropriate settings, subject to the following conditions:

(1) the collaborating physician and advanced practice nurse shall address in the joint protocols whether prior consultation with the collaborating physician is required to initiate a prescription for a controlled dangerous substance;

(2) the prescription is written in accordance with standing orders or joint protocols developed in agreement between a collaborating physician and the advanced practice nurse, or pursuant to the specific direction of a physician;

(3) the advanced practice nurse writes the prescription on a New Jersey Prescription Blank pursuant to P.L.2003, c.280 (C.45:14-40 et seq.), signs his name to the prescription and prints his name and certification number;

(4) the prescription is dated and includes the name of the patient and the name, address and telephone number of the collaborating physician;

(5) the physician is present or readily available through electronic communications;

(6) the charts and records of the patients treated by the advanced practice nurse are periodically reviewed by the collaborating physician and the advanced practice nurse;

(7) the joint protocols developed by the collaborating physician and the advanced practice nurse are reviewed, updated and signed at least annually by both parties; and

(8) the advanced practice nurse has completed six contact hours of continuing professional education in pharmacology related to controlled substances, including pharmacologic therapy and addiction prevention and management, in accordance with regulations adopted by the New Jersey Board of Nursing. The six contact hours shall be in addition to New Jersey Board of Nursing pharmacology education requirements for advanced practice nurses related to initial certification and recertification of an advanced practice nurse as set forth in N.J.A.C.13:37-7.2 and 13:37-7.5.

d. The joint protocols employed pursuant to subsections b. and c. of this section shall conform with standards adopted by the Director of the Division of Consumer Affairs pursuant to section 12 of P.L.1991, c.377 (C.45:11-51) or section 10 of P.L.1999, c.85 (C.45:11-49.2), as applicable.

e. (Deleted by amendment, P.L.2004, c.122.)

3. This act shall take effect on the 90th day following enactment.

Approved August 11, 2004.

CHAPTER 123

AN ACT requiring the New Jersey Election Law Enforcement Commission to impose an assessment on legislative agents, and making appropriations.

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

1. a. Notwithstanding any law, rule or regulation to the contrary, the New Jersey Election Law Enforcement Commission, created pursuant to section 5 of P.L.1973, c.83 (C.19:44A-5), shall levy a one-time assessment of $50 on any person who is employed, retained or engaged as a governmental affairs agent and has filed a signed notice of representation with the commission, pursuant to section 4 of P.L.1971, c.183 (C.52:13C-21), as of the effective date of this act, P.L.2004, c.123, or files such a notice within 120 days following the effective date. The commission shall give expeditious notice of the assessment to all governmental affairs agents who are required to pay it and the assessment shall be paid by the governmental affairs agents no later than the 150th day after the effective date. The assess-

ment shall be deposited into the fund created pursuant to subsection b. of this section.

b. There is created a dedicated, non-lapsing fund to be known as the "New Jersey Election Law Enforcement Commission Internet Enhancement Fund," to be held separate and apart from all other funds of the State. All monies collected pursuant to subsection a. of this section shall be deposited in the fund. The monies in the fund, together with any earnings, shall be appropriated exclusively to defray the expenses of the commission in implementing its efforts detailed in the report submitted pursuant to P.L.2004, c.31 to revise the format and content of its Internet site.

2. The monies deposited in the "New Jersey Election Law Enforcement Commission Internet Enhancement Fund," created pursuant to section 1 of this act, P.L.2004, c.123, are hereby appropriated to the New Jersey Election Law Enforcement Commission, created pursuant to section 5 of P.L.1973, c.83 (C.19:44A-5), for the purposes specified in section 1 of this act, P.L.2004, c.123, and disbursed as requested by the commission, subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury.

3. There is appropriated from the General Fund to the New Jersey Election Law Enforcement Commission, created pursuant to section 5 of P.L.1973, c.83 (C.19:44A-5), the sum of $2,000,000 for the commission's purposes.

4. This act shall take effect immediately.

Approved August 11, 2004.

CHAPTER 124

AN ACT concerning motor vehicles, amending R.S.39:3-10.1 and P.L.1990, c.103 and supplementing P.L.1990, c.103 (C.39:3-10.9 et seq.).

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

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

Licensing of bus drivers, exemptions.

39:3-10.1. No person shall drive any motor vehicle or trackless trolley with a capacity of more than six passengers used for the transportation of

passengers for hire or for the transportation of passengers to or from summer day camps or summer residence camps or any bus as defined by the director used for the transportation of passengers, except vehicles used in ride-sharing arrangements, taxicabs, motor vehicles with a capacity of more than six passengers, 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 or any bus used to transport children to and from school pursuant to N.J.S.18A:39-1 et seq. or when being used by a private school to transport children to and from school, unless specially licensed so to do by the chief administrator or in the case of a nonresident, licensed pursuant to the laws of his resident state with respect to the licensing of bus drivers. Such license shall not be granted by the chief administrator until the applicant therefor is at least 18 years of age and has passed a satisfactory examination in ascertainment of his driving ability and familiarity with the mechanism of said vehicle and has presented evidence, satisfactory to the chief administrator of his previous experience (including proof that he has had at least three years of driving experience), good character and physical fitness. Said license shall be effective until suspended or revoked by the director; provided, the special licensee is also the holder of a license as provided for in R.S.39:3-10.

Every holder of a special license issued pursuant to this section shall furnish to the chief administrator satisfactory evidence of continuing physical fitness, good character and experience at the time of application renewal or such other time as the chief administrator may require, and in such form as the chief administrator may require. In addition, any person applying for a special license pursuant to this section for the transporting of children to and from schools, pursuant to N.J.S.18A:39-1 et seq., shall comply with the provisions of section 6 of P.L.1989, c.104 (C.18A:39-19.1).

The chief administrator may suspend or revoke a license granted under authority of this section for a violation of any of the provisions of this subtitle, or on other reasonable grounds, or where, in his opinion, the licensee is either physically or morally unfit to retain the same. Notwithstanding the provisions of any law to the contrary the chief administrator shall, upon notice of disqualification from the Commissioner of Education pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1), immediately revoke the special license granted under authority of this section without the necessity of a further hearing.

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

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; or

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.

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 Highway 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, or the registered gross weight, whichever is greater. 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.

"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; or

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.

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.

C.39:3-10.11a Certain requirements for drivers of vehicles in connection with funeral services.

3. Notwithstanding the exemption of motor vehicles which are owned directly by businesses engaged in the practice of mortuary science from the provisions of P.L.1990, c.103(C.39:3-10.9 et seq.), pursuant to section 3 of P.L.1990, c.103 (C.39:3-10.11) as amended by section 2 of P.L.2004, c.124, the driver or operator of such a motor vehicle shall fulfill all of the requirements of a medical examination required of those holding a commercial driver license as provided under 49 C.F.R. s.391.41 et seq.

4. This act shall take effect thirty days after the date of enactment

Approved August 16, 2004.

CHAPTER 125

AN ACT concerning the funding of certain preschool programs and amending N.J.S.18A:44-4.

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

1. N.J.S.18A:44-4 is amended to read as follows:

Expenses; how paid.

18A:44-4. a. Except as otherwise provided pursuant to subsection b. of this section, the expenses of preschool schools or departments and of kindergarten schools or departments shall be paid out of any moneys available for the general fund expenses of the schools, and in the same manner and under the same restrictions as the expenses of other schools or departments are paid, except when wholly or partly subsidized by restricted funding sources or restricted endowments.

b. In the case of a non-Abbott school district which is not required to operate a preschool program pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16) and which does not receive early childhood program aid pursuant to that section, the district may collect tuition from the parents or guardians of students enrolled in a preschool school or department in an amount not to exceed the per pupil cost of the preschool program.

2. This act shall take effect immediately and shall first apply to the 2004-2005 school year.

Approved August 20, 2004.

CHAPTER 126

AN ACT concerning the issuance of bonds and annual appropriations pursuant to the Garden State Preservation Trust, and amending and supplementing P.L.1999, c.152.

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

1. Section 7 of P.L.1999, c.152 (C.13:8C-7) is amended to read as follows:

C.13:8C-7 Powers of trust to issue bonds, notes, other obligations.

7. a. The trust shall have the power and is hereby authorized to issue its bonds, notes or other obligations in principal amounts as determined by the trust to be necessary to provide for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest on, or redemption premiums, if any, on bonds, notes or other obligations issued by it, whether the bonds, notes, obligations or interest to be funded or refunded have or have not become due; and to provide for the security thereof and for the establishment or increase of reserves to secure or to pay the bonds, notes or other obligations or interest thereon and all other reserves and all costs or expenses of the trust incident to and necessary or convenient to carry out its corporate purposes and powers; and in addition to its bonds, notes and other obligations, the trust shall have the power to issue subordinated indebtedness, which shall be subordinate in lien to the lien of any or all of its bonds, notes or other obligations as the trust may determine. No resolution or other action of the trust providing for the issuance of bonds, refunding bonds, notes or other obligations shall be adopted or otherwise made effective by the trust without the prior approval in writing of the Governor and the State Treasurer.

b. Except as may be otherwise expressly provided in P.L.1999, c.152 (C.13:8C-1 et seq.) or by the trust, every issue of bonds, notes or other obligations shall be general obligations payable out of any revenues or funds of the trust, subject only to any agreements with the holders of particular bonds, notes or other obligations pledging any particular revenues or funds. The trust may provide the security and payment provisions for its bonds, notes or other obligations as it may determine, including, without limiting the generality of the foregoing, bonds, notes or other obligations as to which the principal and interest are payable from and secured by all or any portion of the revenues of and payments to the trust, and other moneys or funds as the trust shall determine. The trust may also enter into bank loan agreements, lines of credit and other security agreements as authorized pursuant to subsection g. of section 6 of P.L.1999, c.152 (C.13:8C-6) and obtain for or on its behalf letters of credit in each case for the purpose of securing its bonds, notes or other obligations or to provide direct payment of any costs which the trust is authorized to pay by P.L.1999, c.152 and to secure repayment of any borrowings under the loan agreement, line of credit, letter of credit or other security agreement by its bonds, notes or other obligations or the proceeds thereof or by any or all of the revenues of and payments to the trust or by any appropriation, grant or reimbursement to be received by the trust and other moneys or funds as the trust shall determine.

c. Whether or not the bonds and notes are of the form and character as to be negotiable instruments under the terms of Title 12A, Commercial

Transactions, of the New Jersey Statutes, the bonds and notes are hereby made negotiable instruments within the meaning of and for all the purposes of Title 12A.

d. Bonds or notes of the trust shall be authorized by a resolution or resolutions of the trust and may be issued in one or more series and shall bear the date, or dates, mature at the time or times, bear interest at the rate or rates of interest per annum, be in the denomination or denominations, be in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources, in the medium of payment, at the place or places within or outside of the State, and be subject to the terms of redemption, with or without premium, as the resolution or resolutions may provide. Bonds or notes may be further secured by a trust indenture between the trust and a corporate trustee within or outside of the State. All other obligations of the trust shall be authorized by resolution containing terms and conditions as the trust shall determine.

e. Bonds, notes or other obligations of the trust may be sold at public or private sale at a price or prices and in a manner as the trust shall determine, either on a negotiated or on a competitive basis.

f. Bonds or notes may be issued and other obligations incurred under the provisions of P.L.1999, c.152 (C.13:8C-1 et seq.) without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by subsection a. of this section, and without any other proceedings or the happening of any other conditions or other things than those proceedings, conditions or things which are specifically required by P.L.1999, c.152.

g. Bonds, notes and other obligations of the trust issued or incurred under the provisions of P.L.1999, c.152 (C.13:8C-1 et seq.) shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the trust and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision or be or constitute a pledge of the faith and credit of the State or of any political subdivision but all bonds, notes and obligations, unless funded or refunded by bonds, notes or other obligations of the trust, shall be payable solely from revenues or funds pledged or available for their payment as authorized in P.L.1999, c.152. Each bond, note or other obligation shall contain on its face a statement to the effect that the trust is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenues or funds of the trust and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of, redemption premium, if any, or the interest on the bonds,

notes or other obligations. For the purposes of this subsection, political subdivision does not include the trust.

h. All expenses incurred in carrying out the provisions of P.L.1999, c.152 (C.13:8C-1 et seq.) shall be payable solely from the revenues or funds provided or to be provided under or pursuant to the provisions of P.L.1999, c.152 and nothing in P.L.1999, c.152 shall be construed to authorize the trust to incur any indebtedness or liability on behalf of or payable by the State or any political subdivision thereof.

i. Prior to July 1, 2009, the aggregate principal amount of bonds, notes or other obligations, including subordinated indebtedness, of the trust shall not exceed $1,150,000,000; except that this limitation shall not include any bonds, notes or other obligations, including subordinated indebtedness, of the trust issued for refunding purposes in accordance with the provisions of this section, and any bonds, notes or other obligations of the trust issued to fund the costs of issuance of its bonds, notes or other obligations. After June 30, 2009, the trust may issue only refunding bonds in any amount subject to subsections j. through n. of this section.

The trust shall not issue bonds, notes or other obligations in any State fiscal year in excess of $350,000,000, except that if that permitted amount of bonds, notes or other obligations, or any portion thereof, is not issued in a State fiscal year it may be issued in a subsequent State fiscal year. Any increase in this limitation shall only occur if so provided for by law.

The limitations specified in this subsection shall apply only to bonds, notes or other obligations of the trust that are payable from, or secured by, amounts on deposit in the Garden State Preservation Trust Fund Account established pursuant to section 17 of P.L.1999, c.152 (C.13:8C-17).

j. Upon the decision by the trust to issue refunding bonds pursuant to this section, and prior to the sale of those bonds, the trust shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the trust relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the trust to issue and sell the refunding bonds at public or private sale and the reasons therefor.

k. The Joint Budget Oversight Committee, or its successor, shall have authority to approve or disapprove the sale of refunding bonds as included in each report submitted in accordance with subsection j. of this section. The Joint Budget Oversight Committee, or its successor, shall approve or disapprove the sale of refunding bonds within 10 business days after physical receipt of the report. The Joint Budget Oversight Committee, or its successor, shall notify the trust in writing of the approval or disapproval as expeditiously as possible.

l. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee, or its successor, as set forth in subsection k. of this section.

m. Within 30 days after the sale of the refunding bonds, the trust shall notify the Joint Budget Oversight Committee, or its successor, of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, and the actual amount of debt service savings to be realized as a result of the sale of refunding bonds.

n. The Joint Budget Oversight Committee, or its successor, shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the trust or to the Legislature, or both, as it deems appropriate.

2. Section 23 of P.L.1999, c.152 (C.13:8C-23) is amended to read as follows:

C.13:8C-23 Submission of lists of projects.

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 twice each State fiscal year, the State Agriculture Development Committee shall submit to the trust 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 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 Farmland 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 trust pursuant to this paragraph.

(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 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 funding 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 comple-

tion 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-18.1 Allocation of amount exceeding $1,000,000,000.

3. Of the total of up to $1,150,000,000 in proceeds raised by the trust from the issuance of bonds, notes or other obligations, and transferred by the trust to the State Treasurer and deposited by the State Treasurer into the Garden State Green Acres Preservation Trust Fund established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19) and the Garden State Farmland Preservation Trust Fund established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20) as required pursuant to subsection a. of section 18 of P.L.1999, c.152 (C.13:8C-18), any amounts exceeding $1,000,000,000 in such proceeds shall be allocated and deposited into those two trust funds as follows notwithstanding the provisions of subsection a. of section 18 of P.L.1999, c.152 (C.13:8C-18) to the contrary:

a. 80% thereof to the Garden State Green Acres Preservation Trust Fund to be used for the purposes of that trust fund; and

b. 20% thereof to the Garden State Farmland Preservation Trust Fund to be used for the purposes of that trust fund.

4. This act shall take effect immediately.

Approved August 20, 2004.

CHAPTER 127

AN ACT concerning wages paid in construction and rehabilitation projects of certain instrumentalities of the State and supplementing parts of the statutory law.

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

C.5:12-161.3 Prevailing wage rate for workers employed on projects with Casino Reinvestment Development Authority involvement.

1. Each worker employed in the construction or rehabilitation of facilities undertaken in connection with loans, loan guarantees, expenditures, investments, tax exemptions or other incentives or financial assistance approved, provided, authorized, facilitated or administered by the Casino Reinvestment Development Authority, or undertaken to fulfill any condition of receiving any of the incentives or financial assistance, shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

The Commissioner of Labor and Workforce Development shall determine the prevailing wage rate in the locality in which the construction or rehabilitation is to be performed for each craft, trade or classification of worker employed in the construction or rehabilitation, as if the construction or rehabilitation is "public work" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

C.5:12-161.4 Exercise of rights, powers or duties.

2. For the purpose of implementing the provisions of sections 1 through 3 of this act, the Commissioner of Labor and Workforce Development shall, and a worker employed in the performance of work subject to this act or the employer or any designated representative of the worker may, exercise all rights, powers or duties granted or imposed upon them by P.L.1963, c.150 (C.34:11-56.25 et seq.).

C.5:12-161.5 Prevailing wage rules, regulations, adoption by Casino Reinvestment Development Authority.

3. The Casino Reinvestment Development Authority shall, in consultation with the Commissioner of Labor and Workforce Development, adopt rules and regulations, consistent with the rules and regulations adopted by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.), requiring that not less than the prevailing wage be paid to workers employed in the construction or rehabilitation of facilities undertaken in connection with loans, loan guarantees, expenditures, investments, incentives or other financial assistance provided, authorized or administered by the authority. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.).

C.5:12-161.6 Inapplicability of C.5:12-161.3 through C.5:12-161.5.

4. The provisions of sections 1 through 3 of this act shall not apply to construction and rehabilitation of facilities conducted entirely under contracts entered into prior to the effective date of this act or to the refinancing of the outstanding debt on projects in which all construction or rehabilitation of facilities was conducted under contracts entered into prior to the effective date of this act.

C.18A:72A-5.1 Prevailing wage rate for workers employed on projects with New Jersey Educational Facilities Authority involvement.

5. Each worker employed in the construction or rehabilitation of facilities undertaken in connection with loans, loan guarantees, expenditures, investments, tax exemptions or other incentives or financial assistance approved, provided, authorized, facilitated or administered by the New

Jersey Educational Facilities Authority, or undertaken to fulfill any condition of receiving any of the incentives or financial assistance, shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

The Commissioner of Labor and Workforce Development shall determine the prevailing wage rate in the locality in which the construction or rehabilitation is to be performed for each craft, trade or classification of worker employed in the construction or rehabilitation, as if the construction or rehabilitation is "public work" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

C.18A:72A-5.2 Exercise of rights, powers or duties.

6. For the purpose of implementing the provisions of sections 5 through 7 of this act, the Commissioner of Labor and Workforce Development shall, and a worker employed in the performance of work subject to this act or the employer or any designated representative of the worker may, exercise all rights, powers or duties granted or imposed upon them by P.L.1963, c.150 (C.34:11-56.25 et seq.).

C.18A:72A-5.3 Prevailing wage rules, regulations, adoption by New Jersey Educational Facilities Authority.

7. The New Jersey Educational Facilities Authority shall, in consultation with the Commissioner of Labor and Workforce Development, adopt rules and regulations, consistent with the rules and regulations adopted by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.), requiring that not less than the prevailing wage be paid to workers employed in the construction or rehabilitation of facilities undertaken in connection with loans, loan guarantees, expenditures, investments, incentives or other financial assistance provided, authorized or administered by the authority. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.).

C.18A:72A-5.4 Inapplicability of C.18A:72A-5.1 through C.18A:72A-5.3.

8. The provisions of sections 5 through 7 of this act shall not apply to construction and rehabilitation of facilities conducted entirely under contracts entered into prior to the effective date of this act or to the refinancing of the outstanding debt on projects in which all construction or rehabilitation of facilities was conducted under contracts entered into prior to the effective date of this act.

C.26:2I-5.3 Prevailing wage rate for workers employed on projects with New Jersey Health Care Facilities Financing Authority involvement.

9. Each worker employed in the construction or rehabilitation of facilities undertaken in connection with loans, loan guarantees, expenditures, investments, tax exemptions or other incentives or financial assistance approved, provided, authorized, facilitated or administered by the New Jersey Health Care Facilities Financing Authority, or undertaken to fulfill any condition of receiving any of the incentives or financial assistance, shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

The Commissioner of Labor and Workforce Development shall determine the prevailing wage rate in the locality in which the construction or rehabilitation is to be performed for each craft, trade or classification of worker employed in the construction or rehabilitation, as if the construction or rehabilitation is "public work" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

C.26:2I-5.4 Exercise of rights, powers or duties.

10. For the purpose of implementing the provisions of sections 9 through 11 of this act, the Commissioner of Labor and Workforce Development shall, and a worker employed in the performance of work subject to this act or the employer or any designated representative of the worker may, exercise all rights, powers or duties granted or imposed upon them by P.L.1963, c.150 (C.34:11-56.25 et seq.).

C.26:2I-5.5 Prevailing wage rules, regulations, adoption by New Jersey Health Care Facilities Financing Authority.

11. The New Jersey Health Care Facilities Financing Authority shall, in consultation with the Commissioner of Labor and Workforce Development, adopt rules and regulations, consistent with the rules and regulations adopted by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.), requiring that not less than the prevailing wage be paid to workers employed in the construction or rehabilitation of facilities undertaken in connection with loans, loan guarantees, expenditures, investments, incentives or other financial assistance provided, authorized or administered by the authority. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.).

C.26:2I-5.6 Inapplicability of C.26:2I-5.3 through C.26:2I-5.5.

12. The provisions of sections 9 through 11 of this act shall not apply to construction and rehabilitation of facilities conducted entirely under contracts entered into prior to the effective date of this act or to the refinancing of the outstanding debt on projects in which all construction or rehabilitation of facilities was conducted under contracts entered into prior to the effective date of this act.

C.40:37A-55.2 Prevailing wage rate for workers employed on projects with county improvement authority involvement.

13. Each worker employed in the construction or rehabilitation of facilities undertaken in connection with loans, loan guarantees, expenditures, investments, tax exemptions or other incentives or financial assistance approved, provided, authorized, facilitated or administered by a county improvement authority, or undertaken to fulfill any condition of receiving any of the incentives or financial assistance, shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

The Commissioner of Labor and Workforce Development shall determine the prevailing wage rate in the locality in which the construction or rehabilitation is to be performed for each craft, trade or classification of worker employed in the construction or rehabilitation, as if the construction or rehabilitation is "public work" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

C.40:37A-55.3 Exercise of rights, powers or duties.

14. For the purpose of implementing the provisions of sections 13 through 15 of this act, the Commissioner of Labor and Workforce Development shall, and a worker employed in the performance of work subject to this act or the employer or any designated representative of the worker may, exercise all rights, powers or duties granted or imposed upon them by P.L.1963, c.150 (C.34:11-56.25 et seq.).

C.40:37A-55.4 Prevailing wage rules, regulations, adoption by county improvement authority.

15. Each county improvement authority shall, in consultation with the Commissioner of Labor and Workforce Development, adopt rules and regulations, consistent with the rules and regulations adopted by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.), requiring that not less than the prevailing wage be paid to workers employed in the construction or rehabilitation of facilities undertaken in connection with loans, loan guarantees, expenditures, invest-

ments, incentives or other financial assistance provided, authorized or administered by the authority. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.).

C.40:37A-55.5 Inapplicability of C.40:37A-55.2 through C.40:37A-55.4.

16. The provisions of section 13 through 15 of this act shall not apply to construction and rehabilitation of facilities conducted entirely under contracts entered into prior to the effective date of this act or to the refinancing of the outstanding debt on projects in which all construction or rehabilitation of facilities was conducted under contracts entered into prior to the effective date of this act.

17. This act shall take effect immediately.

Approved August 23, 2004.

CHAPTER 128

AN ACT concerning the regulation and taxation of the casino industry, amending P.L.1993, c.159, P.L.2003, c.116 and P.L.1977, c.110.

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

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

C.5:12-101 Credit.

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

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

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

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

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

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

(3) The check is presented to the cashier or the cashier's representative at a location in the casino approved by the commission and is exchanged for cash or slot tokens which total an amount equal to the amount for which the check is drawn, or the check is presented to the cashier's representative at a gaming table in exchange for chips which total an amount equal to the amount for which the check is drawn; and

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

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

c. When a casino licensee or other person licensed under this act, or any person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, cashes a check in conformity with the requirements of subsection b. of this section, the casino licensee shall cause the deposit of such check in a bank for collection or payment, or shall require an attorney or casino key employee with no incompatible functions to present such check to the drawer's bank for payment, within (1) seven calendar days of the date of the transaction for a check in an amount of $1,000.00 or less; (2) 14 calendar days of the date of the transaction for a check in an amount greater than $1,000.00 but less than or equal to $5,000.00; or (3) 45 calendar days of the date of the transaction for a check in an amount greater than $5,000.00. Notwithstanding the foregoing, the drawer of the check may redeem the check by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subsection g. of this section in an amount equal to the amount for which the check is drawn; or he may redeem the check in part by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subsection g. of this section and another check which meets the requirements of subsection b. of this section for the difference between the original check and the cash, cash equivalents, chips, or check tendered; or he may issue one check which meets the

requirements of subsection b. of this section in an amount sufficient to redeem two or more checks drawn to the order of the casino licensee. If there has been a partial redemption or a consolidation in conformity with the provisions of this subsection, the newly issued check shall be delivered to a bank for collection or payment or presented to the drawer's bank for payment by an attorney or casino key employee with no incompatible functions within the period herein specified. No casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall accept any check or series of checks in redemption or consolidation of another check or checks in accordance with this subsection for the purpose of avoiding or delaying the deposit of a check in a bank for collection or payment or the presentment of the check to the drawer's bank within the time period prescribed by this subsection.

In computing a time period prescribed by this subsection, the last day of the period shall be included unless it is a Saturday, Sunday, or a State or federal holiday, in which event the time period shall run until the next business day.

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

(1) The drawer of the check upon redemption or consolidation in accordance with subsection c. of this section;

(2) A bank for collection or payment of the check;

(3) A purchaser of the casino license as approved by the commission; or

(4) An attorney or casino key employee with no incompatible functions for presentment to the drawer's bank.

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

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

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

unenforceable for the purposes of collection but shall be included in the calculation of gross revenue pursuant to section 24 of P.L.1977, c.110 (C.5:12-24).

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

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

(b) The check is issued by a banking institution which is chartered in a country other than the United States on its account at a federally chartered or state-chartered bank and is made payable to "cash," "bearer," a casino licensee, or the person presenting the check;

(c) The check is issued by a banking institution which is chartered in the United States on its account at another federally chartered or state-chartered bank and is made payable to "cash," "bearer," a casino licensee, or the person presenting the check;

(d) The check is issued by an annuity jackpot trust as payment for winnings from an annuity jackpot; or

(e) The check is issued by an affiliate of a casino licensee that holds a gaming license in any jurisdiction;

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

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

(4) The check is presented to the cashier or the cashier's representative by the original payee and its validity is verified by the drawer in the case of a check drawn pursuant to subparagraph (a) of paragraph (1) of this subsection, or the check is verified in accordance with regulations promulgated by the commission in the case of a check issued pursuant to subparagraph (b), (c), (d) or (e) of paragraph (1) of this subsection; and

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

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

h. Notwithstanding the provisions of subsection b. and subsection c. of this section to the contrary, a casino licensee may, at a location outside the casino, accept a personal check or checks from a person for up to $5,000 in exchange for cash or cash equivalents, and may, at such locations within the casino or casino simulcasting facility as may be permitted by the commission, accept a personal check or checks for up to $5,000 in exchange for cash, cash equivalents, tokens, chips, or plaques to enable the person to take part in gaming or simulcast wagering activity as a player, provided that:

(a) The check is drawn on the patron's bank or brokerage cash management account;

(b) The check is for a specific amount;

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

(d) The check is dated but not post-dated;

(e) The patron's identity is established by examination of one of the following: valid credit card, driver's license, passport, or other form of identification credential which contains, at a minimum, the patron's signature;

(f) The check is restrictively endorsed "For Deposit Only" to the casino licensee's bank account and deposited on the next banking day following the date of the transaction;

(g) The total amount of personal checks accepted by any one licensee pursuant to this subsection that are outstanding at any time, including the current check being submitted, does not exceed $5,000;

(h) The casino licensee has an approved system of internal controls in place that will enable it to determine the amount of outstanding personal checks received from any patron pursuant to this subsection at any given point in time; and

(i) The casino licensee maintains a record of each such transaction in accordance with regulations established by the commission.

i. (Deleted by amendment, P.L.2004, c.128).

j. A person may request the commission to put that person's name on a list of persons to whom the extension of credit by a casino as provided in this section would be prohibited by submitting to the commission the person's name, address, and date of birth. The person does not need to provide a reason for this request. The commission shall provide this list to the credit department of each casino; neither the commission nor the credit department of a casino shall divulge the names on this list to any person or entity other than those provided for in this subsection. If such a person wishes to have that person's name removed from the list, the person shall submit this request to the commission, which shall so inform the credit departments of casinos no later than three days after the submission of the request.

k. (Deleted by amendment, P.L.2004, c.128).

2. Section 145 of P.L.1977, c.110 (C.5:12-145) is amended to read as follows:

C.5:12-145 Casino Revenue Fund.

145. a. There is hereby created and established in the Department of the Treasury a separate special account to be known as the "Casino Revenue Fund," into which shall be deposited all revenues from the tax imposed by section 144 of this act; the investment alternative tax imposed by section 3 of P.L.1984, c.218 (C.5:12-144.1); the taxes and fees imposed by sections 3, 4 and 6 of P.L.2003, c.116 (C.5:12-148.1, C.5:12-148.2 and C.5:12-145.8) and any interest and penalties imposed by the commission relating to those taxes; and all penalties levied and collected by the commission pursuant to P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated thereunder, except that the first $600,000 in penalties collected each fiscal year shall be paid into the General Fund for appropriation by the Legislature to the Department of Health and Senior Services, $500,000 of which is to provide funds to the Council on Compulsive Gambling of New Jersey and $100,000 of which is to provide funds for compulsive gambling treatment programs in the State. In the event that less than $600,000 in penalties are collected, the Department of Health and Senior Services shall determine the allocation of funds between the Council and the treatment programs eligible under the criteria developed pursuant to section 2 of P.L.1993, c.229 (C.26:2-169).

b. The commission shall require at least monthly deposits by the licensee of the tax established pursuant to subsection a. of section 144 of P.L.1977, c.110 (C.5:12-144), at such times, under such conditions, and in such depositories as shall be prescribed by the State Treasurer. The deposits shall be deposited to the credit of the Casino Revenue Fund. The commission may require a monthly report and reconciliation statement to be filed with it on or before the 10th day of each month, with respect to gross revenues and deposits received and made, respectively, during the preceding month.

c. Moneys in the Casino Revenue Fund shall be appropriated exclusively for reductions in property taxes, rentals, telephone, gas, electric, and municipal utilities charges of eligible senior citizens and disabled residents of the State, and for additional or expanded health services or benefits or transportation services or benefits to eligible senior citizens and disabled residents, as shall be provided by law. On or about March 15 and September 15 of each year, the State Treasurer shall publish in at least 10 newspapers circulating generally in the State a report accounting for the total revenues received in the Casino Revenue Fund and the specific amounts of money appropriated therefrom for specific expenditures during the preceding six months ending December 31 and June 30.

3. Section 6 of P.L.2003, c.116 (C.5:12-145.8) is amended to read as follows:

C.5:12-145.8 Fee of $3.00 imposed daily on occupied hotel rooms in casino hotel facility.

6. Notwithstanding the provisions of any other law to the contrary and in addition to any other tax or fee imposed by law, there is imposed a fee of $3.00 per day on each hotel room in a casino hotel facility that is occupied by a guest, for consideration or as a complimentary item. This section shall be administered by the commission and the amounts generated by this section shall be paid to the State Treasurer for deposit in the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145) in State fiscal years 2004 through 2006. Beginning in State fiscal year 2007 and thereafter, $2.00 of the fee shall be deposited by the State Treasurer into the Casino Revenue Fund and $1.00 shall be transferred by the State Treasurer to the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153) for its purposes pursuant to law, as approved by the membership of the authority.

4. Section 3 of P.L.2003, c.116 (C.5:12-148.1) is amended to read as follows:

C.5:12-148.1 Tax on certain comps provided by casinos at no cost, reduced price.

3. a. There is imposed on each casino licensee, through June 30, 2009, a tax on the value of rooms, food, beverages, or entertainment provided at no cost or at a reduced price, as required to be reported to the Casino Control Commission pursuant to section 102 of P.L.1977, c.110 (C.5:12-102), which tax shall be computed as follows:

(1) if rooms, food, beverages or entertainment are provided at no cost, the tax shall be at a rate of 4.25% on the value of rooms, food, beverages and entertainment;

(2) if rooms, food, beverages or entertainment are provided at reduced cost, the tax shall be at a rate of 4.25% on the value, which taxable value shall be reduced by any consideration paid by the person to whom the rooms, food, beverages or entertainment are provided; provided however, that the imposition of the excise tax as provided in this section is in addition to any tax due under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), on the receipts from the sale of food and beverages, or from amounts paid as a charge for entertainment, or the rents for occupancy of hotel rooms, at reduced cost;

(3) no excise tax shall be imposed on the value of any service or property upon which a sales or use tax has been paid by a casino licensee;

(4) for the purpose of computing the tax, the value of a room complimentary shall be $67, provided that the commission shall review the room

value within 90 days of the effective date of this act, and shall adjust the statutory room value to a rate that, along with the tax imposed pursuant to this section on food, beverages and entertainment, is sufficient to generate $26 million in State fiscal year 2004, and the commission's review and adjustment shall take into account tax paid under this section by a casino licensee commencing operations in calendar year 2003 in determining whether the adjusted statutory room value would generate $26 million in State fiscal year 2004;

(5) for the purpose of computing the tax, the value of food, beverages and entertainment complimentaries shall be determined pursuant to section 2 of P.L.1983, c.41 (C.5:12-14a), provided that the value of a beverage complimentary served in a casino room shall be the cost to the casino licensee of providing the beverage; and

(6) for each casino licensee, the amount of tax imposed by this section for State fiscal years 2004 through 2006 shall not be less than the tax that the licensee would have paid if the tax had been in effect for calendar year 2002.

(7) Notwithstanding any other provision of this section to the contrary, the rate and the amount to be raised annually by the tax imposed pursuant to this section shall be as follows: in State fiscal years 2004 through 2006, 4.25% and $26,000,000; in State fiscal year 2007, 3.1875% and $19,500,000; in State fiscal year 2008, 2.125% and $13,000,000; and in State fiscal year 2009, 1.0625% and $6,500,000.

b. Each casino licensee shall file a return, on a form as prescribed by the commission, and pay the amount of tax due pursuant to this section in the manner and at a frequency as the commission prescribes, but no more frequently than monthly. In prescribing the periods to be covered by the return or intervals or classifications for payment of tax liability, the commission may take into account the dollar volume of tax involved, as well as the need for ensuring the prompt and orderly collection of the tax imposed.

c. The commission shall administer the tax imposed pursuant to this section. The commission shall determine and certify to the State Treasurer on at least a quarterly basis the amount of tax to be collected by the State Treasurer pursuant to this section. The commission may promulgate such rules and regulations as the commission determines are necessary to effectuate the provisions of this act.

d. (Deleted by amendment, P.L.2004, c.128).

e. The tax imposed by this section, and any interest or penalties imposed by the commission relating to that tax, shall be deposited by the State Treasurer into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

f. In a State fiscal year in which the amount of the tax collected is more or less than is required to be collected pursuant to paragraph (7) of subsection

a. of this section, the amount of the shortfall or excess shall be credited or assessed, as appropriate, to each casino licensee in the same proportion as that casino licensee's tax payments pursuant to this section for that particular State fiscal year bear to the total tax payments received from all casino licensees pursuant to this section for that same State fiscal year.

5. Section 4 of P.L.2003, c.116 (C.5:12-148.2) is amended to read as follows:

C.5:12-148.2 Tax of 8% imposed on multi-casino progressive slot machine revenue.

4. a. A tax at the rate of 8% is imposed on casino service industry multi-casino progressive slot machine revenue. The tax shall not be considered a tax collectable under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

b. As used in this section, "casino service industry multi-casino progressive slot machine revenue" means sums received by 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, net of any money accrued for return to patrons in the form of jackpots, that are directly or indirectly related to: (1) the conduct of multi-casino progressive slot machine system operations in a casino; or (2) the sale, lease, servicing or management of a multi-casino progressive slot machine system. Notwithstanding the foregoing, "casino service industry multi-casino progressive slot machine revenue" shall not be construed to apply to revenue derived from transactions between a casino licensee and its holding company or intermediary companies or their affiliates.

c. The commission shall administer the tax imposed pursuant to this section. The tax imposed by this section, and any interest or penalties imposed by the commission relating to that tax, shall be deposited by the State Treasurer into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

d. A casino service industry licensee or applicant required to pay the tax imposed pursuant to this section shall, on or before the 28th day of the month, forward to the State Treasurer the tax owed on casino service industry multi-casino progressive slot machine revenue received by the casino service industry licensee or applicant in the preceding month and make and file a return for the preceding month with the commission on any form and containing any information as the commission shall prescribe by rule or regulation as necessary to determine liability for the tax in the preceding month during which the person was required to pay the tax.

e. The commission may permit or require returns to be made covering other periods and upon any dates as the commission may specify. In addi-

tion, the commission may require payments of tax liability to the State Treasurer at any intervals and based upon any classifications as the commission may designate. In prescribing any other periods to be covered by the return or intervals or classifications for payment of tax liability, the commission may take into account the dollar volume of tax involved as well as the need for ensuring the prompt and orderly collection of the tax imposed.

f. The commission may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

g. (Deleted by amendment, P.L.2004, c.128).

6. Section 5 of P.L.2003, c.116 (C.5:12-148.3) is amended to read as follows:

C.5:12-148.3 Tax of 7.5% imposed on certain adjusted net income of casino licensees.

5. a. In State fiscal years 2004 through 2006, a tax at the rate of 7.5% is imposed on the adjusted net income of a casino licensee in calendar year 2002, determined pursuant to information provided by casino licensees to the commission pursuant to regulations promulgated in accordance with subsection n. of section 70 of P.L.1977, c.110 (C.5:12-70) and published on April 2, 2003 in the commission's statement of casino licensee income for the twelve-month period ending on December 31, 2002, without regard to subsequent adjustment to such filing. For a casino licensee that was not in operation in calendar year 2002, the amount of the tax shall be 7.5% of its adjusted net income in State fiscal year 2004, as filed by the licensee with the commission pursuant to regulations promulgated in accordance with subsection n. of section 70 of P.L.1977, c.110 (C.5:12-70). As used in this section, "adjusted net income" means annual net income plus management fees.

The aggregate amount of tax imposed by this section shall not exceed $10 million annually for a holder of more than one casino license, and for each casino licensee the tax imposed by this section shall not be less than $350,000 annually.

b. The commission shall administer the tax imposed pursuant to this section. For a casino licensee that was in operation in calendar year 2002, the tax shall be due and payable to the State Treasurer in four equal payments on September 15, December 15, March 15, and June 15 of each State fiscal year. For a casino licensee that was not in operation in calendar year 2002, the tax in State fiscal year 2004 shall be due and payable to the State Treasurer in four quarterly estimated payments on the basis of adjusted net income in the current quarter, and the licensee shall file an annual return for State fiscal year 2004 no later than October 15, 2004. In State fiscal years 2005 and 2006 for such casino licensee, the tax shall be due and payable to

the State Treasurer in four equal payments on September 15, December 15, March 15 and June 15.

c. The tax imposed by this section, and any interest or penalties imposed by the commission relating to that tax, shall be deposited by the State Treasurer into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

d. The commission shall certify on September 30, 2003 and annually thereafter the amount of tax required to be paid pursuant to this section. The commission may promulgate such rules and regulations as the commission determines are necessary to effectuate the provisions of this section.

e. (Deleted by amendment, P.L.2004, c.128).

7. Section 5 of P.L.1993, c.159 (C.5:12-173.5) is amended to read as follows:

C.5:12-173.5 Responsibility for collection of fees.

5. Each person subject to the provisions of section 3 of P.L.1993, c.159 (C.5:12-173.3) shall be responsible for the collection of the fees imposed pursuant thereto, which shall be collected as part of the charge made for the use of a parking space. Amounts so collected shall be forwarded to the State Treasurer. The commission shall determine and certify to the State Treasurer on a monthly basis the amount of revenues which are payable as directed by section 4 of P.L.1993, c.159 (C.5:12-173.4). The State Treasurer, upon certification of the commission and upon warrant of the State Comptroller, and subject to the pertinent requirements of section 4 of P.L.1993, c.159 (C.5:12-173.4) shall pay and distribute on a monthly basis pursuant to section 4 of P.L.1993, c.159 (C.5:12-173.4) the amount so certified.

8. This act shall take effect immediately.

Approved August 25, 2004.

CHAPTER 129

AN ACT concerning the Casino Reinvestment Development Authority and casino licensees, amending P.L.1995, c.18, P.L.2001, c.221 and P.L.2003, c.116, amending and supplementing P.L.1984, c.218 (C.5:12-153 et seq.) and repealing section 13 of P.L.2001, c.221 (C.5:12-173.21).

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

1. Section 3 of P.L.1984, c.218 (C.5:12-144.1) is amended to read as follows:

C.5:12-144.1 Imposition of investment alternative tax.

3. a. (1) Commencing with the first annual tax return of a licensee for any calendar year beginning after December 31, 1983, there is imposed an investment alternative tax on the gross revenues as defined in section 24 of P.L.1977, c.110 (C.5:12-24) of the licensee in the amount of 2.5% of those gross revenues. The tax imposed with respect to each calendar year shall be due and payable on the last day of April next following the end of the calendar year. The State Treasurer shall have a lien against the property constituting the casino of a licensee for the amount of any tax not paid when due. No tax shall be imposed, however, on the gross revenues received by a licensee during the first 12 months of the operation of any casino that commences operation after January 1, 1984, but prior to the effective date of this act, P.L.1996, c.118 (C.5:12-173.3a et al.).

(2) A licensee shall pay to the State Treasurer on or before the 15th day of the first, fourth, seventh, and 10th months of each year as partial payment of the investment alternative tax imposed pursuant to paragraph (1) of this subsection an amount equal to 1.25% of the estimated gross revenues for the three-month period immediately preceding the first day of those months. The moneys received shall be placed in an escrow account and shall be held until the licensee directs that the moneys be transferred to the Casino Reinvestment Development Authority for the purchase of bonds issued by or offered through the Casino Reinvestment Development Authority or pursuant to a contract for such a purchase, be made available to the licensee for a direct investment approved by the authority, or be transferred to the Casino Revenue Fund as partial payment of the investment alternative tax imposed pursuant to paragraph (1) of this subsection. Any interest derived from the moneys in the escrow account shall be paid or made available to the Casino Revenue Fund. If a licensee fails to pay the amount due or underpays by an unjustifiable amount, the Casino Control Commission shall impose a fine of 5% of the amount due or of the underpayment, as the case may be, for each month or portion thereof the licensee is in default of payment, up to 25% of the amount in default. Any fine imposed shall be paid to the Casino Reinvestment Development Authority and shall be used for the purposes of this 1984 amendatory and supplementary act.

b. Each licensee shall be entitled to an investment tax credit against the tax imposed by subsection a. of this section, provided the licensee shall pay over the moneys required pursuant to section 5 of P.L.1993, c.159 (C.5:12-173.5): (1) for the first 10 years of a licensee's tax obligation, in an amount equal to twice the purchase price of bonds issued by the Casino

Reinvestment Development Authority pursuant to sections 14 and 15 of this 1984 amendatory and supplementary act, purchased by the licensee, or twice the amount of the investments authorized in lieu thereof, and (2) for the remainder of a licensee's tax obligation, in an amount equal to twice the purchase price of bonds issued by the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this 1984 amendatory and supplementary act, purchased by the licensee, or twice the amount of the investments authorized in lieu thereof, and twice the amount of investments made by a licensee in other approved eligible investments made pursuant to section 25 of this act. The Casino Reinvestment Development Authority shall have the power to enter into a contract or contracts with a licensee pursuant to which the Casino Reinvestment Development Authority agrees to issue and sell bonds to the licensee, and the licensee agrees to purchase the bonds issued by or offered through the Casino Reinvestment Development Authority, in annual purchase price amounts as will constitute a credit against at least 50% of the tax to become due in any future year or years. The contract may contain those terms and conditions relating to the terms of the bonds and to the issuance and sale of the bonds to the licensee as the Casino Reinvestment Development Authority shall deem necessary or desirable. The contract shall not be deemed to be in violation of section 104 of P.L.1977, c.110 (C.5:12-104). After the first 10 years of a licensee's investment alternative tax obligation, a licensee will have the option of entering into a contract with the Casino Reinvestment Development Authority to have its tax credit comprised of direct investments in approved eligible projects. These direct investments shall not comprise more than 50% of a licensee's eligible tax credit in any one year.

The entering of a contract pursuant to this section shall be sufficient to entitle a licensee to an investment tax credit for the appropriate tax year.

c. A contract entered into between a licensee and the Casino Reinvestment Development Authority may provide for a deferral of payment for and delivery of bonds required to be purchased and for a deferral from making approved eligible investments in any year, but no deferral shall occur more than two years consecutively. A deferral of payment for any bonds required to be purchased by a licensee and a deferral from making approved eligible investments may be granted by the Casino Reinvestment Development Authority only upon a determination by the Casino Control Commission that purchase of these bonds or making approved eligible investments would cause extreme financial hardship to the licensee and a determination by the Casino Reinvestment Development Authority that the deferral of the payment would not violate any covenant or agreement or impair any financial obligation of the Casino Reinvestment Development Authority. The contract may establish a late payment charge to be paid in the event of deferral or

other late payment at a rate as shall be agreed to by the Casino Reinvestment Development Authority. If a deferral of purchase or investment is granted, the licensee shall be deemed to have made the purchase or investment at the time required by the contract, except that if the purchase is not made at the time to which the purchase or investment was deferred, then the licensee shall be deemed not to have made the purchase or investment. The Casino Control Commission shall adopt regulations establishing a uniform definition of extreme financial hardship applicable to all these contracts. If a licensee petitions the Casino Reinvestment Development Authority for a deferral, the Casino Reinvestment Development Authority shall give notice of that petition to the Casino Control Commission and to the Division of Gaming Enforcement within three days of the filing of the petition. The Casino Control Commission shall render a decision within 60 days of notice as to whether the licensee has established extreme financial hardship, after consultation with the Division of Gaming Enforcement. The Casino Reinvestment Development Authority shall render a decision as to the availability of the deferral within 10 days of the receipt by it of the decision of the Casino Control Commission and shall notify the Division of Gaming Enforcement and the Casino Control Commission of that decision. If a deferral is granted, the Casino Reinvestment Development Authority may determine whether the purchases or investments shall be made in a lump sum, made over a period of years, or whether the period of obligation shall be extended an additional period of time equivalent to the period of time deferred.

d. The license of any licensee which has defaulted in its obligation to make any purchase of bonds or investment in any approved eligible project under a contract entered into pursuant to subsection b. of this section for a period of 90 days may be suspended by the Casino Control Commission until that purchase is made or deferred in accordance with subsection b. of this section, or a fine or other penalty may be imposed upon the licensee by the commission. If the Casino Control Commission elects not to suspend the license of a licensee after the licensee has first defaulted in its obligation but instead imposes some lesser penalty and the licensee continues to be in default of its obligation after a period of 30 additional days and after any additional 30-day period, the commission may impose another fine or penalty upon the licensee, which may include suspension of that licensee's license. The fine shall be 5% of the amount of the obligation owed for each month or portion thereof a licensee is in default, up to 25% of that obligation; shall be paid to the Casino Reinvestment Development Authority; and shall be used for the purposes of this 1984 amendatory and supplementary act.

e. A contract entered into by a licensee and the Casino Reinvestment Development Authority pursuant to subsection b. of this section may provide that after the first 10 years of a licensee's investment alternative tax obliga-

tion imposed by subsection a. of this section, the Casino Reinvestment Development Authority may repurchase bonds previously sold to the licensee, which were issued after the 10th year of a licensee's investment alternative tax obligation, by the Casino Reinvestment Development Authority, if the Casino Reinvestment Development Authority determines that the repurchase will not violate any agreement or covenant or impair any financial obligation of the Casino Reinvestment Development Authority and that the licensee will reinvest the proceeds of the resale in an eligible project approved by the Casino Reinvestment Development Authority.

f. (1) During the 50 years a licensee is obligated to pay an investment alternative tax pursuant to subsection k. of this section, the total of (a) the proceeds of all bonds purchased by a licensee from or through the Casino Reinvestment Development Authority and (b) all approved investments in eligible projects by a licensee shall be devoted to the financing of projects in the following areas and amounts:

Areas	Yrs. 1-3	Yrs. 4-5	Yrs. 6-10	Yrs. 11-15	Yrs. 16-20	Yrs. 21-25	Yrs. 26-30	Yrs. 31-35	Yrs. 36-50
a) Atlantic City	100%	90%	80%	50%	30%	20%			
b) South Jersey		8%	12%	28%	43%	45%		25%	50%
c) North Jersey		2%	8%	22%	27%	35%	35%	50%	50%
d) Atlantic City through the Atlantic City Fund							65%	25%	

except that, with respect to the obligations for calendar years 1994 through 1998, the amount allocated for the financing of projects in North Jersey from each casino licensee's obligation shall be the amount allocated for calendar year 1993, and the difference between that amount and the amount to be allocated to North Jersey, on the basis of the above schedule, from each casino licensee's obligations for calendar years 1994 through 1998 shall be paid into or credited to the Atlantic City Fund established by section 44 of P.L.1995, c.18 (C.5:12-161.1) and be devoted to the financing of projects in Atlantic City through that fund. 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. For the purposes of this 1984 amendatory and supplementary act, bond "proceeds" means all funds received from the sale of bonds and any funds generated or derived therefrom.

In the financing of projects outside Atlantic City, the Casino Reinvestment Development Authority shall give priority to the revitalization of the urban areas of this State in the ways specified in section 12 of this 1984

amendatory and supplementary act. Those areas shall include, but not be limited to, all municipalities qualifying for aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.).

Within nine months from the effective date of this 1984 amendatory and supplementary act, the Casino Reinvestment Development Authority shall determine the allocation of projected available moneys to municipalities in South Jersey for the first seven years of their receipt of funds, giving priority to the revitalization of the urban areas of the region. Municipalities receiving such an allocation shall present to the Casino Reinvestment Development Authority for its approval comprehensive plans or projects for which the allocations shall be used. Any such comprehensive plan or project may be submitted to the Casino Reinvestment Development Authority for a determination of eligibility at any time prior to the year for which the funds are allocated, and the Casino Reinvestment Development Authority shall make a determination of eligibility of the plan or project within a reasonable amount of time. If the Casino Reinvestment Development Authority makes a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, for any municipality whose total cost exceeds the amount allocated to that municipality for the first seven years of the receipt of funds by South Jersey municipalities, the Casino Reinvestment Development Authority shall make available sufficient funds in subsequent years necessary to complete those plans or projects, or to complete that portion of the plan or project originally agreed to be funded through the Casino Reinvestment Development Authority, from funds received by the Casino Reinvestment Development Authority in the years following the seventh year of the receipt of funds by South Jersey municipalities. If the comprehensive plan or project is determined by the Casino Reinvestment Development Authority not to be an eligible plan or project, the municipality may submit any other comprehensive plan or project for a determination of eligibility. If, however, the municipality fails to receive a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, sufficient to exhaust the total allocation to that municipality for any year prior to April 30 of the following year for which the allocation was made, the allocation to that municipality for that year shall cease, and the Casino Reinvestment Development Authority may apply those excess funds to any other comprehensive plan or project in any other municipality in the region whose comprehensive plan or project has received a positive determination of eligibility by the Casino Reinvestment Development Authority.

Within 36 months from the effective date of this 1984 amendatory and supplementary act, the Casino Reinvestment Development Authority shall determine the allocation of projected available moneys to municipalities in

North Jersey for the first five years of their receipt of funds, giving priority to the revitalization of the urban areas of the region. Municipalities receiving such an allocation shall present to the Casino Reinvestment Development Authority for its approval comprehensive plans or projects for which the allocations shall be used. Any such comprehensive plan or project may be submitted to the Casino Reinvestment Development Authority for a determination of eligibility at any time prior to the year for which the funds are allocated, and the Casino Reinvestment Development Authority shall make a determination of eligibility of the plan or project within a reasonable amount of time. If the Casino Reinvestment Development Authority makes a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, for any municipality whose total cost exceeds the amount allocated to that municipality for the first five years of the receipt of funds by North Jersey municipalities, the Casino Reinvestment Development Authority shall make available sufficient funds in subsequent years necessary to complete those plans or projects, or to complete that portion of the plan or project originally agreed to be funded through the Casino Reinvestment Development Authority, from funds received by the Casino Reinvestment Development Authority in the years following the fifth year of the receipt of funds by North Jersey municipalities. If the comprehensive plan or project is determined by the Casino Reinvestment Development Authority not to be an eligible plan or project, the municipality may submit any other comprehensive plan or project for a determination of eligibility. If, however, the municipality fails to receive a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, sufficient to exhaust the total allocation to that municipality for any year prior to April 30 of the following year for which the allocation was made, the allocation to that municipality for that year shall cease, and the Casino Reinvestment Development Authority may apply those excess funds to any other comprehensive plan or project in any other municipality in the region whose comprehensive plan or project has received a positive determination of eligibility by the Casino Reinvestment Development Authority.

(2) Commencing with the first year in which a licensee incurs a tax obligation pursuant to this section, and for the period of two years thereafter, 100% of the proceeds of all bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City pursuant to paragraph (1) of this subsection shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income, as defined in this subsection. For the purposes of this

subsection, the "rehabilitation, development, or construction of housing facilities" shall include expenses attributable to site preparation, infrastructure needs and housing-related community facilities and services, including supporting commercial development. Commencing with the fourth year in which a licensee incurs a tax obligation pursuant to this subsection, 50% of the proceeds of all bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City shall be used exclusively to finance the rehabilitation, development, or construction of housing facilities in the city of Atlantic City for persons or families of low through middle income. Commencing with the 11th year in which a licensee incurs a tax obligation pursuant to this section, 50% of the annual aggregate of the proceeds of bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City and investments in approved eligible projects commenced by a licensee in the city of Atlantic City shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income.

(3) The Legislature finds that it is necessary to provide for a balanced community and develop a comprehensive housing program. The Casino Reinvestment Development Authority shall determine the need for housing in the city of Atlantic City, in consultation with the city of Atlantic City and specifically its zoning and planning boards. This shall include determining the types and classes of housing to be constructed and the number of units of each type and class of housing to be built. The Casino Reinvestment Development Authority shall give priority to the housing needs of the persons and their families residing in the city of Atlantic City in 1983 and continuing such residency through the effective date of this 1984 amendatory and supplementary act. The actual percentage of the proceeds of bonds and investments in approved eligible projects commenced by a licensee in the city of Atlantic City, which shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income, shall be based upon the authority's determination of the need for housing in the city of Atlantic City conducted pursuant to this subsection. Once the housing needs of the persons residing in the city of Atlantic City in 1983 and continuing such residency through the effective date of this 1984 amendatory and supplementary act have been met, as determined by the Casino Reinvestment Development Authority pursuant to this subsection, any required percentages for such housing in the city of Atlantic City may, in its sole discretion, be waived by the Casino Reinvest-

ment Development Authority. To aid the Casino Reinvestment Development Authority in making these determinations, the Casino Reinvestment Development Authority shall review the proposal for a housing redevelopment program and strategy for the city of Atlantic City approved and adopted by the Casino Control Commission and shall give priority to same and any other plan or project which is consistent with the standards of this subsection and is acceptable to the Casino Reinvestment Development Authority, pursuant to section 25 of this 1984 amendatory and supplementary act. The Casino Reinvestment Development Authority may determine whether the funds used to finance housing facilities in the city of Atlantic City for persons or families of low, moderate, median range, and middle income are derived from the proceeds of bonds purchased by a licensee from the Casino Reinvestment Development Authority to be devoted to the financing of projects in the city of Atlantic City, investments in approved eligible projects commenced by a licensee in the city of Atlantic City, or a combination of both. Any investment made by a licensee in excess of 100% of its eligible investment tax credit during the first three years and in excess of 50% thereafter in either the purchase of bonds or direct investments in approved eligible projects for low, moderate, median range, and middle income family housing facilities in the city of Atlantic City may be carried forward and credited against the licensee's obligation to make a 100% investment during the first three years and 50% thereafter in low, moderate, median range, and middle income family housing in any future year, with the approval of the Casino Reinvestment Development Authority. For the purposes of this act, "low income families" means families whose income does not exceed 50% of the median income of the area, with adjustments for smaller and larger families. "Moderate income families" means families whose income does not exceed 80% and is not less than 50% of the median income for the area, with adjustments for smaller and larger families. "Median range income families" means families whose income does not exceed 120% and is not less than 80% of the median income for the area, with adjustments for smaller and larger families. "Middle income families" means families whose income does not exceed 150% and not less than 120% of the median income for the area, with adjustments for smaller and larger families. "Median income" means an income defined as median within the Standard Metropolitan Statistical Area for Atlantic City by the United States Department of Housing and Urban Development.

In order to achieve a balanced community, the authority shall ensure that the development of housing for families of low and moderate income shall proceed at the same time as housing for families of median range and middle income, until such time as there is no longer a need for such facilities in the

city of Atlantic City, as determined by the Casino Reinvestment Development Authority.

(4) Notwithstanding any other law or section to the contrary, particularly this subsection regarding the waiver of the required percentages for housing in the city of Atlantic City, subsection I. of section 14, and sections 26, 27, 28, 29, and 31 of this 1984 amendatory and supplementary act, nothing shall be implemented or waived by the Casino Reinvestment Development Authority which would reduce, impair, or prevent the fulfillment of the priorities established and contained in this subsection of this 1984 amendatory and supplementary act.

g. If a person is a licensee with regard to more than one approved hotel pursuant to section 82 of P.L.1977, c.110 (C.5:12-82), the person shall separately account for the gross revenues, the investment alternative tax obligations, and the investments for a tax credit against the investment alternative tax for each approved hotel, and the tax obligations of the licensee under this section shall be determined separately for each approved hotel. The licensee may apportion investments between its approved hotels; provided that no amount of investment shall be credited more than once. If a licensee receives the prior approval of the Casino Reinvestment Development Authority, the licensee may make eligible investments in excess of the investments necessary to receive a tax credit against the investment alternative tax for a given calendar year, and the licensee may carry forward this excess investment and have it credited to its next investment alternative tax obligation. If the Casino Reinvestment Development Authority approves of such excess investment and approves the carry forward of this excess investment, and a licensee elects to purchase bonds of the Casino Reinvestment Development Authority or makes direct investments in approved eligible projects in excess of the investments necessary to receive a tax credit against the investment alternative tax for its current obligation, the licensee shall be entitled to a reduction of the amount of investments necessary in future years, which amount shall be determined annually by the Casino Reinvestment Development Authority, taking into account a current market discount rate from the date of the purchase or investment to the date the purchase or investment would have been required to be made.

h. Each casino licensee shall prepare and file, in a form prescribed by the Casino Reinvestment Development Authority, an annual return reporting that financial information as shall be deemed necessary by the Casino Reinvestment Development Authority to carry out the provisions of this act. This return shall be filed with the Casino Reinvestment Development Authority and the Casino Control Commission on or before April 30 following the calendar year on which the return is based. The Casino Control Commission shall verify to the Casino Reinvestment Development Authority

the information contained in the report, to the fullest extent possible. Nothing in this subsection shall be deemed to affect the due dates for making any investment or paying any tax under this section.

i. Any purchase by a licensee of bonds issued by or offered through the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this act and subsection b. of this section and all approved eligible investments made by a licensee pursuant to section 25 of this act and subsection b. of this section are to be considered investments and not taxes owed or grants to the State or any political subdivision thereof. As such, a licensee shall have the possibility of the return of principal and a return on the capital invested as with other investments. Investors in the bonds issued by or offered through the Casino Reinvestment Development Authority shall be provided with an opinion from a recognized financial rating agency or a financial advisory firm with national standing that each loan of bond proceeds by the Casino Reinvestment Development Authority has the minimum characteristics of an investment, in that a degree of assurance exists that interest and principal payments can be made and other terms of the proposed investment be maintained over the period of the investment, and that the loan of the bond proceeds would qualify for a bond rating of "C" or better. If an opinion cannot be obtained from a recognized financial rating agency or a financial advisory firm with national standing, an opinion shall be obtained from an expert financial analyst with national standing, selected and hired by the Casino Reinvestment Development Authority. In order to achieve a balanced portfolio, assure the viability of the authority and the projects, facilities and programs undertaken pursuant to this 1984 amendatory and supplementary act, no more than 25% of the total investments made by or through the Casino Reinvestment Development Authority with the proceeds of bonds generated in each year shall be investments which would qualify for a bond rating of "C," unless all holders of obligations in each year agree to waive the 25% limit for that year. Nothing herein shall be interpreted as limiting the Casino Reinvestment Development Authority from taking any steps it deems appropriate to protect the characteristics of its investment in projects or any other investments from not being real investments with a prospect for the return of principal and a return on the capital invested. Anything contained in this section shall not be considered a guarantee by the State or any political subdivision thereof of any return of principal or interest, but any purchase by a licensee of bonds or approved eligible investments made by a licensee pursuant to this act shall be at the risk of the licensee. A licensee or the licensees purchasing an issue of bonds issued by the Casino Reinvestment Development Authority in any given year may arrange, at their option, for those bonds or the investments, made by or through the Casino Reinvestment Development Authority with the proceeds of those bonds, to

be insured. The cost of any such insurance purchased by a licensee or licensees shall be paid by the licensee or licensees desiring such insurance.

j. The Casino Reinvestment Development Authority shall promulgate rules and regulations deemed necessary to carry out the purposes of this section.

k. The obligation of a licensee to pay an investment alternative tax pursuant to subsection a. of this section, including a casino licensee subject to the provisions of section 13 of P.L.2001, c.221 (C.5:12-173.21), shall end for each licensed facility operated by the licensee 50 years after any investment alternative tax obligation is first incurred in connection with each licensed facility operated by the licensee, unless extended in connection with a deferral granted by the Casino Reinvestment Development Authority pursuant to subsection c. of this section.

l. Within 90 days of the effective date of this act, P.L.2004, c.129, the State Treasurer shall certify the amounts that were invested pursuant to this section in South Jersey, as defined in subsection f. of this section, for projects located in the City of Atlantic City. Notwithstanding subsection f. of this section, beginning in State fiscal year 2005, the amount of (a) proceeds of all bonds purchased by a licensee from or through the Casino Reinvestment Development Authority and (b) all approved investments in eligible projects by a licensee devoted pursuant to subsection f., shall not exceed the amount devoted for those purposes in State fiscal year 2004. Any amounts in excess of the amounts devoted in State fiscal year 2004, after fulfilling all fund reservations, bonding and contractual obligations, shall be devoted to the financing of projects in South Jersey. For the purpose of this section, "South Jersey" means the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem, except that the term shall not include the City of Atlantic City. The provisions of this subsection shall terminate when excess amounts devoted to the financing of projects in South Jersey equal the amount certified by the State Treasurer.

2. Section 6 of P.L.2003, c.116 (C.5:12-145.8) is amended to read as follows:

C.5:12-145.8 Fee of $3.00 imposed daily on occupied hotel rooms in casino hotel facility.

6. Notwithstanding the provisions of any other law to the contrary and in addition to any other tax or fee imposed by law, there is imposed a fee of $3.00 per day on each hotel room in a casino hotel facility that is occupied by a guest, for consideration or as a complimentary item. This section shall be administered by the commission and the amounts generated by this section shall be paid to the State Treasurer for deposit in the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145)

in State fiscal years 2004 through 2006. Beginning in State fiscal year 2007 and thereafter, $1.00 of the fee shall be deposited by the State Treasurer into a special fund established and held by the State Treasurer and made available for the exclusive use of the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153) for its purposes pursuant to law, as approved by the membership of the authority, subject to the provisions of subsection e. of section 5 of P.L.2004, c.129 (C.5:12-173.22a). Beginning in State fiscal year 2007 and thereafter, the portion of the proceeds of $2.00 of the fee necessary to carry out the purpose of subsections a. through c. of section 5 of P.L.2004, c.129 (C.5:12-173.22a) shall be deposited by the State Treasurer into a special fund established and held by the State Treasurer and made available for the exclusive use of the authority to carry out that purpose, and the remaining proceeds of the $2.00 fee shall be deposited by the State Treasurer into the Casino Revenue Fund.

3. Section 44 of P.L.1995, c.18 (C.5:12-161.1) is amended to read as follows:

C.5:12-161.1 Atlantic City Fund, established in CRDA.

44. There is created and established in the Casino Reinvestment Development Authority a special account to be known as the "Atlantic City Fund," into which shall be deposited or credited the moneys specified in section 45 of P.L.1995, c.18 (C.5:12-161.2), and the moneys specified in subsection f. of section 3 of P.L.1984, c.218 (C.5:12-144.1). The moneys in the fund shall be expended by the authority for economic development projects that foster the redevelopment of Atlantic City. The provisions of section 30 of P.L.1984, c.218 (C.5:12-178) shall not apply to investments made out of the Atlantic City Fund for projects to revitalize the boardwalk. The moneys may also be expended for appropriate and reasonable administrative expenses incurred in the administration of the fund by the authority. At least 30 days before the authority votes on an application for funding for a project, the authority shall provide to the Chairpersons of the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or their successor committees, all relevant information concerning the project.

C.5:12-162.1 Issuance of bond, notes, other obligations.

4. a. In addition to the authorization contained in any other statutory provisions relating to the issuance or sale of bonds, notes or other obligations by the Casino Reinvestment Development Authority, the authority may, upon written approval from the State Treasurer, from time to time issue bonds, notes or other obligations which are to be payable in all or part from any present or future funds, moneys, income or revenues of the authority

from any source whatsoever. At least 14 days before the members of the authority approve the issuance or sale of bonds, notes or other obligations, the authority shall submit to the President of the Senate and the Speaker of the General Assembly a proposed plan of finance for such sale or issuance. The authority is authorized to issue its bonds, notes or other obligations in such principal amounts as shall be necessary to provide sufficient funds to finance eligible projects of the authority, and to pay, fund, or refund any bonds, notes or other obligations issued by it, whether the bonds, notes or other obligations to be funded or refunded have or have not become due or to pay for the administrative costs of the authority.

b. The bonds or notes or other obligations may be additionally secured by a pledge of any grant or contribution from the federal government or any State or any agency or public subdivision thereof or any person or a pledge of any other funds, moneys, income or revenues of the authority from any source whatsoever. The authority may also enter into bank loan agreements, lines of credit or bond insurance, bond purchase agreements and other security agreements and obtain for or on its behalf letters of credit in each case for the purpose of securing its bonds, notes or other obligations or to provide direct payment of any costs which the authority is authorized to pay by this act and to secure repayment of any borrowings under the loan agreement, line of credit, letter of credit, bond insurance or other security agreement by its bonds, notes or other obligations or the proceeds thereof or by any or all of the moneys, income or revenues of the authority pledged to the payment of the bonds or by any appropriation, grant or reimbursement to be received by the authority and other moneys or funds as the authority shall determine.

c. Any provision of any law to the contrary notwithstanding, any bond or note issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of the negotiable instruments law of the State, and each holder or owner of a bond or note, or of any coupon appurtenant thereto, by accepting the bond, note or coupon shall be conclusively deemed to have agreed that the bond, note or coupon is and shall be fully negotiable within the meaning and for all purposes of the negotiable instruments law.

d. Bonds or notes or other obligations of the authority shall be authorized by resolution of the authority and may be issued in one or more series and shall bear the date or dates, mature at the time or times not exceeding 50 years from the date thereof, bear interest at a rate or rates, as shall be determined by the authority, shall be in the denomination or denominations, be in the form, either bearer or registered, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources in the medium of payment at the place or places within or

without the State, and be subject to the terms of redemption, with or without premium, as the resolution or resolutions may provide.

e. Bonds or notes of the authority may be sold at public or private sale at the price or prices as the authority shall determine.

f. Any resolution authorizing the issuance of bonds or refunding bonds pursuant to this section may also provide for the authority to enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure or similar agreements, float agreements, forward agreements, insurance contracts, surety bonds, commitments to purchase or sell bonds, purchase or sale agreements, or commitments or other contracts or agreements and other security agreements approved by the authority in connection with the issuance of the bonds or refunding bonds pursuant to this section. The authority's payment obligations under any such agreements may be secured by and payable from any or all of the moneys, income or revenues of the authority pledged to the payment of the bonds or by any appropriation, grant or reimbursement to be received by the authority and other moneys or funds as the authority shall determine.

g. The authority is authorized to engage the services of financial advisors and experts, placement agents, underwriters, appraisers, and other advisors, consultants and agents as may be necessary to effectuate the financing of eligible projects of the authority.

h. Bonds and refunding bonds issued by the authority pursuant to this section shall be special and limited obligations of the authority payable from, and secured by, the funds, moneys, income or revenues of the authority so specified in accordance with this section. Neither the members of the authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of principal, interest or redemption premium on the bonds or refunding bonds. Bonds or refunding bonds issued pursuant to this section shall not be a debt or liability of the State or any political subdivision thereof, other than the authority, or any agency or instrumentality thereof, except as otherwise provided by this subsection, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and all bonds and refunding bonds issued by the authority shall contain a statement to that effect on their face.

i. The State of New Jersey hereby covenants with the purchasers, holders and owners, from time to time, of any bonds, notes or other obligations secured in all or part from any funds, moneys, income or revenues of

the authority that it shall not repeal or reduce any fees, charges or other sources of revenue securing such bonds while bonds entitled to benefits from such fees, charges or other sources of revenue so imposed are outstanding, and shall not modify or amend the provisions of any law, so as to create any lien or charge on, or any pledge, assignment, diversion, withholding payment or otherwise of or deduction from the funds, moneys, income or revenues of the authority securing such bonds which is prior in time or superior in right to any payments required to be made pursuant to any bond covenants entered into with the purchasers, holders and owners of the bonds so secured.

j. In any resolution of the authority authorizing or relating to the issuance of bonds or notes or other obligations pursuant this act, the authority, in order to secure the payment of the bonds or notes or other obligations and in addition to its other powers, shall have power by provisions therein which shall constitute covenants by the authority and contracts with the holders of the bonds or notes or other obligations:

(1) To pledge to any payment or purpose all or any part of its revenues to which its right then exists or may thereafter come into existence, and the moneys derived therefrom and the proceeds of any bonds or notes or other obligations.

(2) To covenant against pledging all or any part of its revenues, or against mortgaging all or any part of its real or personal property then owned or thereafter acquired, or against permitting or suffering any lien on its revenues or property.

(3) To covenant with respect to limitations on any right to sell, lease or otherwise dispose of any project or any part thereof or any property of any kind.

(4) To covenant as to any bonds and notes to be issued and the limitations thereon and the terms and conditions thereof and as to the custody, application, investment and disposition of the proceeds thereof.

(5) To covenant as to the issuance of additional bonds or notes or other obligations or as to limitations on the issuance of additional bonds or notes and on the incurring of other debts by the authority.

(6) To covenant as to the payment of the principal of or interest on the bonds or notes or any other obligations, as to the sources and methods of that payment, as to the rank or priority of any bonds, notes or other obligations with respect to any lien or security or as to the acceleration of the maturity of any bonds, notes or obligations.

(7) To provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes.

(8) To covenant against extending the time for the payment of bonds or notes or interest thereon.

(9) To covenant as to the redemption of bonds or notes or other obligations and privileges of exchange thereof for other bonds or notes or other obligations of the authority.

(10) To covenant to create or authorize the creation of special funds or moneys to be held in pledge or otherwise for construction, operating expenses, payment or redemption of bonds or notes or other obligations, reserves or other purposes and as to the use and disposition of the moneys held in the funds.

(11) To establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of bonds or notes or other obligations may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which the consent may be given.

(12) To covenant as to the construction, operation or maintenance of real property and personal property, the replacement thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys.

(13) To provide for the release of property, leases or other agreements, or revenues and receipts from any pledge or mortgage and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage.

(14) To mortgage all or any part of its property, real or personal, then owned or thereafter to be acquired.

(15) To provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation and to prescribe the events of default and the terms and conditions upon which any or all of the bonds, notes or other obligations of the authority shall become or may be declared due and payable before maturity and the terms and conditions upon which any declaration and its consequences may be waived.

(16) To vest in a trustee or trustees within or without the State such property, rights, powers and duties in trust as the authority may determine and to limit the rights, powers and duties of the trustee.

(17) To pay the costs or expenses incident to the enforcement of the bonds or notes or other obligations or of the provisions of the resolution or of any covenant or agreement of the authority with the holders of its bonds or notes.

(18) To limit the rights of the holder of any bonds or notes to enforce any pledge or covenant securing bonds or notes.

(19) To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character, and to make the covenants to do or refrain from doing any acts and things as may be necessary, or convenient and desirable, in order to better secure bonds or notes or other obligations or which, in the absolute discretion of the authority, will

tend to make bonds or notes or other obligations more marketable, notwithstanding that the covenants, acts or things may not be enumerated herein.

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 casino hotel expansion project approved by the authority which increases the number of casino hotel rooms in the licensee's casino hotel facility. 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). 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).

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.

6. 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 program.

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 pursu-

ant 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 sections 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, residential units or commercial office space, and may include, in addition, casino hotels, public parking facilities 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.

7. Section 4 of P.L.2001, c.221 (C.5:12-173.12) is amended to read as follows:

C.5:12-173.12 Urban revitalization incentive program.

4. a. There is established the incentive program that shall be administered by the authority. The purpose of the incentive program is to facilitate the development of entertainment-retail districts for the city of Atlantic City and to promote revitalization of other urban areas in the State. The provisions of section 30 of P.L.1984, c.218 (C.5:12-178) shall not apply to the incentive program established pursuant to this section. In order to implement the incentive program, the authority is authorized to accept applications from casino licensees on or before June 30, 2014 for approval of a district project and to designate by resolution up to eleven districts and to enter into project grant agreements with casino licensees to develop district projects within each district or to approve a district project sponsored by the authority pursuant to section 12 of P.L.2001, c.221 (C.5:12-173.20). The authority may disburse district project grants in accordance with sections 7 and 8 of P.L.2001, c.221 (C.5:12-173.15 and 5:12-173.16) to casino licensees with approved district projects or to the authority for a district project sponsored by the authority pursuant to section 12 of P.L.2001, c.221 (C.5:12-173.20) under the incentive program, if the authority determines that:

(1) construction of the district project will commence within two years of the authority's approval of the district project, or as otherwise provided pursuant to the project grant agreement with the authority, or pursuant to the district project plan approved by the authority for an authority sponsored district project;

(2) a proposed district project plan submitted pursuant to section 10 of P.L.2001, c.221 (C.5:12-173.18) is economically sound and will assist in the overall development of the city of Atlantic City and will benefit the people of New Jersey by increasing employment opportunities and strengthening New Jersey's economy;

(3) the disbursement of grants to a casino licensee is a material factor in the licensee's decision to go forward with a district project; and

(4) the casino licensee has agreed to invest a minimum of $20 million in its investment alternative tax obligations under section 3 of P.L.1984, c.218 (C.5:12-144.1), such obligation to be made in $10 million increments to one or more entertainment-retail projects, or housing and community development projects, approved by the authority and the department, in an urban area outside of Atlantic City, and designated by the commissioner as eligible for, and in need of the project, pursuant to section 11 of P.L.2001, c.221 (C.5:12-173.19). Notwithstanding the foregoing, the requirements of this paragraph shall not apply with regard to the five district projects authorized by this amendatory and supplementary act, P.L.2004, 129.

b. Notwithstanding any provision to the contrary in P.L.2001, c.221 (C.5:12-173.9 et al.), the authority and the commissioner jointly may, in their discretion, also designate two entertainment-retail projects, one in North Jersey and one in South Jersey, as eligible for funds under the incentive program.

c. If construction of a designated district project does not commence within the time required pursuant to this section, the authority may remove that designation and, in accordance with procedures adopted by the authority by resolution, accept applications for and designate another district project of another casino licensee notwithstanding the application time requirements of this section.

d. The authority may by resolution amend its designation of a district project to increase the area of the district project by up to 50% with the agreement of the casino licensee.

e. Notwithstanding any provision to the contrary in P.L.2001, c.221 (C.5:12-173.9 et seq.), the authority is authorized to accept an application from an entity other than a casino licensee on or before June 30, 2014 for approval of a district project and to designate by resolution an entertainment-retail district, enter into a project grant agreement with such entity to develop a district project within the district, maintain separate accounts as appropriate, and disburse district project grants in accordance with sections 7 and 8 of P.L.2001, c.221 (C.5:12-173.15 and 5:12-173.16) to such entity with an approved district project under the incentive program.

8. Section 7 of P.L.2001, c.221 (C.5:12-173.15) is amended to read as follows:

C.5:12-173.15 Project fund created.

7. a. There is created a dedicated, nonlapsing project fund to be held by the State Treasurer, which shall be the repository for all moneys required to be deposited therein under section 5 of P.L.2001, c.221 (C.5:12-173.13) and any moneys appropriated or otherwise made available to the project fund.

b. All moneys deposited in the project fund shall be held and disbursed, subject to the requirements of section 11 of P.L.2001, c.221 (C.5:12-173.19), in the form of district project grants as follows:

(1) an amount from the project fund equivalent to the total revenues received pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from the taxation of construction materials used for building a district project approved by the authority pursuant to a project grant agreement, or for building a district project sponsored by the authority, shall be rebated in the form of a one-time grant to the authority for disbursement to the casino licensee with an approved district project or to the authority for an authority sponsored district project;

(2) an amount from the project fund equivalent to the total revenues received pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from the taxation of retail sales of tangible property and services originating from and delivered from business locations in a district project approved by the authority pursuant to a project grant agreement or from business locations in a district project sponsored by the authority, shall be rebated in the form of annual grants (a) to the authority for disbursement to the casino licensee with an approved district project, or to the authority for an authority sponsored district project, with each annual grant not to exceed $2.5 million per district project and payable annually for 20 years from the date of completion of the district project, or until such time as the combined total of grants disbursed under this section and under section 8 of P.L.2001, c.221 (C.5:12-173.16) equals the approved cost of the district project, as determined by the authority, whichever is earlier, and (b) from the amounts remaining after such disbursement in (a), to the authority for its purposes pursuant to law, as approved by the membership of the authority, with each annual grant not to exceed $2.5 million per district project and payable annually for 20 years from the date of completion of the district project;

(3) the balance of the revenues in the project fund shall be deposited in the General Fund if the authority, in consultation with the State Treasurer, determines that the revenues are no longer needed for the purposes of the

project fund or for the uses prescribed in P.L.2001, c.221 (C.5:12-173.9 et al.).

c. The State Treasurer may invest and reinvest any moneys in the project fund, or any portion thereof, in legal obligations of the United States or of the State or any political subdivision thereof. Any income from, interest on, or increment to moneys so invested or reinvested shall be included in the project fund.

9. Section 8 of P.L.2001, c.221 (C.5:12-173.16) is amended to read as follows:

C.5:12-173.16 Room fund created.

8. a. There is created a dedicated, nonlapsing room fund to be held by the State Treasurer, which shall be the repository for all moneys required to be deposited therein under section 6 of P.L.2001, c.221 (C.5:12-173.14) and any moneys appropriated or otherwise made available to the room fund.

b. All moneys deposited in the room fund shall be held and disbursed, subject to the requirements of section 11 of P.L.2001, c.221 (C.5:12-173.19), in the form of district projects grants as follows:

(1) an amount from the room fund equivalent to the incremental luxury tax for a district project approved by the authority pursuant to a project grant agreement or for a district project sponsored by the authority, shall be rebated in the form of annual grants from the room fund to the authority for disbursement to the casino licensee with an approved district project, or to the authority for an authority sponsored district project, and shall be payable annually for 20 years from the date of completion of the district project, or until such time as the combined total of grants disbursed under this section and under section 7 of P.L.2001, c.221 (C.5:12-173.15) equals the approved cost of the district project, as determined by the authority, whichever is earlier;

(2) the balance of the revenues in the room fund shall be deposited in the special fund established pursuant to section 3 of P.L.1991, c.376 (C.40:48-8.47) if the authority, in consultation with the State Treasurer, determines that the revenues are no longer needed for the purposes of the room fund or for the uses prescribed in P.L.2001, c.221 (C.5:12-173.9 et al.).

c. The State Treasurer may invest and reinvest any moneys in the room fund, or any portion thereof, in legal obligations of the United States or of the State or any political subdivision thereof. Any income from, interest on, or increment to moneys so invested or reinvested shall be included in the room fund.

10. Section 12 of P.L.2001, c.221 (C.5:12-173.20) is amended to read as follows:

C.5:12-173.20 Authority sponsored project.

12. Notwithstanding any provision to the contrary in P.L.2001, c.221 (C.5:12-173.9 et al.), the authority may sponsor a district project which meets the criteria of paragraphs (1) and (2) of subsection a. of section 4 of P.L.2001, c.221 (C.5:12-173.12), and in that event, paragraphs (3) and (4) of subsection a. of section 4 of P.L.2001, c.221 (C.5:12-173.12) are not applicable to the authority and the grants otherwise payable to a casino licensee pursuant to paragraphs (1) and (2) of subsection b. of section 7 and paragraph (1) of subsection b. of section 8 of P.L.2001, c.221 (C.5:12-173.15 and 5:12-173.16) shall be payable to the authority.

11. Section 5 of P.L.1984, c.218 (C.5:12-153) is amended to read as follows:

C.5:12-153 Casino Reinvestment Development Authority.

5. a. There is established in, but not of, the Department of the Treasury a Casino Reinvestment Development Authority to consist of the following members:

(1) Six members appointed by the Governor with the advice and consent of the Senate for terms of four years, except that of the initial members to be appointed pursuant to this 1991 amendatory act, P.L.1991, c.219, one shall be appointed for a term of two years and one for a term of four years;

(2) Two members appointed by the Governor upon the recommendation of the President of the Senate for a term of four years;

(3) Two members appointed by the Governor upon the recommendation of the Speaker of the General Assembly for a term of four years;

(4) A member of the Casino Control Commission, who shall be appointed by the Governor and shall be a voting member of the authority;

(5) The mayor of Atlantic City, ex officio and voting;

(6) The Attorney General and the State Treasurer, ex officio and voting;

(7) Two casino industry representatives, both of whom shall be voting members, appointed by the Governor for terms of two years, except that of the initial appointees, one shall serve for a term of one year and one for a term of two years. No person shall be reappointed to succeed himself as a casino industry representative member, and no person appointed shall be an employee, officer or agent of the same casino licensee as the person whom he succeeds as a casino industry representative member; and

(8) One member appointed by the Governor to serve ex officio as a voting member, who shall be either the Commissioner of the Department of Commerce and Economic Development or the Commissioner of the Department of Community Affairs, or the Governor may appoint, in lieu

thereof, an additional member of the Casino Control Commission as a voting member.

No more than four of the voting members appointed by the Governor pursuant to paragraph (1) of this subsection shall be of the same political party.

In the appointment of members of the authority, consideration should be given to achieving a membership of high quality and varied experience, with special emphasis on the fields of banking, finance, investment, and housing and urban development.

b. Each member appointed by the Governor shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. The member or members of the Casino Control Commission appointed by the Governor shall serve as a member or members of the Casino Reinvestment Development Authority at the pleasure of the Governor, subject to the limitations in subsections c., f., and h. of section 52 of P.L.1977, c.110 (C.5:12-52). Such a member may be removed or suspended from office as a member of the Casino Reinvestment Development Authority as provided in section 6 of this act. Any removal or suspension from office of a member of the Casino Control Commission from the Casino Reinvestment Development Authority shall not affect his office held as a member of the Casino Control Commission. Removal from office as a member of the Casino Control Commission may only be done in accordance with subsection g. of section 52 of P.L.1977, c.110 (C.5:12-52).

12. Section 7 of P.L.1984, c.218 (C.5:12-155) is amended to read as follows:

C.5:12-155 Officers; quorum.

7. The Governor shall designate from among the appointed and voting public members, a chairman and a vice chairman of the Casino Reinvestment Development Authority, who shall serve in those capacities at the pleasure of the Governor. The powers of the Casino Reinvestment Development Authority shall be vested in the members thereof in office from time to time and nine voting members of the Casino Reinvestment Development Authority shall constitute a quorum at any meeting thereof. Action may be taken by motions and resolutions adopted by the Casino Reinvestment Development Authority at any meeting thereof by the affirmative vote of at least nine members of the Casino Reinvestment Development Authority.

No vacancy in the membership of the Casino Reinvestment Development Authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the Casino Reinvestment Development Authority.

Repealer.

13. Section 13 of P.L.2001, c.221 (C.5:12-173.21) is repealed.

14. This act shall take effect immediately.

Approved August 25, 2004.

CHAPTER 130

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:*

C.30:4C-1.1 Findings, declarations relative to child protective services.

1. The Legislature finds and declares that:

a. New Jersey must improve the ability of its child welfare system to protect children from abuse and neglect, and to provide services to at-risk children and families in order to prevent harm to their children;

b. Recent data and assessments of the child welfare system in this State demonstrate the need for a new approach to delivering services to this vulnerable population, and the system must therefore be reformed;

c. Because the safety of children must always be paramount, allegations of child abuse and neglect must be investigated quickly and thoroughly and protective actions must be taken immediately if necessary;

d. Concerns about the safety, permanency and well-being of children require significant changes in: the organization of the child welfare system, the ability to implement best practices within the system; the development of effective services to meet the needs of children and families; and the elimination of impediments to the quick and efficient management of abuse and neglect cases;

e. Children need safe, stable and positive relationships with caring adults in order to thrive; and, if their parents are incapable of providing such a caring relationship, the State must look to other families to provide this kind of relationship;

f. To ensure the best outcomes for children and their families, these substitute families must be viewed and treated as "resource families" and

provided with appropriate support, training and responsibilities, which will include: expedited licensure for this purpose, equalized payment rates for care among the various types of resource families, and enhanced access to necessary support services tailored to their respective needs;

g. Youths must be provided with supports and services in their communities that will enable them to grow into healthy and productive adults; and those youths who previously received child welfare services must continue to receive those services beyond the age of 18, up to age 21, as appropriate;

h. This act is necessary in order to make the initial statutory changes required under a comprehensive child welfare reform plan issued by the Department of Human Services as part of a federal class action settlement, which is designed to address the deficiencies identified in the child welfare system in this State over a five-year period;

i. The comprehensive child welfare reform plan calls for changes in the approach taken by the State to case practice, recruitment and support of resource families, partnering with the community, creating and delivering services to children and families, providing support and training to the child welfare system workforce, and ensuring accountability and continuous quality improvement within the system;

j. This act is designed to allow the Division of Youth and Family Services to focus its mission on abused and neglected children by creating the Division of Child Behavioral Health Services and the Division of Prevention and Community Partnerships in order to build the capacity to meet the needs of children and families in those respective areas of the child welfare system, with all three divisions operating under a deputy commissioner who is responsible for the Office of Children's Services established under this act;

k. This act is also designed to enable the Division of Youth and Family Services to better focus on issues relating to abused and neglected children by transferring its responsibilities for licensure and investigating institutional abuse to the Department of Human Services, as well as transferring other responsibilities to the department that will be assigned to the new Division of Child Behavioral Health Services and the new Division of Prevention and Community Partnerships; and

l. This act will otherwise enhance the quality of the child welfare system in New Jersey by facilitating the transition to other needed long-term systemic changes with regard to out-of-home placements and permanency options for children who cannot live with their birth families.

C.30:4C-2.2 Office of Children's Services.

2. There is established the Office of Children's Services in the Department of Human Services, which shall be under the direction of the Deputy Commissioner for Children's Services. The office shall oversee such entities

within the department as are designated by the Commissioner of Human Services, including, but not limited to, the Division of Youth and Family Services, the Division of Child Behavioral Health Services and the Division of Prevention and Community Partnerships.

C.30:4C-2.3 Provision of services to certain individuals aged 18 to 21.

3. Notwithstanding any provision of law to the contrary, the Department of Human Services, through the Office of Children's Services or as otherwise designated by the Commissioner of Human Services, shall provide services to individuals who are between 18 and 21 years of age and meet the following conditions:

a. The individual was receiving services from the Office of Children's Services, or otherwise from the department as designated by the commissioner, on or after the individual's 16th birthday;

b. The individual, on or after the individual's 18th birthday, has not refused or requested that these services be terminated, as applicable; and

c. The Office of Children's Services or another entity designated by the commissioner determines that a continuation of services would be in the individual's best interest and would assist the individual to become an independent and productive adult.

C.30:4C-2.4 New Jersey Child Welfare Training Academy.

4. a. There is established the New Jersey Child Welfare Training Academy in the Department of Human Services for the purpose of providing a training program to meet the needs of the child welfare system Statewide. The training program shall provide:

(1) pre-service and in-service training for public employees of the child welfare system;

(2) training opportunities for community-based entities and other child welfare system stakeholders as designated by the commissioner; and

(3) pre-service and in-service training for resource families.

b. The academy shall be responsible for developing and managing the training activities provided under this program, for which purpose it shall:

(1) administer, coordinate and evaluate all training activities under the program;

(2) seek to partner with social work and other professionals to ensure that the training provided under the program reflects best practices;

(3) develop training curricula, resources and products;

(4) schedule and provide notice of training events and provide training materials for those events;

(5) employ and compensate training event instructors as necessary;

(6) create mechanisms and processes to assess, identify and monitor training needs for public employees of the child welfare system, including competency-based training;

(7) create mechanisms and processes to evaluate the effectiveness of the training provided under the program;

(8) provide for the development of multimedia training tools to inform, educate and train public agency staff, resource families and others in the child welfare system;

(9) determine the minimum number of pre-service and in-service training hours required of, and ensure the availability of sufficient training opportunities for, public agency staff Statewide; and

(10) conduct any other activities necessary to develop, implement and manage the training program.

c. The training provided to resource families pursuant to this section shall include courses in the role of caregivers as part of the care and treatment of children requiring out-of-home placement. A resource family parent shall be required to complete the number of hours of pre-service and in-service training prescribed under the training program as a condition of licensure under P.L.2001, c.419 (C.30:4C-27.3 et seq.).

5. Section 23 of P.L.1982, c.77 (C.2A:4A-42) is amended to read as follows:

C.2A:4A-42 Predispositional evaluation.

23. Predispositional evaluation. a. Before making a disposition, the court may refer the juvenile to an appropriate individual, agency or institution for examination and evaluation.

b. In arriving at a disposition, the court may also consult with such individuals and agencies as may be appropriate to the juvenile's situation, including the county probation division, the Department of Human Services, the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170), the county youth services commission, school personnel, clergy, law enforcement authorities, family members and other interested and knowledgeable parties. In so doing, the court may convene a predispositional conference to discuss and recommend disposition.

c. The predisposition report ordered pursuant to the Rules of Court may include a statement by the victim of the offense for which the juvenile has been adjudicated delinquent or by the nearest relative of a homicide victim. The statement may include the nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim, the extent of any loss to include loss of earnings or ability to work suffered by the

victim and the effect of the crime upon the victim's family. The probation division shall notify the victim or nearest relative of a homicide victim of his right to make a statement for inclusion in the predisposition report if the victim or relative so desires. Any statement shall be made within 20 days of notification by the probation division. The report shall further include information on the financial resources of the juvenile. This information shall be made available on request to the Victims of Crime Compensation Board established pursuant to section 3 of P.L.1971, c.317 (C.52:4B-3) or to any officer authorized under section 3 of P.L.1979, c.396 (C.2C:46-4) to collect payment of an assessment, restitution or fine. Any predisposition report prepared pursuant to this section shall include an analysis of the circumstances attending the commission of the act, the impact of the offense on the community, the offender's history of delinquency or criminality, family situation, financial resources, the financial resources of the juvenile's parent or guardian, and information concerning the parent or guardian's exercise of supervision and control relevant to commission of the act.

Information concerning financial resources included in the report shall be made available to any officer authorized to collect payment on any assessment, restitution or fine.

6. Section 24 of P.L.1982, c.77 (C.2A:4A-43) is amended to read as follows:

C.2A:4A-43 Disposition of delinquency cases.

24. Disposition of delinquency cases. a. In determining the appropriate disposition for a juvenile adjudicated delinquent the court shall weigh the following factors:

(1) The nature and circumstances of the offense;

(2) The degree of injury to persons or damage to property caused by the juvenile's offense;

(3) The juvenile's age, previous record, prior social service received and out-of-home placement history;

(4) Whether the disposition supports family strength, responsibility and unity and the well-being and physical safety of the juvenile;

(5) Whether the disposition provides for reasonable participation by the child's parent, guardian, or custodian, provided, however, that the failure of a parent or parents to cooperate in the disposition shall not be weighed against the juvenile in arriving at an appropriate disposition;

(6) Whether the disposition recognizes and treats the unique physical, psychological and social characteristics and needs of the child;

(7) Whether the disposition contributes to the developmental needs of the child, including the academic and social needs of the child where the child has mental retardation or learning disabilities;

(8) Any other circumstances related to the offense and the juvenile's social history as deemed appropriate by the court;

(9) The impact of the offense on the victim or victims;

(10) The impact of the offense on the community; and

(11) The threat to the safety of the public or any individual posed by the child.

b. If a juvenile is adjudged delinquent, and except to the extent that an additional specific disposition is required pursuant to subsection e. or f. of this section, the court may order incarceration pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44) or any one or more of the following dispositions:

(1) Adjourn formal entry of disposition of the case for a period not to exceed 12 months for the purpose of determining whether the juvenile makes a satisfactory adjustment, and if during the period of continuance the juvenile makes such an adjustment, dismiss the complaint; provided that if the court adjourns formal entry of disposition of delinquency for a violation of an offense defined in chapter 35 or 36 of Title 2C of the New Jersey Statutes the court shall assess the mandatory penalty set forth in N.J.S.2C:35-15 but may waive imposition of the penalty set forth in N.J.S.2C:35-16 for juveniles adjudicated delinquent;

(2) Release the juvenile to the supervision of the juvenile's parent or guardian;

(3) Place the juvenile on probation to the chief probation officer of the county or to any other suitable person who agrees to accept the duty of probation supervision for a period not to exceed three years upon such written conditions as the court deems will aid rehabilitation of the juvenile;

(4) Transfer custody of the juvenile to any relative or other person determined by the court to be qualified to care for the juvenile;

(5) Place the juvenile under the care and responsibility of the Department of Human Services so that the commissioner may designate a division or organizational unit in the department pursuant to P.L.1951, c.138 (C.30:4C-1 et seq.) for the purpose of providing services in or out of the home. Within 14 days, unless for good cause shown, but not later than 30 days, the Department of Human Services shall submit to the court a service plan, which shall be presumed valid, detailing the specifics of any disposition order. The plan shall be developed within the limits of fiscal and other resources available to the department. If the court determines that the service plan is inappropriate, given existing resources, the department may request a hearing on that determination;

(6) Place the juvenile under the care and custody of the Commissioner of Human Services for the purpose of receiving the services of the Division of Developmental Disabilities of that department, provided that the juvenile has been determined to be eligible for those services under P.L.1965, c.59, s.16 (C.30:4-25.4);

(7) Commit the juvenile, pursuant to applicable laws and the Rules of Court governing civil commitment, to the Department of Human Services under the responsibility of the Division of Child Behavioral Health Services for the purpose of placement in a suitable public or private hospital or other residential facility for the treatment of persons who are mentally ill, on the ground that the juvenile is in need of involuntary commitment;

(8) Fine the juvenile an amount not to exceed the maximum provided by law for such a crime or offense if committed by an adult and which is consistent with the juvenile's income or ability to pay and financial responsibility to the juvenile's family, provided that the fine is specially adapted to the rehabilitation of the juvenile or to the deterrence of the type of crime or offense. If the fine is not paid due to financial limitations, the fine may be satisfied by requiring the juvenile to submit to any other appropriate disposition provided for in this section;

(9) Order the juvenile to make restitution to a person or entity who has suffered loss resulting from personal injuries or damage to property as a result of the offense for which the juvenile has been adjudicated delinquent. The court may determine the reasonable amount, terms and conditions of restitution. If the juvenile participated in the offense with other persons, the participants shall be jointly and severally responsible for the payment of restitution. The court shall not require a juvenile to make full or partial restitution if the juvenile reasonably satisfies the court that the juvenile does not have the means to make restitution and could not reasonably acquire the means to pay restitution;

(10) Order that the juvenile perform community services under the supervision of a probation division or other agency or individual deemed appropriate by the court. Such services shall be compulsory and reasonable in terms of nature and duration. Such services may be performed without compensation, provided that any money earned by the juvenile from the performance of community services may be applied towards any payment of restitution or fine which the court has ordered the juvenile to pay;

(11) Order that the juvenile participate in work programs which are designed to provide job skills and specific employment training to enhance the employability of job participants. Such programs may be without compensation, provided that any money earned by the juvenile from participation in a work program may be applied towards any payment of restitution or fine which the court has ordered the juvenile to pay;

(12) Order that the juvenile participate in programs emphasizing self-reliance, such as intensive outdoor programs teaching survival skills, including but not limited to camping, hiking and other appropriate activities;

(13) Order that the juvenile participate in a program of academic or vocational education or counseling, such as a youth service bureau, requiring attendance at sessions designed to afford access to opportunities for normal growth and development. This may require attendance after school, evenings and weekends;

(14) Place the juvenile in a suitable residential or nonresidential program for the treatment of alcohol or narcotic abuse, provided that the juvenile has been determined to be in need of such services;

(15) Order the parent or guardian of the juvenile to participate in appropriate programs or services when the court has found either that such person's omission or conduct was a significant contributing factor towards the commission of the delinquent act, or, under its authority to enforce litigant's rights, that such person's omission or conduct has been a significant contributing factor towards the ineffective implementation of a court order previously entered in relation to the juvenile;

(16) (a) Place the juvenile in a nonresidential program operated by a public or private agency, providing intensive services to juveniles for specified hours, which may include education, counseling to the juvenile and the juvenile's family if appropriate, vocational training, employment counseling, work or other services;

(b) Place the juvenile under the custody of the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) for placement with any private group home or private residential facility with which the commission has entered into a purchase of service contract;

(17) Instead of or in addition to any disposition made according to this section, the court may postpone, suspend, or revoke for a period not to exceed two years the driver's license, registration certificate, or both of any juvenile who used a motor vehicle in the course of committing an act for which the juvenile was adjudicated delinquent. In imposing this disposition and in deciding the duration of the postponement, suspension, or revocation, the court shall consider the severity of the delinquent act and the potential effect of the loss of driving privileges on the juvenile's ability to be rehabilitated. Any postponement, suspension, or revocation shall be imposed consecutively with any custodial commitment;

(18) Order that the juvenile satisfy any other conditions reasonably related to the rehabilitation of the juvenile;

(19) Order a parent or guardian who has failed or neglected to exercise reasonable supervision or control of a juvenile who has been adjudicated delinquent to make restitution to any person or entity who has suffered a loss

as a result of that offense. The court may determine the reasonable amount, terms and conditions of restitution; or

(20) Place the juvenile, if eligible, in an appropriate juvenile offender program established pursuant to P.L.1997, c.81 (C.30:8-61 et al.).

c. (1) Except as otherwise provided in subsections e. and f. of this section, if the county in which the juvenile has been adjudicated delinquent has a juvenile detention facility meeting the physical and program standards established pursuant to this subsection by the Juvenile Justice Commission, the court may, in addition to any of the dispositions not involving placement out of the home enumerated in this section, incarcerate the juvenile in the youth detention facility in that county for a term not to exceed 60 consecutive days. Counties which do not operate their own juvenile detention facilities may contract for the use of approved commitment programs with counties with which they have established agreements for the use of pre-disposition juvenile detention facilities. The Juvenile Justice Commission shall promulgate such rules and regulations from time to time as deemed necessary to establish minimum physical facility and program standards for the use of juvenile detention facilities pursuant to this subsection.

(2) No juvenile may be incarcerated in any county detention facility unless the county has entered into an agreement with the Juvenile Justice Commission concerning the use of the facility for sentenced juveniles. Upon agreement with the county, the Juvenile Justice Commission shall certify detention facilities which may receive juveniles sentenced pursuant to this subsection and shall specify the capacity of the facility that may be made available to receive such juveniles; provided, however, that in no event shall the number of juveniles incarcerated pursuant to this subsection exceed 50% of the maximum capacity of the facility.

(3) The court may fix a term of incarceration under this subsection where:

(a) The act for which the juvenile was adjudicated delinquent, if committed by an adult, would have constituted a crime or repetitive disorderly persons offense;

(b) Incarceration of the juvenile is consistent with the goals of public safety, accountability and rehabilitation and the court is clearly convinced that the aggravating factors substantially outweigh the mitigating factors as set forth in section 25 of P.L.1982, c.77 (C.2A:4A-44); and

(c) The detention facility has been certified for admission of adjudicated juveniles pursuant to paragraph (2).

(4) If as a result of incarceration of adjudicated juveniles pursuant to this subsection, a county is required to transport a predisposition juvenile to a juvenile detention facility in another county, the costs of such transportation shall be borne by the Juvenile Justice Commission.

d. Whenever the court imposes a disposition upon an adjudicated delinquent which requires the juvenile to perform a community service, restitution, or to participate in any other program provided for in this section other than subsection c., the duration of the juvenile's mandatory participation in such alternative programs shall extend for a period consistent with the program goal for the juvenile and shall in no event exceed one year beyond the maximum duration permissible for the delinquent if the juvenile had been committed to a term of incarceration.

e. In addition to any disposition the court may impose pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the following orders shall be included in dispositions of the adjudications set forth below:

(1) An order of incarceration for a term of the duration authorized pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44) or an order to perform community service pursuant to paragraph (10) of subsection b. of this section for a period of at least 60 days, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the crime of theft of a motor vehicle, or the crime of unlawful taking of a motor vehicle in violation of subsection c. of N.J.S.2C:20-10, or the third degree crime of eluding in violation of subsection b. of N.J.S.2C:29-2;

(2) An order of incarceration for a term of the duration authorized pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44) which shall include a minimum term of 60 days during which the juvenile shall be ineligible for parole, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the crime of aggravated assault in violation of paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or theft of a motor vehicle, in a case in which the juvenile has previously been adjudicated delinquent for an act, which if committed by an adult, would constitute unlawful taking of a motor vehicle or theft of a motor vehicle;

(3) An order to perform community service pursuant to paragraph (10) of subsection b. of this section for a period of at least 30 days, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the fourth degree crime of unlawful taking of a motor vehicle in violation of subsection b. of N.J.S.2C:20-10;

(4) An order of incarceration for a term of the duration authorized pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44) which shall include a minimum term of 30 days during which the juvenile shall be ineligible for parole, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the crime of unlawful taking of a motor vehicle in violation of N.J.S.2C:20-10 or the third degree crime of eluding in violation of subsection b. of N.J.S.2C:29-2, and if the

juvenile has previously been adjudicated delinquent for an act which, if committed by an adult, would constitute either theft of a motor vehicle, the unlawful taking of a motor vehicle or eluding.

f. (1) The minimum terms of incarceration required pursuant to subsection e. of this section shall be imposed regardless of the weight or balance of factors set forth in this section or in section 25 of P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those factors shall determine the length of the term of incarceration appropriate, if any, beyond any mandatory minimum term required pursuant to subsection e. of this section.

(2) When a court in a county that does not have a juvenile detention facility or a contractual relationship permitting incarceration pursuant to subsection c. of this section is required to impose a term of incarceration pursuant to subsection e. of this section, the court may, subject to limitations on commitment to State correctional facilities of juveniles who are under the age of 11 or developmentally disabled, set a term of incarceration consistent with subsection c. which shall be served in a State correctional facility. When a juvenile who because of age or developmental disability cannot be committed to a State correctional facility or cannot be incarcerated in a county facility, the court shall order a disposition appropriate as an alternative to any incarceration required pursuant to subsection e.

(3) For purposes of subsection e. of this section, in the event that a "boot camp" program for juvenile offenders should be developed and is available, a term of commitment to such a program shall be considered a term of incarceration.

g. Whenever the court imposes a disposition upon an adjudicated delinquent which requires the juvenile to perform a community service, restitution, or to participate in any other program provided for in this section, the order shall include provisions which provide balanced attention to the protection of the community, accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies to enable the child to become a responsible and productive member of the community.

7. Section 13 of P.L.1982, c.80 (C.2A:4A-88) is amended to read as follows:

C.2A:4A-88 Temporary placement.

13. Temporary placement. Placement of the juvenile prior to the placement hearing or pending determination by the court concerning placement under a family service plan, pursuant to section 14 of P.L.1982, c.80 (C.2A:4A-89), shall be made in a host shelter, resource family or group home, a county shelter care facility as defined by law, or other suitable family

setting. In no event shall such placement be arranged in a secure detention or other facility or in a secure correctional institution for the detention or treatment of juveniles accused of crimes or adjudged delinquent.

8. Section 17 of P.L.1985, c.278 (C.2A:17-56.20) is amended to read as follows:

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

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

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

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

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

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

9. N.J.S.2A:22-3 is amended to read as follows:

Effect of adoption; inheritance.

2A:22-3. The adoption, when granted by the court, shall have the following effect:

a. The right of the person adopted, and of such persons as legally represent him on his death, to take and inherit intestate personal and real property from his natural parents and their kindred shall not be altered by the adoption.

b. In all other respects, all rights, privileges and obligations due from the natural parents to the person adopted and from the person adopted to them and all relations existing between such person and them shall be at an end, including the right of the natural parents and their kindred to take and inherit intestate personal and real property from and through the person adopted.

c. All rights, privileges and obligations due from the parents by adoption to the person adopted and from the person adopted to them and all

relations between such person and them shall be the same as if the person adopted had been born to them in lawful wedlock, including the right to take and inherit intestate personal and real property from and through each other.

Except, however, that:

a. The person adopted shall not be capable of taking property expressly limited by a will or any other instrument to the heirs of the body of the adopting parent or parents, nor property coming on intestacy from the collateral kindred of the adopting parent or parents by right of representation; and

b. On the death of the parent or parents by adoption and the subsequent death of the person adopted, without issue or a spouse, the property of the deceased parent or parents by adoption shall descend to and be distributed among the heirs and next of kin of the parent or parents by adoption and not to the heirs and next of kin of the person adopted; and

c. If the parent or parents by adoption shall have another child or other children entitled to take and inherit from them on intestacy, such children and the person adopted shall, respectively, take and inherit intestate personal and real property from and through each other as if all had been children of the same parents born in lawful wedlock; and

d. Where a parent who has procured a divorce, or a surviving parent, having lawful custody of a child, lawfully marries again, or where an adult unmarried person who has become a resource family parent and has lawful custody of a child, marries, and such parent or resource family parent consents that the person who thus becomes the stepfather or the stepmother of the person so adopted may adopt the person so adopted, the rights, privileges and obligations due from the parent or resource family parent, so consenting, to the person adopted and from the person adopted to such parent and the relations existing between them shall not be altered by the adoption.

10. Section 1 of P.L.1992, c.109 (C.2A:61B-1) is amended to read as follows:

C.2A:61B-1 Definitions; accrual of actions; proceedings.

1. a. As used in this act:

(1) "Sexual abuse" means an act of sexual contact or sexual penetration between a child under the age of 18 years and an adult. A parent, resource family parent, guardian or other person standing in loco parentis within the household who knowingly permits or acquiesces in sexual abuse by any other person also commits sexual abuse, except that it is an affirmative defense if the parent, resource family parent, guardian or other person standing in loco parentis was subjected to, or placed in, reasonable fear of

physical or sexual abuse by the other person so as to undermine the person's ability to protect the child.

(2) "Sexual contact" means an intentional touching by the victim or actor, either directly or through clothing, of the victim's or actor's intimate parts for the purpose of sexually arousing or sexually gratifying the actor. Sexual contact of the adult with himself must be in view of the victim whom the adult knows to be present.

(3) "Sexual penetration" means vaginal intercourse, cunnilingus, fellatio or anal intercourse between persons or insertion of the hand, finger or object into the anus or vagina either by the adult or upon the adult's instruction.

(4) "Intimate parts" means the following body parts: sexual organs, genital area, anal area, inner thigh, groin, buttock or breast of a person.

(5) "Injury or illness" includes psychological injury or illness, whether or not accompanied by physical injury or illness.

b. In any civil action for injury or illness based on sexual abuse, the cause of action shall accrue at the time of reasonable discovery of the injury and its causal relationship to the act of sexual abuse. Any such action shall be brought within two years after reasonable discovery.

c. Nothing in this act is intended to preclude the court from finding that the statute of limitations was tolled in a case because of the plaintiff's mental state, duress by the defendant, or any other equitable grounds. Such a finding shall be made after a plenary hearing. At the plenary hearing the court shall hear all credible evidence and the Rules of Evidence shall not apply, except for Rule 403 or a valid claim of privilege. The court may order an independent psychiatric evaluation of the plaintiff in order to assist in the determination as to whether the statute of limitations was tolled.

d. (1) Evidence of the victim's previous sexual conduct shall not be admitted nor reference made to it in the presence of a jury except as provided in this subsection. When the defendant seeks to admit such evidence for any purpose, the defendant must apply for an order of the court before the trial or preliminary hearing, except that the court may allow the motion to be made during trial if the court determines that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence. After the application is made, the court shall conduct a hearing in camera to determine the admissibility of the evidence. If the court finds that evidence offered by the defendant regarding the sexual conduct of the victim is relevant and that the probative value of the evidence offered is not outweighed by its collateral nature or by the probability that its admission will create undue prejudice, confusion of the issues, or unwarranted invasion of the privacy of the victim, the court shall enter an order setting forth with specificity what evidence may be introduced and the nature of the questions which shall be permitted, and the reasons why the court finds that such

evidence satisfies the standards contained in this section. The defendant may then offer evidence under the order of the court.

(2) In the absence of clear and convincing proof to the contrary, evidence of the victim's sexual conduct occurring more than one year before the date of the offense charged is presumed to be inadmissible under this section.

(3) Evidence of the victim's previous sexual conduct shall not be considered relevant unless it is material to proving that the source of semen, pregnancy or disease is a person other than the defendant. For the purposes of this subsection, "sexual conduct" shall mean any conduct or behavior relating to sexual activities of the victim, including but not limited to previous or subsequent experience of sexual penetration or sexual contact, use of contraceptives, living arrangement and life style.

e. (1) The court may, on motion and after conducting a hearing in camera, order the taking of the testimony of a victim on closed circuit television at the trial, out of the view of the jury, defendant, or spectators upon making findings as provided in paragraph (2) of this subsection.

(2) An order under this section may be made only if the court finds that the victim is 16 years of age or younger and that there is a substantial likelihood that the victim would suffer severe emotional or mental distress if required to testify in open court. The order shall be specific as to whether the victim will testify outside the presence of spectators, the defendant, the jury, or all of them and shall be based on specific findings relating to the impact of the presence of each.

(3) A motion seeking closed circuit testimony under paragraph (1) of this subsection may be filed by:

(a) The victim or the victim's attorney, parent or legal guardian;

(b) The defendant or the defendant's counsel; or

(c) The trial judge on the judge's own motion.

(4) The defendant's counsel shall be present at the taking of testimony in camera. If the defendant is not present, he and his attorney shall be able to confer privately with each other during the testimony by a separate audio system.

(5) If testimony is taken on closed circuit television pursuant to the provisions of this act, a stenographic recording of that testimony shall also be required. A typewritten transcript of that testimony shall be included in the record on appeal. The closed circuit testimony itself shall not constitute part of the record on appeal except on motion for good cause shown.

f. (1) The name, address, and identity of a victim or a defendant shall not appear on the complaint or any other public record as defined in P.L.1963, c.73 (C.47:1A-1 et seq.). In their place initials or a fictitious name shall appear.

(2) Any report, statement, photograph, court document, complaint or any other public record which states the name, address and identity of a victim shall be confidential and unavailable to the public.

(3) The information described in this subsection shall remain confidential and unavailable to the public unless the victim consents to the disclosure or if the court, after a hearing, determines that good cause exists for the disclosure. The hearing shall be held after notice has been made to the victim and to the defendant and the defendant's counsel.

(4) Nothing contained herein shall prohibit the court from imposing further restrictions with regard to the disclosure of the name, address, and identity of the victim when it deems it necessary to prevent trauma or stigma to the victim.

g. In accordance with R.5:3-2 of the Rules Governing the Courts of the State of New Jersey, the court may, on its own or a party's motion, direct that any proceeding or portion of a proceeding involving a victim sixteen years of age or younger be conducted in camera.

h. A plaintiff who prevails in a civil action pursuant to this act shall be awarded damages in the amount of $10,000, plus reasonable attorney's fees, or actual damages, whichever is greater. Actual damages shall consist of compensatory and punitive damages and costs of suit, including reasonable attorney's fees. Compensatory damages may include, but are not limited to, damages for pain and suffering, medical expenses, emotional trauma, diminished childhood, diminished enjoyment of life, costs of counseling, and lost wages.

11. Section 1 of P.L.1993, c.214 (C.2A:61C-1) is amended to read as follows:

C.2A:61C-1 Shoplifting, retail thefts, civil action; provided.

1. a. A person who commits the offense of shoplifting as defined in N.J.S.2C:20-11 or a person who commits the offense of theft as defined in Chapter 20 of Title 2C of the New Jersey Statutes by stealing food or drink from an eating establishment shall be liable for any criminal penalties imposed by law and shall be liable to the merchant in a civil action in an amount equal to the following:

(1) The value of the merchandise as damages, not to exceed $500, if the merchandise cannot be restored to the merchant in its original condition;

(2) Additional damages, if any, arising from the incident, not to include any loss of time or wages incurred by the merchant in connection with the apprehension of the defendant; and

(3) A civil penalty payable to the merchant in an amount of up to $150.

b. A parent, guardian or other person having legal custody of a minor who commits the offense of shoplifting or the offense of theft of food or drink from an eating establishment shall be liable to the merchant for the damages specified in subsection a. of this section. This subsection shall not apply to a parent whose parental custody and control of such minor has been removed by court order, decree, judgment, military service, or marriage of such infant, or to a resource family parent of such minor.

c. If a merchant institutes a civil action pursuant to the provisions of this section, the prevailing party in that action shall be entitled to an award of reasonable attorney's fees and reasonable court costs.

d. Limitations on civil action:

(1) Before a civil action may be commenced, the merchant shall send a notice to the defendant's last known address giving the defendant 20 days to respond. It is not a condition precedent to maintaining an action under this act that the defendant has been convicted of shoplifting or theft.

(2) No civil action under this act may be maintained if the defendant has paid the merchant a penalty equal to the retail value of the merchandise where the merchandise was not recovered in its original condition, plus a sum of up to $150.

(3) The provisions of this act do not apply in any case where the value of the merchandise exceeds $500.

e. If the person to whom a written demand is made complies with such demand within 20 days following the receipt of the demand, that person shall be given a written release from further civil liability with respect to the specific act of shoplifting or theft.

12. Section 2 of P.L.2001, c.167 (C.2C:7-13) is amended to read as follows:

C.2C:7-13 Development, maintenance of system on the Internet registry.

2. a. Pursuant to the provisions of this section, the Superintendent of State Police shall develop and maintain a system for making certain information in the central registry established pursuant to subsection d. of section 4 of P.L.1994, c.133 (C.2C:7-4) publicly available by means of electronic Internet technology.

b. The public may, without limitation, obtain access to the Internet registry to view an individual registration record, any part of, or the entire Internet registry concerning all offenders whose risk of re-offense is high or for whom the court has ordered notification in accordance with paragraph (3) of subsection c. of section 3 of P.L.1994, c.128 (C.2C:7-8), regardless of the age of the offender.

c. Except as provided in subsection d. of this section, the public may, without limitation, obtain access to the Internet registry to view an individual registration record, any part of, or the entire Internet registry concerning offenders whose risk of re-offense is moderate and for whom the court has ordered notification in accordance with paragraph (2) of subsection c. of section 3 of P.L.1994, c.128 (C.2C:7-8).

d. The individual registration record of an offender whose risk of re-offense has been determined to be moderate and for whom the court has ordered notification in accordance with paragraph (2) of subsection c. of section 3 of P.L.1994, c.128 (C.2C:7-8) shall not be made available to the public on the Internet registry if the sole sex offense committed by the offender which renders him subject to the requirements of P.L.1994, c.133 (C.2C:7-1 et seq.) is one of the following:

(1) An adjudication of delinquency for any sex offense as defined in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2);

(2) A conviction or acquittal by reason of insanity for a violation of N.J.S.2C:14-2 or N.J.S.2C:14-3 under circumstances in which the offender was related to the victim by blood or affinity to the third degree or was a resource family parent, a guardian, or stood in loco parentis within the household; or

(3) A conviction or acquittal by reason of insanity for a violation of N.J.S.2C:14-2 or N.J.S.2C:14-3 in any case in which the victim assented to the commission of the offense but by reason of age was not capable of giving lawful consent.

e. Notwithstanding the provisions of paragraph d. of this subsection, the individual registration record of an offender to whom an exception enumerated in paragraph (1), (2) or (3) of subsection d. of this section applies shall be made available to the public on the Internet registry if the State establishes by clear and convincing evidence that, given the particular facts and circumstances of the offense and the characteristics and propensities of the offender, the risk to the general public posed by the offender is substantially similar to that posed by offenders whose risk of re-offense is moderate and who do not qualify under the enumerated exceptions.

f. The individual registration records of offenders whose risk of re-offense is low or of offenders whose risk of re-offense is moderate but for whom the court has not ordered notification in accordance with paragraph (2) of subsection c. of section 3 of P.L.1994, c.128 (C.2C:7-8) shall not be available to the public on the Internet registry.

g. The information concerning a registered offender to be made publicly available on the Internet shall include: the offender's name and any aliases the offender has used or under which the offender may be or may have been known; any sex offense as defined in subsection b. of section 2

of P.L.1994, c.133 (C.2C:7-2) for which the offender was convicted, adjudicated delinquent or acquitted by reason of insanity, as the case may be; the date and location of disposition; a brief description of any such offense, including the victim's gender and indication of whether the victim was less than 18 years old or less than 13 years old; a general description of the offender's modus operandi, if any; the determination of whether the risk of re-offense by the offender is moderate or high; the offender's age, race, sex, date of birth, height, weight, hair, eye color and any distinguishing scars or tattoos; a photograph of the offender and the date on which the photograph was entered into the registry; the make, model, color, year and license plate number of any vehicle operated by the offender; and the street address, zip code, municipality and county in which the offender resides.

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

Sexual assault.

2C:14-2. Sexual assault. a. An actor is guilty of aggravated sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances:

(1) The victim is less than 13 years old;

(2) The victim is at least 13 but less than 16 years old; and

(a) The actor is related to the victim by blood or affinity to the third degree, or

(b) The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status, or

(c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household;

(3) The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, kidnapping, homicide, aggravated assault on another, burglary, arson or criminal escape;

(4) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object;

(5) The actor is aided or abetted by one or more other persons and the actor uses physical force or coercion;

(6) The actor uses physical force or coercion and severe personal injury is sustained by the victim;

(7) The victim is one whom the actor knew or should have known was physically helpless, mentally defective or mentally incapacitated.

Aggravated sexual assault is a crime of the first degree.

b. An actor is guilty of sexual assault if he commits an act of sexual contact with a victim who is less than 13 years old and the actor is at least four years older than the victim.

c. An actor is guilty of sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances:

(1) The actor uses physical force or coercion, but the victim does not sustain severe personal injury;

(2) The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status;

(3) The victim is at least 16 but less than 18 years old and:

(a) The actor is related to the victim by blood or affinity to the third degree; or

(b) The actor has supervisory or disciplinary power of any nature or in any capacity over the victim; or

(c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household;

(4) The victim is at least 13 but less than 16 years old and the actor is at least four years older than the victim.

Sexual assault is a crime of the second degree.

14. Section 4 of P.L.1999, c.334 (C.2C:35-5.7) is amended to read as follows:

C.2C:35-5.7 Issuance of order by court.

4. a. When a person is charged with a criminal offense on a warrant and the person is released from custody before trial on bail or personal recognizance, the court, upon application of a law enforcement officer or prosecuting attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection e. of this section, shall as a condition of release issue an order prohibiting the person from entering any place defined by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding the place or modifications as provided by subsection f. of this section.

b. When a person is charged with a criminal offense on a summons, the court, upon application of a law enforcement officer or prosecuting attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection e. of this section, shall, at the time of the defendant's first appearance, issue an order prohibiting the person from entering any place defined by subsection b. of section 3 of P.L.1999, c.334

(C.2C:35-5.6), including a buffer zone surrounding the place or modifications as provided by subsection f. of this section.

c. When a person is charged with a criminal offense on a juvenile delinquency complaint and is released from custody at a detention hearing pursuant to section 19 of P.L.1982, c.77 (C.2A:4A-38), the court, upon application of a law enforcement officer or prosecuting attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection e. of this section, shall issue an order prohibiting the person from entering any place defined by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding the place or modifications as provided by subsection f. of this section.

d. When a person is charged with a criminal offense on a juvenile delinquency complaint and is released without being detained pursuant to section 15 or 16 of P.L.1982, c.77 (C.2A:4A:34 or C.2A:4A-35), the law enforcement officer or prosecuting attorney shall prepare an application pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) for filing on the next court day.

The law enforcement officer releasing the juvenile shall serve the juvenile and his parent or guardian with written notice that an order shall be issued by the Family Part of the Superior Court on the next court day prohibiting the juvenile from entering any place defined by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding the place or modifications as provided by subsection f. of this section.

The court shall issue such order on the first court day following the release of the juvenile. If the restraints contained in the court order differ from the restraints contained in the notice, the order shall not be effective until the third court day following the issuance of the order. The juvenile may apply to the court to stay or modify the order on the grounds set forth in subsection e. of this section.

e. The court may forego issuing a restraining order for which application has been made pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) only if the defendant establishes by clear and convincing evidence that:

(1) the defendant lawfully resides at or has legitimate business on or near the place, or otherwise legitimately needs to enter the place. In such an event, the court shall not issue an order pursuant to this section unless the court is clearly convinced that the need to bar the person from the place in order to protect the public safety and the rights, safety and health of the residents and persons working in the place outweighs the person's interest in returning to the place. If the balance of the interests of the person and the public so warrants, the court may issue an order imposing conditions upon the person's entry at, upon or near the place; or

(2) the issuance of an order would cause undue hardship to innocent persons and would constitute a serious injustice which overrides the need to protect the rights, safety and health of persons residing in or having business in the place.

f. A restraining order issued pursuant to subsection a., b., c., d. or h. of this section shall describe the place from which the person has been barred and any conditions upon the person's entry into the place, with sufficient specificity to enable the person to guide his conduct accordingly and to enable a law enforcement officer to enforce the order. The order shall also prohibit the person from entering an area of up to 500 feet surrounding the place, unless the court rules that a different buffer zone would better effectuate the purposes of this act. In the discretion of the court, the order may contain modifications to permit the person to enter the area during specified times for specified purposes, such as attending school during regular school hours. When appropriate, the court may append to the order a map depicting the place. The person shall be given a copy of the restraining order and any appended map and shall acknowledge in writing the receipt thereof.

g. (1) The court shall provide notice of the restraining order to the local law enforcement agency where the arrest occurred and to the county prosecutor.

(2) Notwithstanding the provisions of section 1 of P.L.1982, c.79 (C.2A:4A-60), prior to the person's conviction or adjudication of delinquency for a criminal offense, the local law enforcement agency may post a copy of any orders issued pursuant to this section, or an equivalent notice containing the terms of the order, upon one or more of the principal entrances of the place or in any other conspicuous location. Such posting shall be for the purpose of informing the public, and the failure to post a copy of the order shall in no way excuse any violation of the order.

(3) Notwithstanding the provisions of section 1 of P.L.1982, c.79 (C.2A:4A-60), prior to the person's conviction or adjudication of delinquency for a criminal offense, any law enforcement agency may publish a copy of any orders issued pursuant to this section, or an equivalent notice containing the terms of the order, in a newspaper circulating in the area of the restraining order. Such publication shall be for the purpose of informing the public, and the failure to publish a copy of the order shall in no way excuse any violation of the order.

(4) Notwithstanding the provisions of section 1 of P.L.1982, c.79 (C.2A:4A-60), prior to the person's conviction or adjudication of delinquency for a criminal offense, any law enforcement agency may distribute copies of any orders issued pursuant to this section, or an equivalent notice containing the terms of the order, to residents or businesses located within the area delineated in the order or, in the case of a school or any govern-

ment-owned property, to the appropriate administrator, or to any tenant association representing the residents of the affected area. Such distribution shall be for the purpose of informing the public, and the failure to publish a copy of the order shall in no way excuse any violation of the order.

h. When a person is convicted of or adjudicated delinquent for any criminal offense, the court, upon application of a law enforcement officer or prosecuting attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection e. of this section, shall, by separate order or within the judgment of conviction, issue an order prohibiting the person from entering any place defined by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding the place or modifications as provided by subsection f. of this section. Upon the person's conviction or adjudication of delinquency for a criminal offense, a law enforcement agency, in addition to posting, publishing, and distributing the order or an equivalent notice pursuant to paragraphs (2), (3) and (4) of subsection g. of this section, may also post, publish and distribute a photograph of the person.

i. When a juvenile has been adjudicated delinquent for an act which, if committed by an adult, would be a criminal offense, in addition to an order required by subsection h. of this section or any other disposition authorized by law, the court may order the juvenile and any parent, guardian or any family member over whom the court has jurisdiction to take such actions or obey such restraints as may be necessary to facilitate the rehabilitation of the juvenile or to protect public safety or to safeguard or enforce the rights of residents of the place. The court may commit the juvenile to the care and responsibility of the Department of Human Services until such time as the juvenile reaches the age of 18 or until the order of removal and restraint expires, whichever first occurs, or to such alternative residential placement as is practicable.

j. An order issued pursuant to subsection a., b., c. or d. of this section shall remain in effect until the case has been adjudicated or dismissed, or for not less than two years, whichever is less. An order issued pursuant to subsection h. of this section shall remain in effect for such period of time as shall be fixed by the court but not longer than the maximum term of imprisonment or incarceration allowed by law for the underlying offense or offenses. When the court issues a restraining order pursuant to subsection h. of this section and the person is also sentenced to any form of probationary supervision or participation in the Intensive Supervision Program, the court shall make continuing compliance with the order an express condition of probation or the Intensive Supervision Program. When the person has been sentenced to a term of incarceration, continuing compliance with the terms and conditions of the order shall be made an express condition of the person's

release from confinement or incarceration on parole. At the time of sentencing or, in the case of a juvenile, at the time of disposition of the juvenile case, the court shall advise the defendant that the restraining order shall include a fixed time period in accordance with this subsection and shall include that provision in the judgment of conviction, dispositional order, separate order or order vacating an existing restraining order, to the law enforcement agency that made the arrest and to the county prosecutor.

k. All applications to stay or modify an order issued pursuant to this act, including an order originally issued in municipal court, shall be made in the Superior Court. The court shall immediately notify the county prosecutor in writing whenever an application is made to stay or modify an order issued pursuant to this act. If the court does not issue a restraining order, the sentence imposed by the court for a criminal offense as defined in subsection b. of this section shall not become final for ten days in order to permit the appeal of the court's findings by the prosecution.

l. Nothing in this section shall be construed in any way to limit the authority of the court to take such other actions or to issue such orders as may be necessary to protect the public safety or to safeguard or enforce the rights of others with respect to the place.

m. Notwithstanding any other provision of this section, the court may permit the person to return to the place to obtain personal belongings and effects and, by court order, may restrict the time and duration and provide for police supervision of such a visit.

15. N.J.S.3B:1-1 is amended to read as follows:

Definitions A to H.

3B:1-1. As used in this title, unless otherwise defined:

"Administrator" includes general administrators of an intestate and unless restricted by the subject or context, administrators with the will annexed, substituted administrators, substituted administrators with the will annexed, temporary administrators and administrators pendente lite.

"Beneficiary," as it relates to trust beneficiaries, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer and as it relates to a charitable trust, includes any person entitled to enforce the trust.

"Child" means any individual, including a natural or adopted child, entitled to take by intestate succession from the parent whose relationship is involved and excludes any person who is only a stepchild, a resource family child, a grandchild or any more remote descendant.

"Claims" include liabilities whether arising in contract, or in tort or otherwise, and liabilities of the estate which arise at or after the death of the

decedent, including funeral expenses and expenses of administration, but does not include estate or inheritance taxes, demands or disputes regarding title to specific assets alleged to be included in the estate.

"Cofiduciary" means each of two or more fiduciaries jointly serving in a fiduciary capacity.

"Devise," when used as a noun, means a testamentary disposition of real or personal property and when used as a verb, means to dispose of real or personal property by will.

"Devisee" means any person designated in a will to receive a devise. In the case of a devise to an existing trust or trustee, or to a trustee on trust described by will, trust or trustee is the devisee and the beneficiaries are not devisees.

"Distributee" means any person who has received property of a decedent from his personal representative other than as a creditor or purchaser. A trustee is a distributee only to the extent of a distributed asset or increment thereto remaining in his hands. A beneficiary of a trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative.

"Domiciliary foreign fiduciary" means any fiduciary who has received letters, or has been appointed, or is authorized to act as a fiduciary, in the jurisdiction in which the decedent was domiciled at the time of his death, in which the ward is domiciled or in which is located the principal place of the administration of a trust.

"Estate" means all of the property of a decedent, minor or incapacitated person, trust or other person whose affairs are subject to this title as the property is originally constituted and as it exists from time to time during administration.

"Fiduciary" includes executors, general administrators of an intestate, administrators with the will annexed, substituted administrators, substituted administrators with the will annexed, guardians, substituted guardians, trustees, substituted trustees and, unless restricted by the subject or context, temporary administrators, administrators pendente lite, administrators ad prosequendum, administrators ad litem and other limited fiduciaries.

"Guardian" means a person who has qualified as a guardian of the person or estate of a minor or incapacitated person pursuant to testamentary or court appointment, but excludes one who is merely a guardian ad litem.

"Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

16. N.J.S.3B:1-2 is amended to read as follows:

Definitions I to Z.

3B:1-2. "Issue" of a person includes all of his lineal descendants, natural or adopted, of all generations, with the relationship of parent and child at each generation being determined by the definition of child and parent.

"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.

"Incapacitated person" means a person 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 person is also used to designate a person 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 person refer to the state or condition of an incapacitated person as hereinbefore defined.

"Minor" means a person 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 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.

"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.

"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.

"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.

"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.), 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.

"Ward" means a person for whom a guardian is appointed or a person under the protection of the court.

"Will" means the last will and testament of a testator or testatrix and includes any codicil.

17. Section 3 of P.L.1999, c.53 (C.9:3-45.2) is amended to read as follows:

C.9:3-45.2 Resource family parent notice, opportunity to be heard.

3. In any case in which the Division of Youth and Family Services accepts a child in its care or custody, the child's resource family parent or relative providing care for the child, as applicable, shall receive written notice of and an opportunity to be heard at any review or hearing held with respect to the child, but the resource family parent or relative shall not be made a party to the review or hearing solely on the basis of the notice and opportunity to be heard.

18. Section 12 of P.L.1977, c.367 (C.9:3-48) is amended to read as follows:

C.9:3-48 Action on complaint for adoption of child not received from approved agency.

12. a. When the child to be adopted has not been received from an approved agency, the prospective parent shall file with the court a complaint for adoption. Upon receipt of the complaint, the court shall by its order:

(1) Declare the child to be a ward of the court and declare that the plaintiff shall have custody of the child subject to further order of the court;

(2) Appoint an approved agency to make an investigation and submit a written report to the court which shall include:

(a) the facts and circumstances surrounding the surrender of custody by the child's parents and the placement of the child in the home of the plaintiff, including the identity of any intermediary who participated in the placement of the child;

(b) an evaluation of the child and of the plaintiff and the spouse of the plaintiff if not the child's parent and any other person residing in the prospective home; and

(c) any fees, expenses or costs paid by or on behalf of the adopting parent in connection with the adoption.

The agency conducting the investigation shall, if it is able to, contact the birth parent and confirm that counseling, if required by section 18 of P.L.1993, c.345 (C.9:3-39.1), has either been provided or waived by the birth parent. If not previously provided, the agency shall advise the parent of the availability of such counseling through the agency and shall provide such counseling if requested by the birth parent or if the birth parent resides out of State or out of the country, such counseling should be made available by or through an agency approved to provide such counseling in the birth parent's state or country of domicile. The agency shall further confirm that the birth parent has been advised that the decision of the birth parent not to place the child for adoption or the return of the child to the birth parent can not be conditioned upon the repayment of expenses by the birth parent to the adoptive parent.

All expenses and fees for the investigation and any counseling provided shall be the responsibility of the plaintiff;

(3) Direct the plaintiff to cooperate with the approved agency making the investigation and report;

(4) Fix a day for a preliminary hearing not less than two or more than three months from the date of the filing of the complaint; except that the hearing may be accelerated upon the application of the approved agency and upon notice to the plaintiff if the agency determines that removal of the child from the plaintiff's home is required, in which case the court shall appoint a guardian ad litem to represent the child at all future proceedings regarding the adoption.

Whenever the plaintiff is a stepparent of the child, the court, in its discretion, may dispense with the agency investigation and report and take direct evidence at the preliminary hearing of the facts and circumstances surrounding the filing of the complaint for adoption.

Whenever a plaintiff is a brother, sister, grandparent, aunt, uncle, or birth father of the child, the order may limit the investigation to an inquiry concerning the status of the parents of the child and an evaluation of the plaintiff. At least 10 days prior to the day fixed for the preliminary hearing the approved agency shall file its report with the court and serve a copy on the plaintiff; and

(5) Conduct a search of the records of the central registry established pursuant to section 1 of P.L.1999, c.421 (C.2C:25-34), upon the request of a surrogate and not more than 30 days prior to the preliminary hearing, to determine whether a prospective adoptive parent or any member of the parent's household has:

(a) had a domestic violence restraining order entered against them; or

(b) been charged with a violation of a court order involving domestic violence.

The court shall provide the results of the search to the surrogate for inclusion in the court's adoption file. If the results of the search contain any material findings or recommendations adverse to the plaintiff, the surrogate shall provide the material findings or recommendations to the approved agency.

In a case in which the plaintiff is a stepparent of the child and the court dispenses with the agency investigation and report pursuant to paragraph (4) of this subsection and the results of the court's search contain any material findings or recommendations adverse to the plaintiff, the surrogate shall serve a copy of that part of the results of the search upon the plaintiff at least five days prior to the preliminary hearing.

b. The preliminary hearing shall be in camera and shall have for its purpose the determination of the circumstances under which the child was relinquished by his parents and received into the home of the plaintiff, the status of the parental rights of the parents, the fitness of the child for adoption and the fitness of the plaintiff to adopt the child and to provide a suitable home. If the report of the approved agency pursuant to subsection a. of this section contains or the results of the search of the central registry contain material findings or recommendations adverse to the plaintiff, the presence of a representative of the approved agency who has personal knowledge of the investigation shall be required at the preliminary hearing. If in the course of the preliminary hearing the court determines that there is lack of jurisdiction, lack of qualification on the part of the plaintiff or that the best interests of the child would not be promoted by the adoption, the court shall deny the

adoption and make such further order concerning the custody and guardianship of the child as may be deemed proper in the circumstances.

c. If upon completion of the preliminary hearing the court finds that:

(1) The parents of the child do not have rights as to custody of the child by reason of their rights previously having been terminated by court order; or, the parents' objection has been contravened pursuant to subsection a. of section 10 of P.L.1977, c.367 (C.9:3-46);

(2) The guardian, if any, should have no further control or authority over the child;

(3) The child is fit for adoption; and

(4) The plaintiff is fit to adopt the child, the court shall: (a) issue an order stating its findings, declaring that no parent or guardian of the child has a right to custody or guardianship of the child; (b) terminate the parental rights of that person, which order shall be a final order; (c) fix a date for final hearing not less than six nor more than nine months from the date of the preliminary hearing; and (d) appoint an approved agency to supervise and evaluate the continuing placement in accordance with subsection d. of this section. If the plaintiff is a brother, sister, grandparent, aunt, uncle, birth father, stepparent or resource family parent of the child, or if the child has been in the home of the plaintiff for at least two years immediately preceding the commencement of the adoption action, and if the court is satisfied that the best interests of the child would be promoted by the adoption, the court may dispense with this evaluation and final hearing and enter a judgment of adoption immediately upon completion of the preliminary hearing.

d. The approved agency appointed pursuant to subsection c. of this section shall from time to time visit the home of the plaintiff and make such further inquiry as may be necessary to observe and evaluate the care being received by the child and the adjustment of the child and the plaintiff as members of a family. At least 15 days prior to the final hearing the approved agency shall file with the court a written report of its findings, including a recommendation concerning the adoption, and shall mail a copy of the report to the plaintiff.

If at any time following the preliminary hearing the approved agency concludes that the best interests of the child would not be promoted by the adoption, the court shall appoint a guardian ad litem for the child and after a hearing held upon the application of the approved agency and upon notice to the plaintiff, may modify or revoke any order entered in the action and make such further order concerning the custody and guardianship of the child as may be deemed proper in the circumstances.

e. At the final hearing the court shall proceed in camera; except that if the approved agency in its report pursuant to subsection d. of this section has recommended that the adoption be granted, the final hearing may be dis-

pensed with and, if the court is satisfied that the best interests of the child would be promoted by the adoption, a judgment of adoption may be entered immediately.

The appearance of the approved agency at the final hearing shall not be required unless its recommendations are adverse to the plaintiff or unless ordered by the court. If its appearance is required, the approved agency shall be entitled to present testimony and to cross-examine witnesses and shall be subject to cross-examination with respect to its report and recommendations in the matter.

f. If, based upon the report and the evidence presented, the court is satisfied that the best interests of the child would be promoted by the adoption, the court shall enter a judgment of adoption. If, based upon the evidence, the court is not satisfied that the best interests of the child would be promoted by the adoption, the court shall deny the adoption and make such further order concerning the custody and guardianship of the child as may be deemed proper in the circumstances.

19. Section 19 of P.L.1977, c.367 (C.9:3-55) is amended to read as follows:

C.9:3-55 Report of prospective parents.

19. a. A prospective parent who is not a brother, sister, aunt, uncle, grandparent, resource family parent, birth father or stepparent of the child to be adopted shall file before the complaint is heard, in accordance with court rules, a detailed report which shall be signed and verified by each prospective parent and shall disclose all sums of money or other valuable consideration paid, given or agreed to be given to any person, firm, partnership, corporation, association or agency by or on behalf of the prospective parent in connection with the adoption, and the names and addresses of each person, firm, partnership, corporation, association or agency to whom the consideration was given or promised. The report, a copy of which shall be provided to the approved agency pursuant to section 11 or 12 of P.L.1977, c.367 (C.9:3-47 or C.9:3-48), shall include but not be limited to expenses incurred or to be incurred by or on behalf of a prospective parent in connection with:

(1) The birth of the child;

(2) The placement for adoption of the child with the prospective parent;

(3) Medical or hospital care received by the mother or the child during the mother's pre- and postnatal period; and

(4) Services relating to the adoption or to the placement for adoption, including legal services, which were rendered or are to be rendered to or for

the benefit of the prospective parent, either parent of the child or any other person or agency.

b. Whenever based upon a report filed pursuant to this section it appears to the court that any person may have violated section 18 of P.L.1993, c.345 (C.9:3-39.1) the court or the division may refer the matter to the appropriate county prosecutor.

20. R.S.9:6-2 is amended to read as follows:

"Parent" and "custodian" defined.

9:6-2. "Parent", as used in this chapter, shall include the stepfather and stepmother and the adoptive or resource family parent. "The person having the care, custody and control of any child", as used in this chapter, shall mean any person who has assumed the care of a child, or any person with whom a child is living at the time the offense is committed, and shall include a teacher, employee or volunteer, whether compensated or uncompensated, of an institution as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21) who is responsible for the child's welfare, and a person who legally or voluntarily assumes the care, custody, maintenance or support of the child. Custodian also includes any other staff person of an institution regardless of whether or not the person is responsible for the care or supervision of the child. Custodian also includes a teaching staff member or other employee, whether compensated or uncompensated, of a day school as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21).

21. Section 7 of P.L.1987, c.341 (C.9:6-3.1) is amended to read as follows:

C.9:6-3.1 Suspension; due process rights; remedial plan.

7. a. A teacher, employee, volunteer or staff person of an institution as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21) who is alleged to have committed an act of child abuse or neglect as defined in R.S. 9:6-1, section 2 of P.L.1971, c.437 (C.9:6-8.9) and section 1 of P.L.1974, c.119 (C.9:6-8.21) shall be temporarily suspended by the appointing authority from his position at the institution with pay, or reassigned to other duties which would remove the risk of harm to the child under the person's custody or control, if there is reasonable cause for the appointing authority to believe that the life or health of the alleged victim or other children at the institution is in imminent danger due to continued contact between the alleged perpetrator and a child at the institution.

A public employee suspended pursuant to this subsection shall be accorded and may exercise due process rights, including notice of the proposed suspension and a presuspension opportunity to respond and any other

due process rights provided under the laws of this State governing public employment and under any applicable individual or group contractual agreement. A private employee suspended pursuant to this subsection shall be accorded and may exercise due process rights provided for under the laws of this State governing private employment and under any applicable individual or group employee contractual agreement.

b. If the child abuse or neglect is the result of a single act occurring in an institution, within 30 days of receipt of the report of child abuse or neglect, the Department of Human Services may request that the chief administrator of the institution formulate a plan of remedial action. The plan may include, but shall not be limited to, action to be taken with respect to a teacher, employee, volunteer or staff person of the institution to assure the health and safety of the alleged victim and other children at the institution and to prevent future acts of abuse or neglect. Within 30 days of the date the department requested the remedial plan, the chief administrator shall notify the department in writing of the progress in preparing the plan. The chief administrator shall complete the plan within 90 days of the date the department requested the plan.

c. If the child abuse or neglect is the result of several incidents occurring in an institution, within 30 days of receipt of the report of child abuse or neglect, the department may request that the chief administrator of the institution make administrative, personnel or structural changes at the institution. Within 30 days of the date the department made its request, the chief administrator shall notify the department of the progress in complying with the terms of the department's request. The department and chief administrator shall determine a time frame for completion of the terms of the request.

d. If a chief administrator of an institution does not formulate or implement a remedial plan or make the changes requested by the department, the department may impose appropriate sanctions or actions if the department licenses, oversees, approves or authorizes the operation of the institution. If the department does not license, oversee, approve or authorize the operation of the institution, the department may recommend to the authority which licenses, oversees, approves or authorizes the operation of the institution that appropriate sanctions or actions be imposed against the institution.

22. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to read as follows:

C.9:6-8.10a Records of child abuse reports; confidentiality; disclosure.

1. a. All records of child abuse reports made pursuant to section 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained by the Department

of Human Services in investigating such reports including reports received pursuant to section 20 of P.L.1974, c.119 (C.9:6-8.40), and all reports of findings forwarded to the child abuse registry pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11) shall be kept confidential and may be disclosed only under the circumstances expressly authorized under subsections b., c., d., e., f. and g. herein. The department shall disclose information only as authorized under subsections b., c., d., e., f. and g. of this section that is relevant to the purpose for which the information is required, provided, however, that nothing may be disclosed which would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person or which may compromise the integrity of a department investigation or a civil or criminal investigation or judicial proceeding. If the department denies access to specific information on this basis, the requesting entity may seek disclosure through the Chancery Division of the Superior Court. This section shall not be construed to prohibit disclosure pursuant to paragraphs (2) and (7) of subsection b. of this section.

Nothing in this act shall be construed to permit the disclosure of any information deemed confidential by federal or State law.

b. The department may and upon written request, shall release the records and reports referred to in subsection a., or parts thereof, consistent with the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.) to:

(1) A public or private child protective agency authorized to investigate a report of child abuse or neglect;

(2) A police or other law enforcement agency investigating a report of child abuse or neglect;

(3) A physician who has before him a child whom he reasonably suspects may be abused or neglected or an authorized member of the staff of a duly designated regional child abuse diagnostic and treatment center which is involved with a particular child who is the subject of the request;

(4) A physician, a hospital director or his designate, a police officer or other person authorized to place a child in protective custody when such person has before him a child whom he reasonably suspects may be abused or neglected and requires the information in order to determine whether to place the child in protective custody;

(5) An agency, whether public or private, including any division or unit in the Department of Human Services, authorized to care for, treat, assess, evaluate or supervise a child who is the subject of a child abuse report, or a parent, guardian, resource family parent or other person who is responsible for the child's welfare, or both, when the information is needed in connection with the provision of care, treatment, assessment, evaluation or supervision to such child or such parent, guardian, resource family parent or other person

and the provision of information is in the best interests of the child as determined by the Division of Youth and Family Services;

(6) A court or the Office of Administrative Law, upon its finding that access to such records may be necessary for determination of an issue before it, and such records may be disclosed by the court or the Office of Administrative Law in whole or in part to the law guardian, attorney or other appropriate person upon a finding that such further disclosure is necessary for determination of an issue before the court or the Office of Administrative Law;

(7) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(8) Any appropriate State legislative committee acting in the course of its official functions, provided, however, that no names or other information identifying persons named in the report shall be made available to the legislative committee unless it is absolutely essential to the legislative purpose;

(9) (Deleted by amendment, P.L.1997, c.175).

(10) A family day care sponsoring organization for the purpose of providing information on child abuse or neglect allegations involving prospective or current providers or household members pursuant to P.L.1993, c.350 (C.30:5B-25.1 et seq.) and as necessary, for use in administrative appeals related to information obtained through a child abuse registry search;

(11) The Victims of Crime Compensation Board, for the purpose of providing services available pursuant to the "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.) to a child victim who is the subject of such report;

(12) Any person appealing a department service or status action or a substantiated finding of child abuse or neglect and his attorney or authorized lay representative upon a determination by the department or the presiding Administrative Law Judge that such disclosure is necessary for a determination of the issue on appeal;

(13) Any person or entity mandated by statute to consider child abuse or neglect information when conducting a background check or employment-related screening of an individual employed by or seeking employment with an agency or organization providing services to children;

(14) Any person or entity conducting a disciplinary, administrative or judicial proceeding to determine terms of employment or continued employment of an officer, employee, or volunteer with an agency or organization providing services for children. The information may be disclosed in whole or in part to the appellant or other appropriate person only upon a determination by the person or entity conducting the proceeding that the disclosure is necessary to make a determination;

(15) The members of a county multi-disciplinary team, established in accordance with State guidelines, for the purpose of coordinating the activities of agencies handling alleged cases of child abuse and neglect;

(16) A person being evaluated by the department or the court as a potential care-giver to determine whether that person is willing and able to provide the care and support required by the child;

(17) The legal counsel of a child, parent or guardian, whether court-appointed or retained, when information is needed to discuss the case with the department in order to make decisions relating to or concerning the child;

(18) A person who has filed a report of suspected child abuse or neglect for the purpose of providing that person with only the disposition of the investigation;

(19) A parent, resource family parent or legal guardian when the information is needed in a department matter in which that parent, resource family parent or legal guardian is directly involved. The information may be released only to the extent necessary for the requesting parent, resource family parent or legal guardian to discuss services or the basis for the department's involvement or to develop, discuss, or implement a case plan for the child;

(20) A federal, State or local government entity, to the extent necessary for such entity to carry out its responsibilities under law to protect children from abuse and neglect;

(21) Citizen review panels designated by the State in compliance with the federal "Child Abuse Prevention and Treatment Act Amendments of 1996," Pub.L.104-235;

(22) The Child Fatality and Near Fatality Review Board established pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.); or

(23) Members of a family team or other case planning group formed by the Division of Youth and Family Services and established in accordance with regulations adopted by the Commissioner of Human Services for the purpose of addressing the child's safety, permanency or well-being, when the provision of such information is in the best interests of the child as determined by the Division of Youth and Family Services.

Any individual, agency, board, court, grand jury, legislative committee, or other entity which receives from the department the records and reports referred to in subsection a., shall keep such records and reports, or parts thereof, confidential and shall not disclose such records and reports or parts thereof except as authorized by law.

c. The department may share information with a child who is the subject of a child abuse or neglect report, as appropriate to the child's age or condition, to enable the child to understand the basis for the department's

involvement and to participate in the development, discussion, or implementation of a case plan for the child.

d. The department may release the records and reports referred to in subsection a. of this section to any person engaged in a bona fide research purpose, provided, however, that no names or other information identifying persons named in the report shall be made available to the researcher unless it is absolutely essential to the research purpose and provided further that the approval of the Commissioner of Human Services or his designee shall first have been obtained.

e. For incidents determined by the department to be substantiated, the department shall forward to the police or law enforcement agency in whose jurisdiction the child named in the report resides, the identity of persons alleged to have committed child abuse or neglect and of victims of child abuse or neglect, their addresses, the nature of the allegations, and other relevant information, including, but not limited to, prior reports of abuse or neglect and names of siblings obtained by the department during its investigation of a report of child abuse or neglect. The police or law enforcement agency shall keep such information confidential.

f. The department may disclose to the public the findings or information about a case of child abuse or neglect which has resulted in a child fatality or near fatality. Nothing may be disclosed which would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person or which may compromise the integrity of a department investigation or a civil or criminal investigation or judicial proceeding. If the department denies access to specific information on this basis, the requesting entity may seek disclosure of the information through the Chancery Division of the Superior Court. No information may be disclosed which is deemed confidential by federal or State law. The name or any other information identifying the person or entity who referred the child to the department shall not be released to the public.

g. The department shall release the records and reports referred to in subsection a. of this section to a unified child care agency contracted with the department pursuant to N.J.A.C.10:15-2.1 for the purpose of providing information on child abuse or neglect allegations involving a prospective approved home provider or any adult household member pursuant to section 2 of P.L.2003, c.185 (C.30:5B-32) to a child's parent when the information is necessary for the parent to make a decision concerning the placement of the child in an appropriate child care arrangement.

The department shall not release any information that would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person.

23. Section 4 of P.L.1971, c. 437 (C.9:6-8.11) is amended to read as follows:

C.9:6-8.11 Actions to ensure safety of child; investigation; report.

4. Upon receipt of any such report, the Division of Youth and Family Services, or such another entity in the Department of Human Services as may be designated by the Commissioner of Human Services to investigate child abuse or neglect, shall immediately take such action as shall be necessary to insure the safety of the child and to that end may request and shall receive appropriate assistance from local and State law enforcement officials. A representative of the division or other designated entity shall initiate an investigation within 24 hours of receipt of the report, unless the division or other entity authorizes a delay based upon the request of a law enforcement official. The division or other entity shall also, within 72 hours, forward a report of such matter to the child abuse registry operated by the division in Trenton.

The child abuse registry shall be the repository of all information regarding child abuse or neglect that is accessible to the public pursuant to State and federal law. No information received in the child abuse registry shall be considered as a public record within the meaning of P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.).

24. Section 5 of P.L.1971, c.437 (C.9:6-8.12) is amended to read as follows:

C.9:6-8.12 Emergency telephone services for child abuse or neglect calls.

5. The Division of Youth and Family Services shall maintain, at all times, an emergency telephone service for the receipt of calls involving a report, complaint or allegation of child abuse or neglect.

25. Section 2 of P.L.1973, c.147 (C.9:6-8.17) is amended to read as follows:

C.9:6-8.17 Report of action of taking protective custody of child.

2. The physician or the director or his designate of a hospital or similar institution taking a child into such protective custody shall immediately report his action to the Division of Youth and Family Services by calling its emergency telephone service maintained pursuant to section 5 of P.L.1971, c.437 (C.9:6-8.12).

26. Section 5 of P.L.1999, c.53 (C.9:6-8.19a) is amended to read as follows:

C.9:6-8.19a Resource family parent notice, opportunity to be heard.

5. In any case in which the Division of Youth and Family Services accepts a child in its care or custody, the child's resource family parent or relative providing care for the child, as applicable, shall receive written notice of and an opportunity to be heard at any review or hearing held with respect to the child, but the resource family parent or relative shall not be made a party to the review or hearing solely on the basis of the notice and opportunity to be heard.

27. 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, 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.

28. Section 8 of P.L.1974, c.119 (C.9:6-8.28) is amended to read as follows:

C.9:6-8.28 Preliminary orders of court before preliminary hearing held.

8. Preliminary orders of court before preliminary hearing held. a. The Superior Court, Chancery Division, Family Part may enter an order, whereby the safety of the child shall be of paramount concern, directing the temporary removal of a child from the place where he is residing before a preliminary hearing under this act, if (1) the parent or other person legally responsible for the child's care was informed of an intent to apply for any order under this section; and (2) the child appears so to suffer from the abuse or neglect of his parent or guardian that his immediate removal is necessary to avoid imminent danger to the child's life, safety or health; and (3) there is not enough time to hold a preliminary hearing.

b. The order shall specify the facility to which the child is to be brought.

c. The Family Part may enter an order authorizing a physician or hospital to provide emergency medical or surgical procedures before a preliminary hearing is held under this act if (1) such procedures are necessary to safeguard the life or health of the child; and (2) there is not enough time to hold a preliminary hearing under section 11 hereof.

d. Any person who originates a proceeding pursuant to section 14 of this act may apply for through the division or the court on its own motion may issue, an order of temporary removal. The division shall make every reasonable effort to inform the parent or guardian of any such application, confer with a person wishing to make such an application and make such inquiries as will aid the court in disposing of such application. Within 24 hours the division shall report such application to the child abuse registry of the division.

e. Any person acting under the authority of this act may request and shall receive appropriate assistance from local and State law enforcement officials.

29. Section 10 of P.L.1977, c.210 (C.9:6-8.30) is amended to read as follows:

C.9:6-8.30 Action by the division upon emergency removal.

10. Action by the division upon emergency removal. a. The division when informed that there has been an emergency removal of a child from his home without court order shall make every reasonable effort to communicate immediately with the child's parent or guardian that such emergency removal has been made and the location of the facility to which the child has been taken, and advise the parent or guardian to appear in the appropriate Superior Court, Chancery Division, Family Part within two court days. The

division shall make a reasonable effort, at least 24 hours prior to the court hearing, to: notify the parent or guardian of the time to appear in court; and inform the parent or guardian of his right to obtain counsel, and how to obtain counsel through the Office of the Public Defender if the parent or guardian is indigent. The division shall also advise the party making the removal to appear. If the removed child is returned to his home prior to the court hearing, there shall be no court hearing to determine the sufficiency of cause for the child's removal, unless the child's parent or guardian makes application to the court for review. For the purposes of this section, "facility" means a hospital, shelter or child care institution in which a child may be placed for temporary care, but does not include a resource family home.

b. The division shall cause a complaint to be filed under this act within two court days after such removal takes place.

c. Whenever a child has been removed pursuant to section 7 or 9 of this act, the division shall arrange for immediate medical examination of the child and shall have legal authority to consent to such examination. If necessary to safeguard the child's health or life, the division also is authorized to arrange for and consent to medical care or treatment of the child. Consent by the division pursuant to this subsection shall be deemed legal and valid for all purposes with respect to any person, hospital, or other health care facility examining or providing care or treatment to a child in accordance with and in reliance upon such consent. Medical reports resulting from such examination or care or treatment shall be released to the division for the purpose of aiding in the determination of whether the child has been abused or neglected. Any person or health care facility acting in good faith in the examination of or provision of care and treatment to a child or in the release of medical records shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of such act.

30. Section 1 of P.L.1977, c.210 (C.9:6-8.36a) is amended to read as follows:

C.9:6-8.36a Report to prosecutor of all instances of suspected child abuse, neglect.

1. The Department of Human Services shall immediately report all instances of suspected child abuse and neglect, as defined by regulations, to the county prosecutor of the county in which the child resides. The regulations shall be developed jointly by the department and the county prosecutors, approved by the Attorney General, and promulgated by the Commissioner of Human Services.

31. Section 20 of P.L.1974, c.119 (C.9:6-8.40) is amended to read as follows:

C.9:6-8.40 Records involving abuse or neglect.

20. Records involving abuse or neglect. When the Department of Human Services receives a report or complaint that a child may be abused or neglected; when the department provides services to a child; or when the department receives a request from the Superior Court, Chancery Division, Family Part to investigate an allegation of abuse or neglect, the department may request of any and all public or private institutions, or agencies including law enforcement agencies, or any private practitioners, their records past and present pertaining to that child and other children under the same care, custody and control. The department shall not be charged a fee for the copying of the records. Records kept pursuant to the "New Jersey Code of Juvenile Justice," P.L.1982, c.77 (C.2A:4A-20 et seq.) may be obtained by the department, upon issuance by a court of an order on good cause shown directing these records to be released to the department for the purpose of aiding in evaluation to determine if the child is abused or neglected. In the release of the aforementioned records, the source shall have immunity from any liability, civil or criminal.

32. Section 1 of P.L.1997, c.62 (C.9:6-8.40a) is amended to read as follows:

C.9:6-8.40a Expungement of unfounded allegations.

1. a. The Division of Youth and Family Services in the Department of Human Services shall expunge from its records all information relating to a report, complaint or allegation of an incident of child abuse or neglect with respect to which the division or other entity designated by the Commissioner of Human Services to investigate allegations of child abuse or neglect has determined, based upon its investigation thereof, that the report, complaint or allegation of the incident was unfounded.

b. (Deleted by amendment, P.L.2004, c.130).

The definition of, and process for, making a determination of an unfounded report, complaint or allegation of an incident of child abuse or neglect shall be defined in regulations promulgated by the department pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

33. Section 23 of P.L.1974, c.119 (C.9:6-8.43) is amended to read as follows:

C.9:6-8.43 Notice of rights.

23. Notice of rights. a. The court shall advise the parent or guardian of his right to have an adjournment to retain counsel and consult with him. The

court shall advise the respondent that if he is indigent, he may apply for an attorney through the Office of the Public Defender. In cases where the parent or guardian applies for an attorney through the Office of the Public Defender, the court may adjourn the case for a reasonable period of time for the parent or guardian to secure counsel; however, the adjournment shall not preclude the court from granting temporary relief as appropriate under the law. The court shall appoint a law guardian for the child as provided by this act.

b. The general public may be excluded from any hearing under this act, and only such persons and the representatives of authorized agencies may be admitted thereto as have an interest in the case.

34. Section 8 of P.L.1987, c.341 (C.9:6-8.72a) is amended to read as follows:

C.9:6-8.72a Rules, regulations.

8. The Commissioner of Education shall, in cooperation and consultation with the Commissioner of Human Services, adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), concerning the relationship, rights and responsibilities of the Department of Human Services and local school districts regarding the reporting and investigation of allegations of child abuse.

35. Section 4 of P.L.1998, c.19 (C.9:6-8.102) is amended to read as follows:

C.9:6-8.102 Services provided by staff of center.

4. Services provided by the center's staff shall include, but not be limited to:

a. Providing psychological and medical evaluation and treatment of the child, counseling for family members and substance abuse assessment and mental health and substance abuse counseling for the parents or guardians of the child;

b. Providing referral for appropriate social services and medical care;

c. Providing testimony regarding alleged child abuse or neglect at judicial proceedings;

d. Providing treatment recommendations for the child and mental health and substance abuse treatment recommendations for his family, and providing mental health and substance abuse treatment recommendations for persons convicted of child abuse or neglect;

e. Receiving referrals from the Department of Human Services and the county prosecutor's office and assisting them in any investigation of child abuse or neglect;

f. Providing educational material and seminars on child abuse and neglect and the services the center provides to children, parents, teachers, law enforcement officials, the judiciary, attorneys and other citizens.

36. Section 6 of P.L.1998, c.19 (C.9:6-8.104) is amended to read as follows:

C.9:6-8.104 Establishment, maintenance of county-based multidisciplinary teams; "child advocacy center" defined.

6. Regional centers shall act as a resource in the establishment and maintenance of county-based multidisciplinary teams which work in conjunction with the county prosecutor and the Department of Human Services in the investigation of child abuse and neglect in the county in which the child who is undergoing evaluation and treatment resides. The Commissioner of Human Services, in consultation with the New Jersey Task Force on Child Abuse and Neglect, shall establish standards for a county team. The county team shall consist of representatives of the following disciplines: law enforcement; child protective services; mental health; substance abuse identification and treatment; and medicine; and, in those counties where a child advocacy center has been established, shall include a staff representative of a child advocacy center, all of whom have been trained to recognize child abuse and neglect. The county team shall provide: facilitation of the investigation, management and disposition of cases of criminal child abuse and neglect; referral services to the regional diagnostic center; appropriate referrals to medical and social service agencies; information regarding the identification and treatment of child abuse and neglect; and appropriate follow-up care for abused children and their families.

As used in this section, "child advocacy center" means a county-based center which meets the standards for a county team established by the commissioner pursuant to this section and demonstrates a multidisciplinary approach in providing comprehensive, culturally competent child abuse prevention, intervention and treatment services to children who are victims of child abuse or neglect.

37. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as follows:

C.10:5-5 Definitions relative to discrimination.

5. As used in this act, unless a different meaning clearly appears from the context:

a. "Person" includes one or more individuals, partnerships, associations, organizations, labor organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and fiduciaries.

b. "Employment agency" includes any person undertaking to procure employees or opportunities for others to work.

c. "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

d. "Unlawful employment practice" and "unlawful discrimination" include only those unlawful practices and acts specified in section 11 of this act.

e. "Employer" includes all persons as defined in subsection a. of this section unless otherwise specifically exempt under another section of this act, and includes the State, any political or civil subdivision thereof, and all public officers, agencies, boards or bodies.

f. "Employee" does not include any individual employed in the domestic service of any person.

g. "Liability for service in the Armed Forces of the United States" means subject to being ordered as an individual or member of an organized unit into active service in the Armed Forces of the United States by reason of membership in the National Guard, naval militia or a reserve component of the Armed Forces of the United States, or subject to being inducted into such armed forces through a system of national selective service.

h. "Division" means the "Division on Civil Rights" created by this act.

i. "Attorney General" means the Attorney General of the State of New Jersey or his representative or designee.

j. "Commission" means the Commission on Civil Rights created by this act.

k. "Director" means the Director of the Division on Civil Rights.

l. "A place of public accommodation" shall include, but not be limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer camp, day camp, or resort camp, whether for entertainment of transient guests or accommodation of those seeking health, recreation or rest; any producer, manufacturer, wholesaler, distributor, retail shop, store, establishment, or concession dealing with goods or services of any kind; any restaurant, eating house, or place where food is sold for consumption on the premises; any place maintained for the sale of ice cream, ice and fruit preparations or their derivatives, soda water or confections, or where any beverages of any kind are retailed for consumption on the premises; any garage, any public conveyance operated on land or water, or in the air, any stations and terminals thereof; any bathhouse, boardwalk, or seashore accommodation; any auditorium, meeting place, or hall; any theatre, motion-picture house, music hall, roof garden, skating rink, swimming pool, amusement and recreation park, fair, bowling alley, gymnasium, shooting gallery, billiard and pool parlor,

or other place of amusement; any comfort station; any dispensary, clinic or hospital; any public library; any kindergarten, primary and secondary school, trade or business school, high school, academy, college and university, or any educational institution under the supervision of the State Board of Education, or the Commissioner of Education of the State of New Jersey. Nothing herein contained shall be construed to include or to apply to any institution, bona fide club, or place of accommodation, which is in its nature distinctly private; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution, and the right of a natural parent or one in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed; nor shall anything herein contained be construed to bar any private secondary or post secondary school from using in good faith criteria other than race, creed, color, national origin, ancestry or affectional or sexual orientation in the admission of students.

m. "A publicly assisted housing accommodation" shall include all housing built with public funds or public assistance pursuant to P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303, P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184, and all housing financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof.

n. The term "real property" includes real estate, lands, tenements and hereditaments, corporeal and incorporeal, and leaseholds, provided, however, that, except as to publicly assisted housing accommodations, the provisions of this act shall not apply to the rental: (1) of a single apartment or flat in a two-family dwelling, the other occupancy unit of which is occupied by the owner as a residence; or (2) of a room or rooms to another person or persons by the owner or occupant of a one-family dwelling occupied by the owner or occupant as a residence at the time of such rental. Nothing herein contained shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, in the sale, lease or rental of real property, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained. Nor does any provision under this act regarding discrimination on the basis of familial status apply with respect to housing for older persons.

o. "Real estate broker" includes a person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of promise

or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase, or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate, or solicits for prospective purchasers or assists or directs in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the sale, exchange, leasing, renting or auctioning of any real estate, or negotiates, or offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon or transfer of any real estate for others; or any person who, for pecuniary gain or expectation of pecuniary gain conducts a public or private competitive sale of lands or any interest in lands. In the sale of lots, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

p. "Real estate salesperson" includes any person who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of a licensed real estate broker to sell or offer to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real estate, or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate, or to lease or rent, or offer to lease or rent any real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell real estate, or any parts thereof, in lots or other parcels.

q. "Disability" means physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy and other seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device, or any mental, psychological or developmental disability resulting from anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psycho-

logically, by accepted clinical or laboratory diagnostic techniques. Disability shall also mean AIDS or HIV infection.

r. "Blind person" means any individual whose central visual acuity does not exceed 20/200 in the better eye with correcting lens or whose visual acuity is better than 20/200 if accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

s. "Guide dog" means a dog used to assist deaf persons or which is fitted with a special harness so as to be suitable as an aid to the mobility of a blind person, and is used by a blind person who has satisfactorily completed a specific course of training in the use of such a dog, and has been trained by an organization generally recognized by agencies involved in the rehabilitation of the blind or deaf as reputable and competent to provide dogs with training of this type.

t. "Guide or service dog trainer" means any person who is employed by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities as reputable and competent to provide dogs with training, and who is actually involved in the training process.

u. "Housing accommodation" means any publicly assisted housing accommodation or any real property, or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence or sleeping place of one or more persons, but shall not include any single family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

v. "Public facility" means any place of public accommodation and any street, highway, sidewalk, walkway, public building, and any other place or structure to which the general public is regularly, normally or customarily permitted or invited.

w. "Deaf person" means any person whose hearing is so severely impaired that the person is unable to hear and understand normal conversational speech through the unaided ear alone, and who must depend primarily on a supportive device or visual communication such as writing, lip reading, sign language, and gestures.

x. "Atypical hereditary cellular or blood trait" means sickle cell trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic fibrosis trait.

y. "Sickle cell trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin S or one natural parent of the individual is shown to have only normal

hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal proportions by standard chemical and physical analytic tests.

z. "Hemoglobin C trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin C as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin C or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in normal proportions by standard chemical and physical analytic tests.

aa. "Thalassemia trait" means the presence of the thalassemia gene which in combination with another similar gene results in the chronic hereditary disease Cooley's anemia.

bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene which in combination with another similar gene results in the chronic hereditary disease Tay-Sachs.

cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis gene which in combination with another similar gene results in the chronic hereditary disease cystic fibrosis.

dd. "Service dog" means any dog individually trained to the requirements of a person with a disability including, but not limited to minimal protection work, rescue work, pulling a wheelchair or retrieving dropped items. This term shall include a "seizure dog" trained to alert or otherwise assist persons subject to epilepsy or other seizure disorders.

ee. "Qualified Medicaid applicant" means an individual who is a qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

ff. "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control and Prevention of the United States Public Health Service.

gg. "HIV infection" means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.

hh. "Affectional or sexual orientation" means male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, having a history thereof or being perceived, presumed or identified by others as having such an orientation.

ii. "Heterosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the other gender.

jj. "Homosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the same gender.

kk. "Bisexuality" means affectional, emotional or physical attraction or behavior which is directed towards persons of either gender.

ll. "Familial status" means being the natural parent of a child, the adoptive parent of a child, the resource family parent of a child, having a "parent and child relationship" with a child as defined by State law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child, or any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

mm. "Housing for older persons" means housing:

(1) provided under any State program that the Attorney General determines is specifically designed and operated to assist elderly persons (as defined in the State program); or provided under any federal program that the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons (as defined in the federal program); or

(2) intended for, and solely occupied by persons 62 years of age or older; or

(3) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Attorney General shall adopt regulations which require at least the following factors:

(a) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(b) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

(c) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

Housing shall not fail to meet the requirements for housing for older persons by reason of: persons residing in such housing as of September 13, 1988 not meeting the age requirements of this subsection, provided that new occupants of such housing meet the age requirements of this subsection; or unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of this subsection.

nn. "Genetic characteristic" means any inherited gene or chromosome, or alteration thereof, that is scientifically or medically believed to predispose an individual to a disease, disorder or syndrome, or to be associated with a statistically significant increased risk of development of a disease, disorder or syndrome.

oo. "Genetic information" means the information about genes, gene products or inherited characteristics that may derive from an individual or family member.

pp. "Genetic test" means a test for determining the presence or absence of an inherited genetic characteristic in an individual, including tests of nucleic acids such as DNA, RNA and mitochondrial DNA, chromosomes or proteins in order to identify a predisposing genetic characteristic.

qq. "Domestic partnership" means a domestic partnership established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

38. Section 1 of P.L.1995, c.34 (C.18A:6-7a) is amended to read as follows:

C.18A:6-7a Alleged child abuse, neglect by school employee; no use if unfounded.

1. When a complaint made against a school employee alleging child abuse or neglect is investigated by the Department of Human Services, the department shall notify the school district and the employee of its findings. Upon receipt of a finding by the department that such a complaint is unfounded, the school district shall remove any references to the complaint and investigation by the department from the employee's personnel records. A complaint made against a school employee that has been classified as unfounded by the department shall not be used against the employee for any purpose relating to employment, including but not limited to, discipline, salary, promotion, transfer, demotion, retention or continuance of employment, termination of employment or any right or privilege relating to employment.

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

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

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

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

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

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

c. The district of residence for children whose parent or guardian temporarily moves from one school district to another as the result of being homeless shall be the district in which the parent or guardian last resided prior to becoming homeless. For the purpose of this amendatory and supplementary act, "homeless" shall mean an individual who temporarily lacks a fixed, regular and adequate residence.

d. If the district of residence cannot be determined according to the criteria contained herein, or if the criteria contained herein identify a district of residence outside of the State, the State shall assume fiscal responsibility for the tuition of the child. The tuition shall equal the approved per pupil cost established pursuant to P.L.1996, c.138 (C.18A:7F-1 et seq.). This amount shall be appropriated in the same manner as other State aid under this act. The Department of Education shall pay the amount to the Department of Human Services, the Department of Corrections or the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or, in the case of a homeless child, the Department of Education shall pay the appropriate T&E amount and any appropriate additional cost factor for special education pursuant to section 19 of P.L.1996, c.138 (C.18A:7F-19) to the school district in which the child is enrolled.

e. If the State has assumed fiscal responsibility for the tuition of a child in a private educational facility approved by the Department of Education to serve children who are classified as needing special education services, the department shall pay to the Department of Human Services or the Juvenile Justice Commission, as appropriate, the aid specified in subsection d. of this section and in addition, such aid as required to make the total amount of aid equal to the actual cost of the tuition.

40. Section 19 of P.L.1996, c.138 (C.18A:7F-19) is amended to read as follows:

C.18A:7F-19 Calculation of special education categorical aid.

19. a. Special education categorical aid for each school district and county vocational school district shall be calculated for the 1997-98 school year as follows:

Tier I is the number of pupils classified for other than speech correction services resident in the district which receive related services including, but not limited to, occupational therapy, physical therapy, speech and counseling. Aid shall equal 0.0223 of the T&E amount rounded to the nearest whole dollar for each of the four service categories provided per classified pupil.

Tier II is the number of pupils resident in the district meeting the classification definitions for perceptually impaired, neurologically impaired, educable mentally retarded and preschool handicapped; all classified pupils in shared time county vocational programs in a county vocational school which does not have a child study team receiving services pursuant to chapter 46 of Title 18A of the New Jersey Statutes; and nonclassified pupils in State training schools or secure care facilities. For the purpose of calculating State aid for 1997-98, each district, other than a county vocational school district, shall have its pupil count for perceptually impaired reduced by perceptually impaired classifications in excess of one standard deviation above the State average classification rate at December 1995 or 9.8 percent of the district's resident enrollment. The perceptually impaired limitation shall be phased down to the State average of the prebudget year over a five-year period by adjusting the standard deviation as follows: 75 percent in 1998-99, 50 percent in 1999-2000, 25 percent in 2000-2001 and the State average in year five. No reduction in aid shall be assessed against any district in which the perceptually impaired classification rate is 6.5% or less of resident enrollment. Aid shall equal 0.4382 of the T&E amount rounded to the nearest whole dollar for each student meeting the Tier II criteria.

The commissioner shall develop a system to provide that each school district submits data to the department on the number of the district's pupils with a classification definition of perceptually impaired who are enrolled in a county vocational school. Such pupils shall be counted in the district of residence's resident enrollment for the purpose of calculating the limit on perceptually impaired classifications for Tier II State aid.

Tier III is the number of classified pupils resident in the district in categories other than speech correction services, perceptually impaired, neurologically impaired, educable mentally retarded, socially maladjusted, preschool handicapped, and who do not meet the criteria of Tier IV, intensive services; and nonclassified pupils in juvenile community programs. Aid shall equal 0.8847 of the T&E amount for each pupil meeting the Tier III criteria.

Tier IV is the number of classified pupils resident in the district receiving intensive services. For 1997-98, intensive services are defined as those provided in a county special services school district and services provided for pupils who meet the classification definitions for autistic, chronically ill, day training eligible, or visually handicapped, or are provided for pupils who meet the classification definition for multiply handicapped and are in a private school for the handicapped, educational services commission, or jointure commission placement in the 1996-97 school year. The commissioner shall collect data and conduct a study to determine intensive service criteria and the appropriate per pupil cost factor to be universally applied to

all service settings, beginning in the 1998-99 school year. Aid shall equal 1.2277 of the T&E amount for each pupil meeting the Tier IV criteria.

Classified pupils in Tiers II through IV shall be eligible for Tier I aid. Classified pupils shall be eligible to receive aid for up to four services under Tier I.

For the 1998-99 school year, these cost factors shall remain in effect and special education aid growth shall be limited by the CPI growth rate applied to the T&E amount and changes in classified pupil counts. For subsequent years, the additional cost factors shall be established biennially in the Report on the Cost of Providing a Thorough and Efficient Education.

For the purposes of this section, classified pupil counts shall include pupils attending State developmental centers, Department of Human Services Regional Day Schools, Department of Human Services residential centers, State residential mental health centers, and institutions operated by or under contract with the Department of Human Services. Classified pupils of elementary equivalent age shall include classified preschool handicapped and kindergarten pupils.

b. In those instances in which the cost of providing education for an individual classified pupil exceeds $40,000:

(1) For costs in excess of $40,000 incurred in the 2002-2003 through 2004-2005 school years, the district of residence shall, in addition to any special education State aid to which the district is entitled on behalf of the pupil pursuant to subsection a. of this section, receive additional special education State aid as follows: (a) with respect to the amount of any costs in excess of $40,000 but less than or equal to $60,000, the additional State aid for the classified pupil shall equal 60% of that amount; (b) with respect to the amount of any costs in excess of $60,000 but less than or equal to $80,000, the additional State aid for the classified pupil shall equal 70% of that amount; and (c) with respect to the amount of any costs in excess of $80,000, the additional State aid for the classified pupil shall equal 80% of that amount; provided that in the case of an individual classified pupil for whom additional special education State aid was awarded to a district for the 2001-2002 school year, the amount of such aid awarded annually to the district for that pupil for the 2002-2003, 2003-2004 or 2004-2005 school year shall not be less than the amount for the 2001-2002 school year, except that if the district's actual special education costs incurred for the pupil in the 2002-2003, 2003-2004 or 2004-2005 school year are reduced below the amount of such costs for the pupil in the 2001-2002 school year, the amount of aid shall be decreased by the amount of that reduction; and

(2) For costs in excess of $40,000 incurred in the 2005-2006 school year and thereafter, a district shall receive additional special education State aid equal to 100% of the amount of that excess.

A district, in order to receive funding pursuant to this subsection, shall file an application with the department that details the expenses incurred on behalf of the particular classified pupil for which the district is seeking reimbursement. Additional State aid awarded for extraordinary special education costs shall be recorded by the district as revenue in the current school year and paid to the district in the subsequent school year.

c. A school district may apply to the commissioner to receive emergency special education aid for any classified pupil who enrolls in the district prior to March of the budget year and who is in a placement with a cost in excess of $40,000. The commissioner may debit from the student's former district of residence any special education aid which was paid to that district on behalf of the student.

d. The department shall review expenditures of federal and State special education aid by a district in every instance in which special education monitoring identifies a failure on the part of the district to provide services consistent with a pupil's individualized education program.

41. Section 1 of P.L.1979, c.391 (C.18A:16-12) is amended to read as follows:

C.18A:16-12 Definitions relative to group insurance.

1. As used in this act:

a. "Dependents" means an employee's spouse and the employee's unmarried children, including stepchildren, legally adopted children, and, at the option of the local board of education and the carrier, children placed by the Department of Human Services with a resource family, under the age of 19 who live with the employee in a regular parent-child relationship, and may also include, at the option of the local board of education and the carrier, other unmarried children of the employee under the age of 23 who are dependent upon the employee for support and maintenance, but shall not include a spouse or child while serving in the military service;

b. "Employees" may, at the option of the local board of education, include elected officials, but shall not include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, or persons whose compensation from the local board of education is limited to reimbursement of necessary expenses actually incurred in the discharge of their duties;

c. "Federal Medicare Program" means the coverage provided under Title XVIII of the Social Security Act as amended in 1965, or its successor plan or plans.

42. Section 1 of P.L.1986, c.73 (C.18A:18A-3.2) is amended to read as follows:

C.18A:18A-3.2 Group legal insurance.

1. Any school district, hereinafter referred to as an employer, may enter into contracts of group legal insurance with an insurer authorized, pursuant to P.L.1981, c. 160 (C. 17:46C-1 et seq.), to engage in the business of legal insurance in this State or may contract with a duly recognized prepaid legal services plan with respect to the benefits which they are authorized to provide. The contract or contracts shall provide coverage for the employees of the employer and may include their dependents. "Dependents" shall include an employee's spouse and the employee's unmarried children, including stepchildren and legally adopted children, and, at the option of the employer and the carrier, children placed by the Department of Human Services with a resource family, under the age of 19 who live with the employee in a regular parent-child relationship, and may also include, at the option of the employer and the carrier, other unmarried children of the employee under the age of 23 who are dependent upon the employee for support and maintenance. A spouse or child enlisting or inducted into military service shall not be considered a dependent during the military service.

"Employees" shall not include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, or persons whose compensation from the public employer is limited to reimbursement of necessary expenses actually incurred in the discharge of their duties.

The contract shall include provisions to prevent duplication of benefits and shall condition the eligibility of an employee for coverage upon satisfying a waiting period stated in the contract.

The coverage of an employee, and of his dependents, if any, shall cease upon the discontinuance of his employment or upon cessation of active full-time employment in the classes eligible for coverage, subject to the provision as may be made in a contract by his employer for limited continuance of coverage during disability, part-time employment, leave of absence other than leave for military service or layoff, or for continuance of coverage after retirement.

A contract for group legal insurance entered into pursuant to this act shall not include any legal services attendant to a claim brought by a teaching staff member against a board of education or legal services for the defense of a teaching staff member facing disciplinary action pursuant to subarticle B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes (N.J.S.18A:6-9 et seq.).

43. R.S.26:3-31 is amended to read as follows:

Public health regulations.

26:3-31. The local board of health shall have power to pass, alter or amend ordinances and make rules and regulations in regard to the public health within its jurisdiction, for the following purposes:

a. To protect the public water supply and prevent the pollution of any stream of water or well, the water of which is used for domestic purposes, and to prevent the use of or to close any well, the water of which is polluted or detrimental to the public health.

b. (1) To prohibit the cutting, sale or delivery of ice in any municipality without obtaining a permit from the local board. No person shall cut, sell or deliver ice in any municipality without obtaining such permit.

(2) To refuse such permit or revoke any permit granted by it when in its judgment the use of any ice cut, sold or delivered under the permit would be detrimental to the public health. Upon the refusal or revocation of a permit by the local board, an appeal may be taken to the State department. Upon order of the State department a permit shall be granted or the revocation set aside.

(3) To prohibit the importation, distribution or sale of any impure ice which would be detrimental to the public health.

c. To license and regulate the sanitary conditions of hotels, restaurants, cafes, and other public eating houses and to provide for the posting of ratings or score cards setting forth the sanitary condition of any public eating house after inspection of the same and to post the rating or score card in some conspicuous or public place in such eating house.

d. To compel any owner of property along the line of any sewer to connect his house or other building therewith. This paragraph shall be enforced by the local board within its jurisdiction and it shall by ordinance provide a fine of $25 to be imposed upon any person who shall not comply with any order issued under the authority of this paragraph, within 30 days after notice by the proper officer of the board to make the required connections. An additional fine of $10 shall be provided for each day of delay, after the expiration of the 30 days, in which the provisions of the order or notice are not complied with. Such notice may be served upon the owner personally or by leaving it at his usual place of abode with a member of his family above the age of 18 years.

e. (Deleted by amendment, P.L.1987, c.442.)

f. To regulate, control, and prohibit the accumulation of offal and any decaying or vegetable substance.

g. (1) To regulate the location, construction, maintenance, method of emptying or cleaning, and the frequency of cleaning of any privy or other

place used for the reception or storage of human excrement, and to prohibit the construction or maintenance of any privy or other such place until a license therefor shall have been issued by the board, which license shall continue in force for one year from the date of issue.

(2) To fix the fee, not exceeding $5, for such license, and to use the fees so collected in supervising and maintaining said privies or other places and in removing and disposing of the excrement therefrom.

(3) To revoke such license at any time if the owner or tenant of the property on which any privy or other such place is located, maintains the same in violation of law, or of the State sanitary code, or any ordinance or rule of the board.

h. To regulate, control, or prohibit the cleaning of any sewer, the dumping of garbage, the filling of any sunken lot or marsh land, and to provide for the filling up of any such lot or land, which has become filled with stagnant water and is located in any built-up area.

i. (1) To license and regulate the business of cleaning cesspools and privies, which license shall continue for the term of one year from the date of granting, and to fix the fee that shall be charged for such license, not exceeding $20 for each vehicle or conveyance.

(2) To prohibit unlicensed persons from engaging in such business.

(3) To require any vehicle or conveyance used in such business within its jurisdiction to be approved by it.

(4) To revoke such license if any licensee or his employee or agent shall violate any ordinance or rule of the board in cleaning any cesspool or privy, or in removing the contents thereof.

j. To aid in the enforcement of laws as to the adulteration of all kinds of food and drink, and to prevent the sale or exposure for sale of any meat or vegetable that is unwholesome or unfit for food.

k. To regulate, control, or prohibit the keeping or slaughtering of animals.

l. To license and regulate the keeping of boarding houses for infants and children and to fix a license fee for the same and to prevent unlicensed persons from keeping such boarding houses. This paragraph shall not apply to:

(1) The Department of Human Services.

(2) Any children's home, orphan asylum, or children's aid society incorporated under the laws of this State.

(3) Any aid society of a properly organized and accredited church or fraternal society organized for aid and relief to its members.

(4) Any charitable society incorporated under the laws of this State having as one of its objects the prevention of cruelty to children or the care and protection of children.

m. To require in buildings, designed to be occupied, or occupied, as residences by more than two families and when the owners have agreed to supply heat, that from October 1 of each year to the next succeeding May 1, every unit of dwelling space and every habitable room therein shall be maintained at least at 68 degrees F. whenever the outside temperature falls below 55 degrees during daytime hours from 6 a.m. to 11 p.m. At times other than those specified interiors of units of dwelling space shall be maintained at least at 55 degrees F. whenever the outside temperature falls below 40 degrees.

In meeting the aforesaid standards, the owner shall not be responsible for heat loss and the consequent drop in the interior temperature arising out of action by the occupants in leaving windows or doors open to the exterior of the building. The owner shall be obligated to supply required fuel or energy and maintain the heating system in good operating condition so that it can supply heat as required herein notwithstanding any contractual provision seeking to delegate or shift responsibility to the occupant or third person, except that the owner shall not be required to supply fuel or energy for heating purposes to any unit where the occupant thereof agrees in writing to supply heat to his own unit of dwelling space and the said unit is served by its own exclusive heating equipment for which the source of heat can be separately computed and billed.

n. To regulate the practice of midwifery, but the exercise of such authority shall not conflict with the provisions of chapter 10 of Title 45 of the Revised Statutes (R.S.45:10-1 et seq.).

o. To enforce the making of returns or reports to the local board on the part of any person charged with such duty under any law and to take cognizance of any failure to make such returns and deal with the same in an effective manner.

p. To act as the agent for a landlord in the engaging of repairmen and the ordering of any parts necessary to restore to operating condition the furnace, boiler or other equipment essential to the proper heating of any residential unit rented by said landlord, provided, however, that at least 24 hours have elapsed since the tenant has lodged a complaint with the local board of health, prior to which a bona fide attempt has been made by the tenant to notify the landlord of the failure of the heating equipment, and the landlord has failed to take appropriate action, and the outside air temperature is less than 55 degrees F.

Any person who supplies material or services in accordance with this section shall bill the landlord directly and by filing a notice approved by the local board of health, with the county clerk, shall have a lien on the premises where the materials were used or services supplied.

44. Section 1 of P.L.1974, c.44 (C.30:1-8.1) is amended to read as follows:

C.30:1-8.1 Deputy commissioners; appointment, powers and duties; compensation; acting commissioner.

1. The commissioner shall be assisted in the performance of his duties by three deputy commissioners. Each deputy commissioner shall be appointed by and shall serve at the pleasure of the commissioner, and until his successor has been appointed and qualified.

Each deputy commissioner shall exercise such powers and perform such duties as the commissioner shall prescribe.

Unless otherwise provided by law, each deputy commissioner shall receive such salary as may be established by the commissioner with the approval of the Commissioner of Personnel and the Director of the Division of Budget and Accounting.

The commissioner may designate one of the deputy commissioners to exercise the powers and perform the duties of the commissioner during his disability or absence.

45. Section 75 of P.L.1965, c.59 (C.30:4-107.1) is amended to read as follows:

C.30:4-107.1 Release of mentally retarded person; provision of functional services.

75. Whenever a mentally retarded minor or mentally deficient adult is receiving functional services without court order, and is resident at a State school, or private residential institution, or a resource family home, or similar accommodation by arrangement of the commissioner, the commissioner shall cause such mentally retarded person to be released to the immediate custody of his parent or guardian of the person, as the case may be, on written application of said parent or guardian. Release shall be effected as promptly as possible, provided, however, that 48 hours' notice may be required. The department shall thereafter continue to provide such functional services as may be appropriate, unless functional services are terminated as hereinafter provided in this act.

46. Section 3 of P.L.1995, c.314 (C.30:4-177.45) is amended to read as follows:

C.30:4-177.45 Definitions relative to family support services for persons with a serious mental illness.

3. For the purposes of this act:

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

"Division" means the Division of Mental Health Services in the Department of Human Services.

"Family" means persons related to the family member with a serious mental illness by blood, marriage, adoption, guardianship, resource family care or other significant care giving relationship.

"Family member with a serious mental illness" means a person who has a history, or is at serious risk, of hospitalization in a State, county or private psychiatric institution.

"Family support services" means a coordinated system of on-going public and private support services which are designed to maintain and enhance the quality of life of a family.

"Family unit" means the family member with a serious mental illness and his family.

"Program" means the program of family support services established pursuant to this act.

47. 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 temporary or long-term care, and shall include any person with whom a child is placed by the division for the purpose of adoption.

(i) The term "resource family home" means and includes private residences, group homes, residential facilities and institutions 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 temporary or long-term care, and shall include any private residence maintained by persons with whom any such child is placed for adoption.

(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.

48. 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 nineteen (19) 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. 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.

i. 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.

j. 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.

49. Section 4 of P.L.1951, c.138 (C.30:4C-4) is amended to read as follows:

C.30:4C-4 Powers of Office of Children's Services, other designated entity.

4. The Office of Children's Services or other entity designated by the commissioner shall have the requisite powers to:

(a) Exercise general supervision over children for whom care, custody or guardianship is provided in accordance with Article II of this act;

(b) Administer for the Department of Human Services the powers and duties provided in chapter 3 of Title 9 of the Revised Statutes (Adoption), as amended and supplemented, as the same may be delegated and assigned by the department;

(c) Administer for the Commissioner of Human Services the powers and duties as provided in chapter 7 of Title 9 of the Revised Statutes (dependent children; bringing into State), as amended and supplemented, as the same may be delegated and assigned by the commissioner;

(d) Administer for the State Board of Institutional Trustees the powers and duties provided in R.S.30:1-14 through 30:1-17 of chapter 1 of Title 30 of the Revised Statutes (visitation and inspection), as amended and supplemented, so far as the same may be delegated and assigned by the State Board of Institutional Trustees with respect to institutions, organizations and noninstitutional agencies for the care, custody and welfare of children;

(e) Provide care and exercise supervision over children paroled or released from State correctional institutions for juveniles in accordance with rules and regulations established by the State Board of Control;

(f) Make investigations or provide supervision of any child in this State at the request and on behalf of a public or private agency or institution of any other State;

(g) Meet and confer, as the unmet needs of New Jersey's children may require, with representatives of the public welfare boards and the private agencies and institutions for the care of children in this State in order that the programs of such boards, agencies and institutions may be developed and fully utilized and that there may be a coordination of all public and private facilities for the protection and care of children;

(h) Issue such reasonable rules and regulations as may be necessary for the purpose of carrying into effect the meaning of this act, which rules and regulations shall be binding so far as they are consistent with such purpose;

(i) Promulgate and file with the Secretary of State, subject to the approval of the Board of Public Welfare, rules and regulations as may be necessary as a basis for the provision for payment for services rendered by privately sponsored agencies or institutions to children under the care, custody or guardianship of the division. Such rules and regulations shall include, but shall not be limited to, standards of professional training, experience and practices, and requirements relating to the moral responsibility of the trustees, officers or other persons supervising or conducting the program, the adequacy of the facilities, the maintenance of adequate casework records, and the furnishing of comprehensive reports;

(j) Enter into written agreements with public, private or voluntary agencies to provide youth facility aid to such agencies, subject to a preaward qualification review of the agency's fiscal and programmatic abilities and periodic reviews.

50. Section 24 of P.L.1999, c.53 (C.30:4C-11.2) is amended to read as follows:

C.30:4C-11.2 Exceptions to requirement to make reasonable efforts to prevent placement of child.

24. In any case in which the Division of Youth and Family Services accepts a child in care or custody, including placement, the division shall not be required to provide reasonable efforts to prevent placement of the child if a court of competent jurisdiction has determined that both of the following criteria are met:

a. One of the following actions has occurred:

(1) the parent has subjected the child to aggravated circumstances of abuse, neglect, cruelty or abandonment,

(2) the parent has been convicted of murder, aggravated manslaughter or manslaughter of another child of the parent; aiding or abetting, attempting, conspiring or soliciting to commit murder, aggravated manslaughter or manslaughter of the child or another child of the parent; committing or attempting to commit an assault that resulted, or could have resulted, in the significant bodily injury to the child or another child of the parent; or committing a similarly serious criminal act which resulted, or could have resulted, in the death or significant bodily injury to the child or another child of the parent,

(3) the rights of the parent to another of the parent's children have been involuntarily terminated or

(4) removal of the child was required due to imminent danger to the child's life, safety or health; and

b. Efforts to prevent placement were not reasonable due to risk of harm to the child's health or safety.

When determining whether reasonable efforts are required to prevent placement, the health and safety of the child shall be of paramount concern to the court.

51. Section 25 of P.L.1999, c.53 (C.30:4C-11.3) is amended to read as follows:

C.30:4C-11.3 Exceptions to requirement to provide reasonable efforts to reunify child with parent.

25. In any case in which the Division of Youth and Family Services accepts a child in care or custody, including placement, the division shall not be required to provide reasonable efforts to reunify the child with a parent if a court of competent jurisdiction has determined that:

a. The parent has subjected the child to aggravated circumstances of abuse, neglect, cruelty or abandonment;

b. The parent has been convicted of murder, aggravated manslaughter or manslaughter of another child of the parent; aiding or abetting, attempting, conspiring or soliciting to commit murder, aggravated manslaughter or manslaughter of the child or another child of the parent; committing or attempting to commit an assault that resulted, or could have resulted, in significant bodily injury to the child or another child of the parent; or committing a similarly serious criminal act which resulted, or could have resulted, in the death of or significant bodily injury to the child or another child of the parent; or

c. The rights of the parent to another of the parent's children have been involuntarily terminated.

When determining whether reasonable efforts are required to reunify the child with the parent, the health and safety of the child and the child's need for permanency shall be of paramount concern to the court.

This section shall not be construed to prohibit the division from providing reasonable efforts to reunify the family, if the division determines that family reunification is in the child's best interests.

A permanency plan for the child may be established at the same hearing at which the court determines that reasonable efforts are not required to reunify the child with the parent, if the hearing meets all of the requirements of a permanency hearing pursuant to section 50 of P.L.1999, c.53 (C.30:4C-61.2).

52. Section 12 of P.L.1951, c.138 (C.30:4C-12) is amended to read as follows:

C.30:4C-12 Filing complaint; investigation; application for court order; hearing.

12. Whenever it shall appear that the parent or parents, guardian, or person having custody and control of any child within this State is unfit to be entrusted with the care and education of such child, or shall fail to provide such child with proper protection, maintenance and education, or shall fail to ensure the health and safety of the child, or is endangering the welfare of such child, a written or oral complaint may be filed with the division, or other entity designated by the commissioner, by any person or by any public or private agency or institution interested in such child. When such a complaint is filed by a public or private agency or institution, it shall be accompanied by a summary setting forth the reason for such complaint and other social history of the child and his family's situation which justifies such complaint; or, if this is not feasible, such summary shall be made available to the division, or other entity within the department that is investigating the complaint, as soon thereafter as possible. Upon receipt of a complaint as provided in this section, the division, or other entity designated by the commissioner, shall investigate, or shall cause to be investigated, the statements set forth in such complaint. If the circumstances so warrant, the parent, parents, guardian, or person having custody and control of the child may be afforded an opportunity to file an application for care, as provided in section 11 of P.L.1951, c.138 (C.30:4C-11). If the parent, parents, guardian, or person having custody and control of the child refuses to permit or in any way impedes an investigation, and the department determines that further investigation is necessary in the best interests of the child, the division may thereupon apply to the Family Part of the Chancery Division of the

Superior Court in the county where the child resides, for an order directing the parent, parents, guardian, or person having custody and control of the child to permit immediate investigation. The court, upon such application, may proceed to hear the matter in a summary manner and if satisfied that the best interests of the child so require may issue an order as requested.

If, after such investigation has been completed, it appears that the child requires care and supervision by the division or other action to ensure the health and safety of the child, the division may apply to the Family Part of the Chancery Division of the Superior Court in the county where the child resides for an order making the child a ward of the court and placing the child under the care and supervision of the division.

The court, at a summary hearing held upon notice to the division, and to the parent, parents, guardian, or person having custody and control of the child, if satisfied that the best interests of the child so require, may issue an order as requested, which order shall have the same force and effect as the acceptance of a child for care by the division as provided in section 11 of P.L.1951, c.138 (C.30:4C-11); provided, however, that such order shall not be effective beyond a period of six months from the date of entry unless the court, upon application by the division, at a summary hearing held upon notice to the parent, parents, guardian, or person having custody of the child, extends the time of the order.

Immediately after the court's order and while the child is in the division's care, the division shall initiate a search for the child's mother or father, if they are not known to the division. The search shall be initiated within 30 days of the court order. The search will be completed when all sources contacted have either responded to the inquiry or failed to respond within 45 days. The results shall be valid for six months after the date it was completed.

53. Section 6 of P.L.1991, c.275 (C.30:4C-12.1) is amended to read as follows:

C.30:4C-12.1 Search for relatives; assessment of abilities.

6. a. In any case in which the Division of Youth and Family Services accepts a child in its care or custody, including placement, the division shall initiate a search for relatives who may be willing and able to provide the care and support required by the child. The search shall be initiated within 30 days of the division's acceptance of the child in its care or custody. The search will be completed when all sources contacted have either responded to the inquiry or failed to respond within 45 days. The division shall complete an assessment of each interested relative's ability to provide the care and support, including placement, required by the child.

b. If the division determines that the relative is unwilling or unable to assume the care of the child, the division shall not be required to re-evaluate the relative. The division shall inform the relative in writing of:

(1) the reasons for the division's determination;

(2) the responsibility of the relative to inform the division if there is a change in the circumstances upon which the determination was made;

(3) the possibility that termination of parental rights may occur if the child remains in resource family care for more than six months; and

(4) the right to seek review by the division of such determination.

c. The division may decide to pursue the termination of parental rights if the division determines that termination of parental rights is in the child's best interests.

54. Section 28 of P.L.1999, c.53 (C.30:4C-12.2) is amended to read as follows:

C.30:4C-12.2 Resource family parent notice; opportunity to be heard.

28. In any case in which the Division of Youth and Family Services accepts a child in its care or custody, the child's resource family parent or relative providing care for the child, as applicable, shall receive written notice of and an opportunity to be heard at any review or hearing held with respect to the child, but the resource family parent or relative shall not be made a party to the review or hearing solely on the basis of the notice and opportunity to be heard.

55. Section 15 of P.L.1951, c.138 (C.30:4C-15) is amended to read as follows:

C.30:4C-15 Petition to terminate parental rights, conditions.

15. Whenever

(a) it appears that a court wherein a complaint has been proffered as provided in chapter 6 of Title 9 of the Revised Statutes, has entered a conviction against the parent or parents, guardian, or person having custody and control of any child because of abuse, abandonment, neglect of or cruelty to such child; or

(b) (Deleted by amendment, P.L.1991, c.275);

(c) it appears that the best interests of any child under the care or custody of the division require that he be placed under guardianship; or

(d) it appears that a parent or guardian of a child, following the acceptance of such child by the division pursuant to section 11 or 12 of P.L.1951, c.138 (C.30:4C-11 or 12), or following the placement or commitment of such child in the care of an authorized agency, whether in an institution or in a resource family home, and notwithstanding the reasonable efforts of

such agency to encourage and strengthen the parental relationship, has failed for a period of one year to remove the circumstances or conditions that led to the removal or placement of the child, although physically and financially able to do so, notwithstanding the division's reasonable efforts to assist the parent or guardian in remedying the conditions; or

(e) the parent has abandoned the child; or

(f) the parent of a child has been found by a criminal court of competent jurisdiction to have committed murder, aggravated manslaughter or manslaughter of another child of the parent; to have aided or abetted, attempted, conspired, or solicited to commit such murder, aggravated manslaughter or manslaughter of the child or another child of the parent; or to have committed, or attempted to commit, an assault that resulted, or could have resulted, in the significant bodily injury to the child or another child of the parent; or the parent has committed a similarly serious act which resulted, or could have resulted, in the death or significant bodily injury to the child or another child of the parent; a petition to terminate the parental rights of the child's parents, setting forth the facts in the case, shall be filed by the division with the Family Part of the Chancery Division of the Superior Court in the county where such child may be at the time of the filing of such petition. A petition shall be filed as soon as any one of the circumstances in subsections (a) through (f) of this section is established, but no later than when the child has been in placement for 15 of the most recent 22 months, unless the division establishes an exception to the requirement to seek termination of parental rights in accordance with section 31 of P.L.1999, c.53 (C.30:4C-15.3). Upon filing the petition, the division shall initiate concurrent efforts to identify, recruit, process and approve a qualified family to adopt the child.

A petition as provided in this section may be filed by any person or any association or agency, interested in such child in the circumstances set forth in subsections (a) and (f) of this section. The division shall seek to be joined as a party to a petition filed to terminate the parental rights of a child in the care and custody of the division unless the division has established an exception to the requirement to seek termination of parental rights in accordance with section 31 of P.L.1999, c.53 (C.30:4C-15.3).

56. Section 7 of P.L.1991, c.275 (C.30:4C-15.1) is amended to read as follows:

C.30:4C-15.1 Termination of parental rights, standards.

7. a. The division shall initiate a petition to terminate parental rights on the grounds of the "best interests of the child" pursuant to subsection (c) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the following standards are met:

(1) The child's safety, health or development has been or will continue to be endangered by the parental relationship;

(2) The parent is unwilling or unable to eliminate the harm facing the child or is unable or unwilling to provide a safe and stable home for the child and the delay of permanent placement will add to the harm. Such harm may include evidence that separating the child from his resource family parents would cause serious and enduring emotional or psychological harm to the child;

(3) The division has made reasonable efforts to provide services to help the parent correct the circumstances which led to the child's placement outside the home and the court has considered alternatives to termination of parental rights; and

(4) Termination of parental rights will not do more harm than good.

b. The division shall initiate a petition to terminate parental rights on the ground that the "parent has abandoned the child" pursuant to subsection (e) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the following standards are met:

(1) a court finds that for a period of six or more months:

(a) the parent, although able to have contact, has had no contact with the child, the child's resource family parent or the division; and

(b) the parent's whereabouts are unknown, notwithstanding the division's reasonable efforts to locate the parent; or

(2) where the identities of the parents are unknown and the division has exhausted all reasonable methods of attempting identification, the division may immediately file for termination of parental rights upon the completion of the law enforcement investigation; or

(3) where the parent voluntarily delivered the child to and left the child at, or voluntarily arranged for another person to deliver the child to and leave the child at a State, county or municipal police station or at an emergency department of a licensed general hospital in this State when the child is or appears to be no more than 30 days old, without expressing an intent to return for the child, as provided in section 4 of P.L.2000, c.58 (C.30:4C-15.7), the division shall file for termination of parental rights no later than 21 days after the day the division assumed care, custody and control of the child.

c. As used in this section and in section 15 of P.L.1951, c.138 (C.30:4C-15) "reasonable efforts" mean attempts by an agency authorized by the division to assist the parents in remedying the circumstances and conditions that led to the placement of the child and in reinforcing the family structure, including, but not limited to:

(1) consultation and cooperation with the parent in developing a plan for appropriate services;

(2) providing services that have been agreed upon, to the family, in order to further the goal of family reunification;

(3) informing the parent at appropriate intervals of the child's progress, development and health; and

(4) facilitating appropriate visitation.

d. The division shall not be required to provide "reasonable efforts" as defined in subsection c. of this section prior to filing a petition for the termination of parental rights if an exception to the requirement to provide reasonable efforts to reunify the family has been established pursuant to section 25 of P.L.1999, c.53 (C.30:4C-11.3).

57. Section 22 of P.L.1951, c.138 (C.30:4C-22) is amended to read as follows:

C.30:4C-22 Full guardianship.

22. The care, custody or guardianship of the division shall be full and complete for all purposes and shall vest in the division the custody and control of both the person and property of children in its custody or care, and of its wards, whether committed prior or subsequent to the effective date of this act, when the children are in resource family homes, without the necessity of giving bond, and notwithstanding any previous appointment of a guardian for the children under its custody or care or such wards.

Such care, custody or guardianship of the division shall enable the division, acting through the chief executive officer of the division or his authorized representative, to prosecute suits, claims and any and all manner of proceedings or actions in law or equity for and on behalf of the children under its custody or care or its wards when the children are in resource family homes; to demand and receive from all persons, including guardians previously appointed, any and all property of the children under its custody or care or its wards when the children are in resource family homes; and to hold and administer the real and personal property of the children under its custody or care or its wards when the children are in resource family homes, or any interest they may have therein; provided, however, that it shall be proper for the division, in its discretion, to hold funds of the children under its custody or care or its wards when the children are in resource family homes on deposit in one or more banks, building and loan associations, or trust companies in this State, and to apply funds, other than earned income or the corpus of any trust, devise or intestate share, or the proceeds of an insurance contract or a personal injury award which a court specifically awards to a child to make the child whole as a result of an injury, of any child under its custody or care or any ward when the child is in a resource family

home against expenditures for the maintenance of such child under its custody or care or ward when the child is in a resource family home.

A court of competent jurisdiction shall hear and determine petitions by the division, on behalf of the children under its custody or care or its wards when the children are in resource family homes, for the transfer of any or all assets being held by guardians previously appointed. The court shall have jurisdiction, in its discretion, to waive costs in any proceedings by the division on behalf of the children under its custody or care or its wards when the children are in resource family homes.

58. Section 26 of P.L.1951, c.138 (C.30:4C-26) is amended to read as follows:

C.30:4C-26 Placing child in resource family home, group home or institution.

26. a. Whenever the circumstances of a child are such that his needs cannot be adequately met in his own home, the division may effect his placement in a resource family home, with or without payment of board, in a group home, or in an appropriate institution if such care is deemed essential for him. The division shall make every reasonable effort to select a resource family home, a group home or an institution of the same religious faith as the parent or parents of such child.

b. Whenever the division shall place any child, as provided by this section, in any municipality and county of this State, the child shall be deemed a resident of such municipality and county for all purposes except school funding, and he shall be entitled to the use and benefit of all health, recreational, vocational and other facilities of such municipality and county in the same manner and extent as any other child living in such municipality and county.

c. Whenever the division shall place any child, as provided by this section, in any school district, the child shall be entitled to the educational benefits of such district; provided, however, that the district of residence, as determined by the Commissioner of Education pursuant to law, shall be responsible for paying tuition for such child to the district in which he is placed.

d. No municipality shall enact a planning or zoning ordinance governing the use of land by, or for, single family dwellings which shall, by any of its terms or provisions or by any rule or regulation adopted in accordance therewith, discriminate between children who are members of such single families by reason of their relationship by blood, marriage or adoption, children placed with such families in such dwellings by the division, Office of Children's Services or other entity designated by the Commissioner of

Human Services, and children placed pursuant to law with families in single family dwellings known as group homes.

Any planning or zoning ordinance, heretofore or hereafter enacted by a municipality, which violates the provisions of this section, shall be invalid and inoperative.

59. 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, group homes and institutions wherein any child in the care, custody or guardianship of the Division of Youth and Family Services, may be placed for temporary or long-term care, and shall include any private residence maintained by persons with whom any such child is placed by the division for adoption.

60. Section 3 of P.L.1962, c.137 (C.30:4C-26.3) is amended to read as follows:

C.30:4C-26.3 Shelters for temporary care, supervision of children.

3. Such shelters shall be equipped and used for the temporary care and supervision of children who are placed in the care, custody or guardianship of the Division of Youth and Family Services, during the interim between such placement and placement in a suitable resource family home. Such shelters shall be properly staffed to provide for child care and supervision and shall contain the necessary facilities for both physical and psychological examinations of such children.

61. 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 Division of Youth and Family Services, is placed for temporary or long-term care and shall include any person with whom a child is placed by the division for the purpose of adoption.

62. Section 2 of P.L.1962, c.136 (C.30:4C-26.5) is amended to read as follows:

C.30:4C-26.5 Adoption of child by resource family parent.

2. Notwithstanding the provisions of any other law or any rule or regulation of the Division of Youth and Family Services, no agreement entered into between the division and any resource family parent for the care of any child in the care, custody or guardianship of the division shall contain any provision prohibiting the adoption of any child by the resource family parent.

63. 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 Division of Youth and Family Services, is placed for temporary or long-term care and shall include any person with whom a child is placed by the division for the purpose of adoption.

64. Section 2 of P.L.1962, c.139 (C.30:4C-26.7) is amended to read as follows:

C.30:4C-26.7 Application for adoption of child by resource family parent.

2. Any person, who, as a resource family parent, has cared for a child continuously for a period of 15 months or more, may apply to the Division of Youth and Family Services, for the placement of the child with them for the purpose of adoption and if the child is eligible for adoption, the division shall give preference and first consideration to their application over all other applications for adoption placements.

65. 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 Division of Youth and Services is placed for temporary or long-term care and shall include any person with whom a child is placed by the division for the purpose of adoption.

66. 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 Division of Youth and Services is placed for temporary or long-term care and shall not include any person with whom a child is placed by the division for the purpose of adoption.

67. Section 27 of P.L.1951, c.138 (C.30:4C-27) is amended to read as follows:

C.30:4C-27 Expenses of maintenance chargeable against State funds.

27. Pursuant to the providing of care, custody or guardianship for any child, in accordance with the provisions of this act, the division may expend such sums as may be necessary for the reasonable and proper cost of maintenance, including board, lodging, clothing, medical, dental, and hospital care, or any other similar or specialized commodity or service as the needs of any such child may require, except that the division shall not maintain a clothing warehouse for the distribution of clothing to children under its jurisdiction. In lieu thereof, the division may pay resource family parents caring for children under their supervision a sufficient amount to enable them to purchase necessary clothing items required by the children from the local merchants of the locality in which they reside. Such maintenance costs and the total cost of hospital care for children as provided for herein shall be borne by the State. However, no costs shall be chargeable if incurred earlier than the date of the child's acceptance in care as provided in section 12 hereof, or earlier than the date of an order of commitment to guardianship as provided in section 20 hereof.

Whenever a medical or psychological examination shall be required for any child as a condition to providing care or custody, or whenever the division avails itself of the facilities and services of any privately sponsored agency or institution, the cost of the examination or service shall be a proper charge against State funds, within the limits of available appropriations, in the same manner and extent as expenditures for maintenance.

In providing care, custody or guardianship for any child or in the course of determining the eligibility of any child for care, custody or guardianship in accordance with the provisions of this act, the division may avail itself of the facilities and services of any privately sponsored agency or institution, with due regard to the religious background of the child, which complies with those rules and regulations as established pursuant to this act, paying such fees for service as may be mutually agreed upon by the division and the privately sponsored agency or institution providing service.

Whenever a child under care, custody or guardianship is in need of operation, anaesthesia, diagnostic tests or treatment, the division may give its consent thereto. A consent to operation, anaesthesia, diagnostic tests or treatment when given by the division on behalf of any child receiving care, custody or guardianship shall be deemed legal and valid for all purposes with respect to any person or hospital affording service to such child pursuant to and in reliance upon such consent.

Nothing contained herein shall modify the provisions of section 6 of the act of which this act is amendatory.

68. 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 Division of Youth and Family Services, is placed for temporary or long-term care and shall include any person with whom a child is placed by the division for the purpose of adoption.

69. Section 2 of P.L.1962, c.135 (C.30:4C-27.2) is amended to read as follows:

C.30:4C-27.2 Discontinuance of clothing distribution centers; clothing allowance.

2. Notwithstanding the provision of any other law, the maintenance of a clothing warehouse and distribution center for the distribution of clothing to children in the care, custody or guardianship of the Division of Youth and Family Services, shall be discontinued and in lieu thereof the division shall increase the monthly allowance payable to any resource family parent caring for any of the children in a sufficient amount to enable the resource family parent to purchase the necessary clothing items required by the children from the local merchants of the locality wherein the resource family parent resides.

70. Section 1 of P.L.2001, c.419 (C.30:4C-27.3) is amended to read as follows:

C.30:4C-27.3 Short title.

1. This act shall be known and may be cited as the "Resource Family Parent Licensing Act."

71. Section 2 of P.L.2001, c.419 (C.30:4C-27.4) is amended to read as follows:

C.30:4C-27.4 Findings, declarations relative to resource family care.

2. The Legislature finds and declares that: each child requiring resource family care should reside in a safe home with a nurturing substitute family who can meet the child's individual needs; the most effective way to ensure the health, safety, general well-being and physical, emotional, social and educational needs of a child residing in a resource family home is to require the annual inspection and monitoring of a resource family home and to obligate a person to secure and maintain a license in order to provide resource family care to a child; therefore, it is in the public interest to license resource family parents and regulate resource family homes in order to ensure the safety, health and proper development of children placed in resource family care.

72. 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, 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.

73. Section 4 of P.L.2001, c.419 (C.30:4C-27.6) is amended to read as follows:

C.30:4C-27.6 Licensure required for resource family parents.

4. a. A person shall not provide resource family care to a child unless the person is licensed by the department pursuant to this act. The license shall be issued to a specific person for a specific residence and shall not be transferable to another person or residence. The resource family parent shall maintain the license on file at the resource family home.

b. A person desiring to provide resource family care to a child shall apply to the department for a license in a manner and form prescribed by the commissioner.

c. A resource family parent applicant or resource family parent shall be of good moral character.

d. A resource family parent applicant or resource family parent, as applicable, shall:

(1) Complete the license application form provided by the department;

(2) Provide written consent for the division to conduct a check of its child abuse records pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11);

(3) Provide written consent from each adult member of the resource family parent applicant's household for the division to conduct a child abuse record information check on that person; and

(4) Immediately notify the department when a new adult becomes a resident of the resource family parent applicant's or resource family parent's household in order to ensure that the department can conduct a criminal history record background check pursuant to section 1 of P.L.1985, c.396 (C.30:4C-26.8) and the division can conduct a child abuse record information check on the new adult household member.

e. As a condition of securing a license, the applicant shall participate in pre-service training in accordance with standards adopted by the commissioner pursuant to this act.

f. A resource family parent licensed pursuant to this act shall participate in pre-service and in-service training in accordance with standards adopted by the commissioner pursuant to this act.

74. Section 5 of P.L.2001, c.419 (C.30:4C-27.7) is amended to read as follows:

C.30:4C-27.7 Child abuse record information check.

5. a. The division shall conduct a child abuse record information check of the division's child abuse records to determine if an incident of child abuse or neglect has been substantiated, pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11), against a resource family parent applicant or any adult member of the resource family parent applicant's household, upon receipt of written consent from the resource family parent applicant or any adult member of

the resource family parent applicant's household pursuant to subsection d. of section 4 of P.L.2001, c.419 (C.30:4C-27.6).

The department shall consider, for the purposes of this act, any incidents of child abuse or neglect that were substantiated on or after June 29, 1995, to ensure that a resource family parent applicant or adult member of the resource family parent applicant's household has had an opportunity to appeal a substantiated finding of child abuse or neglect pursuant to department regulations, except that the department may consider substantiated incidents prior to that date if the department, in its judgment, determines that the resource family parent applicant or adult household member poses a risk of harm in a resource family home. In cases involving incidents substantiated prior to June 29, 1995, the department shall offer the resource family parent applicant or adult member of the resource family parent applicant's household an opportunity for a hearing to contest its action restricting the resource family parent applicant from providing resource family care to a child.

b. (1) The department shall conduct an annual on-site inspection of a resource family home and evaluate the resource family home to determine whether it complies with the provisions of this act.

(2) The department may, without prior notice, inspect and examine a resource family home and inspect all documents, records, files or other data required to be maintained by a resource family parent pursuant to this act.

c. If an applicant meets the requirements of this act, the department shall issue a license to that person.

d. (1) The license shall be valid for the time period designated by the commissioner, subject to the resource family parent's continued compliance with the provisions of this act.

(2) The department shall determine if the license shall be renewed based upon the results of the annual on-site inspection and evaluation of the resource family home conducted pursuant to this section. If the on-site inspection and evaluation indicate the resource family home's full or substantial compliance with the provisions of this act, the department shall renew the license.

75. Section 6 of P.L.2001, c.419 (C.30:4C-27.8) is amended to read as follows:

C.30:4C-27.8 Criminal history record background check required for licensure.

6. a. The department shall ensure that a State and federal criminal history record background check is conducted on a resource family parent applicant and any adult member of the resource family parent applicant's household pursuant to the provisions of section 1 of P.L.1985, c.396 (C.30:4C-26.8).

b. The Division of State Police in the Department of Law and Public Safety shall promptly notify the department in the event a resource family parent or any adult member of the resource family parent's household, who was the subject of a criminal history record background check conducted pursuant to this section, is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of such notification, the department shall make a determination whether to suspend or revoke the resource family parent's license.

76. Section 7 of P.L.2001, c.419 (C.30:4C-27.9) is amended to read as follows:

C.30:4C-27.9 Denial, suspension, revocation of license.

7. The department may deny, suspend or revoke a license for good cause, including, but not limited to:

a. Failure of a resource family parent applicant or resource family parent to comply with the provisions of this act;

b. Failure of a resource family parent applicant or any adult member of the resource family parent applicant's household to consent to, or cooperate in, the securing of a criminal history record background check pursuant to section 1 of P.L.1985, c.396 (C.30:4C-26.8) or a division child abuse record information check pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11);

c. The conviction of a resource family parent applicant or any adult member of the resource family parent applicant's household of a crime enumerated under section 1 of P.L.1985, c.396 (C.30:4C-26.8);

d. A determination that an incident of child abuse or neglect by a resource family parent applicant or any adult member of the resource family parent applicant's household has been substantiated, except that the department may issue the license if the department determines that the resource family parent applicant or adult household member poses no continuing risk of harm to the child and the issuance of the license is in the child's best interests;

e. Violation of the terms and conditions of a license;

f. Use of fraud or misrepresentation by a resource family parent applicant or resource family parent in obtaining a license;

g. Refusal by a resource family parent applicant or resource family parent to furnish the department with information, files, reports or records required for compliance with the provisions of this act;

h. Refusal by a resource family parent applicant or resource family parent to permit an inspection of a resource family home by an authorized representative of the department; and

i. Any conduct, engaged in or permitted, which adversely affects or presents a serious hazard to the education, health, safety, general well-being or physical, emotional and social development of the child residing in the resource family home, or which otherwise fails to comply with the standards required for the provision of resource family care to a child and the maintenance of a resource family home.

77. Section 8 of P.L.2001, c.419 (C.30:4C-27.10) is amended to read as follows:

C.30:4C-27.10 Notice before denial, suspension, revocation of license, hearing.

8. Before denying, suspending or revoking a license, the department shall give notice to a resource family parent applicant or resource family parent personally or by mail to the last known address of the resource family parent applicant or resource family parent with return receipt requested. The notice shall afford the resource family parent applicant or resource family parent the opportunity to be heard and to contest the department's action. The hearing shall be conducted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

78. Section 9 of P.L.2001, c.419 (C.30:4C-27.11) is amended to read as follows:

C.30:4C-27.11 Judicial review.

9. A person aggrieved by a final decision of the department is entitled to seek judicial review in the Appellate Division of the Superior Court. All petitions for review shall be filed in accordance with the Rules of Court.

79. Section 13 of P.L.2001, c.419 (C.30:4C-27.15) is amended to read as follows:

C.30:4C-27.15 Rules, regulations.

13. a. The commissioner 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.

The regulations shall include standards governing: the safety and adequacy of the physical premises of a resource family home; the health, safety, general well-being and physical, emotional, social and educational needs of a child in resource family care; the training of a resource family parent; the responsibility of a resource family parent to participate in the case plan of a child in resource family care and to allow access by the department to the child; the maintenance and confidentiality of records and furnishing of required information to the department; the transportation of a child in

resource family care; and the provision of other needed services on behalf of a child in resource family care. The commissioner shall also adopt rules and regulations for license application, issuance, denial, suspension and revocation.

b. Nothing in this act shall be construed to permit the department to adopt any code or standard that exceeds the standards established pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.).

80. Section 1 of P.L.1962, c.142 (C.30:4C-29.1) is amended to read as follows:

C.30:4C-29.1 Liability for maintenance costs.

1. a. In any case in which the Department of Human Services, through the Division of Youth and Family Services, is providing care or custody for any child when the child is in a resource family home, any legally responsible person of the child, if of sufficient financial ability, is liable for the full costs of maintenance of the child incurred by the division. If the legally responsible person is of insufficient financial ability, the person is liable in an amount which a court of competent jurisdiction directs according to a scheduled rate approved by the division. Nothing contained herein shall prevent the legally responsible person from voluntarily executing an agreement for payment to the division for the costs of maintenance of the child receiving care or custody when the child is in a resource family home.

b. The division shall have a lien against the property of the legally responsible person in an amount equal to the amount to be paid, which lien shall have priority over all unrecorded encumbrances.

c. If the legally responsible person fails to reimburse the department, through the division, for the costs of maintenance of a child incurred by the division when the child is in a resource family home, a court of competent jurisdiction, upon the complaint of the Commissioner of Human Services, may summon the legally responsible person and other witnesses, and may order the legally responsible person to pay an amount to the department, according to a scheduled rate approved by the division.

d. In any case in which the department, through the division, has agreed to provide youth facilities aid to a public, private or voluntary agency pursuant to this act, the division shall have a lien against the property of any person, persons or agency so contracting, in an amount equal to the amount or amounts so contracted to be paid, which lien shall have priority over all unrecorded encumbrances. Such lien shall be reduced for each year of service provided by the agency at a rate to be negotiated by the division and

the agency, but in no case more than 20% a year; provided, however, that annual reductions shall not exceed $10,000.

81. Section 1 of P.L.1973, c.81 (C.30:4C-45) is amended to read as follows:

C.30:4C-45 Legislative intent.

1. It is the intent of the Legislature in enacting this act to benefit hard-to-place children in resource family care at State expense by providing the stability and security of permanent homes.

82. Section 2 of P.L.1973, c.81 (C.30:4C-46) is amended to read as follows:

C.30:4C-46 Payments in subsidization of adoption; qualifications.

2. The Division of Youth and Family Services shall make payments to adoptive parents on behalf of a child placed for adoption by the division whenever:

a. The child because of physical or mental condition, race, age, or membership in a sibling group, or for any other reason falls into the category of a child hard to place for adoption;

b. The adoptive family is capable of providing the permanent family relationships needed by the child; and

c. Except in situations involving adoption by a child's resource family parent, there has been a reasonable effort to place the child in an adoptive setting without providing a subsidy.

Payments shall be made on behalf of a child placed for adoption by the division except that whenever a child who would otherwise be eligible for subsidy payment is in the care of an approved New Jersey adoption agency pursuant to P.L.1977, c.367 (C.9:3-37 et seq.) a child shall, upon application by the agency and satisfaction of the regular requirements of the adoption subsidy program, be approved for participation in the adoption subsidy program. In any case the division may approve payment in subsidization of adoption for a child without legal transfer of care or custody of the child to the division. The division shall adopt regulations for administration of this program with respect to these children, except that all children are evaluated for eligibility in the same manner as children already under the care, custody or guardianship of the division.

83. 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, through voluntary agreement or court order, 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.

84. Section 1 of P.L.1991, c.448 (C.30:4C-53.1) is amended to read as follows:

C.30:4C-53.1 Findings, declarations.

1. The Legislature finds and declares that it is in the public interest, whereby the safety of children shall be of paramount concern, to afford every child placed outside his home by the Division of Youth and Family Services in the Department of Human Services with permanency through return to his own home, if the child can be returned home without endangering the child's health or safety; through adoption, if family reunification is not possible; or through an alternative permanent placement, if termination of parental rights is not appropriate:

a. Due to the severity of health and social problems such as AIDS, drug abuse and homelessness, the division often works with families over a period of many years, and the children of these families often spend a majority of their young lives in resource family care; and

b. Research has shown that the longer children remain in the resource family care system, the greater number of placements they experience. As a result of these multiple placements, from birth family to resource family home and from one resource family home to another resource family home, children develop emotional and psychological problems, making it more difficult for them to develop a positive self-image; and

c. (Deleted by amendment, P.L.2004, c.130).

d. The obligation of the State to recognize and protect the rights of children in the child welfare system should be fulfilled in the context of a clear and consistent policy which limits the repeated placement of children in resource family care and promotes the eventual placement of these children in stable and safe permanent homes.

85. Section 2 of P.L.1991, c.448 (C.30:4C-53.2) is amended to read as follows:

C.30:4C-53.2 Definition of "repeated placement", "placed again."

2. For purposes of this act, the terms "repeated placement into resource family care" and "placed again into resource family care" shall apply to a child who has been placed in the custody of the Division of Youth and Family Services for placement in resource family care by the Family Part of the Chancery Division of the Superior Court or as a result of a voluntary placement agreement pursuant to P.L.1974, c.119 (C.9:6-8.21 et seq.), released into the custody of his parents or legally responsible guardian at the conclusion of the placement and is once again temporarily removed from his place of residence and placed under the division's care and supervision.

86. Section 3 of P.L.1991, c.448 (C.30:4C-53.3) is amended to read as follows:

C.30:4C-53.3 Revised, repeated placement plans, requisites.

3. a. The division shall not treat a child's repeated placement into resource family care as an initial placement. The child's revised placement plan, updated at the time of the child's repeated placement, shall summarize the child's prior history with the division regarding previous placements, the findings of the child placement review board, as well as a copy of the court order for the removal of the child from the custody of his parents or guardian. The revised placement plan shall be used by the division when preparing the child's repeated placement plan pursuant to this section.

b. Whenever a child is placed again into resource family care, the division shall prepare a repeated placement plan which shall ensure the goals of safety and permanency through the safe return of the child to his parents or, if this is not possible, through the State's assumption of guardianship for

the purpose of finding the child an adoptive home or, if termination of parental rights is not appropriate, through an alternative permanent placement. The plan shall be prepared within 30 days after the child's repeated placement and submitted to the court. The plan shall be valid for 12 months after the date the child was placed again into resource family care.

c. The repeated placement plan shall include, but not be limited to:

(1) The specific reasons for the repeated placement of the child, including a description of the problems or conditions in the home of the parents or guardian which necessitated the child's removal, and a summary of the efforts made by the division to prevent the child's repeated placement or the exception to the requirement to make reasonable efforts to prevent placement in accordance with section 24 of P.L.1999, c.53 (C.30:4C-11.2);

(2) The specific actions to be taken by the child's parents or guardian to eliminate the identified problems or conditions which were the basis of the child's repeated placement into resource family care, which actions shall be taken within a specific time limit agreed upon by the child's caseworker and the parents or guardian;

(3) The social services to be provided to the child and the resource family parents during the period the child is in resource family care and the social services to be provided to the child's parent or guardian, or the exception to the requirement to make reasonable efforts toward family reunification in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3), and the goal for the child and anticipated date for achieving the goal. The purpose of the supportive services shall be to promote the child's best interest and to facilitate his safe return to his home, placement for adoption or an alternative permanent placement. Services to facilitate adoption or an alternative permanent placement may be provided concurrently with services to reunify the child with the parent or guardian;

(4) An assessment of the division's ability to obtain a child's birth certificate, locate the child's parents for future contact and have access to the child's extended family, in the event that a plan for adoption or an alternative permanent placement becomes necessary;

(5) A stipulation that the child be placed with his prior resource family parent, if possible and if in the child's best interest, to provide the child with continuity and stability in his living environment; and

(6) A permanency plan for the child and the reasonable efforts of the division to achieve that plan, if: the division has established an exception to the requirement to provide reasonable efforts toward family reunification in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3); or the child has, in any period of 22 consecutive months, been in any placement or placements for a total of 12 months.

The permanency plan shall include whether and, if applicable, when:

(a) the child will be returned to the parent or guardian, if the child can be returned home without endangering the child's health or safety;

(b) the division has determined that family reunification is not possible, and the division shall file a petition for the termination of parental rights for the purpose of adoption; or

(c) the division has determined that termination of parental rights is not appropriate in accordance with section 31 of P.L.1999, c.53 (C.30:4C-15.3), and the child shall be placed in an alternative permanent placement.

87. Section 10 of P.L.1977, c.424 (C.30:4C-59) is amended to read as follows:

C.30:4C-59 Written notice in advance of review.

10. Each board shall provide written notice of the date, time and place of each review at least 15 days in advance to the following, each of whom shall be entitled to attend the review and to submit information in writing to the board:

a. The division or agency;

b. The child;

c. The parents including a non-custodial parent or legal guardian;

d. The temporary caretaker;

e. Any other person or agency whom the board determines has an interest in or information relating to the welfare of the child;

f. The counsel for a parent, child or other interested party who has provided or is providing representation in the case before the board; and

If the child's caretaker is a resource family parent or relative, the caretaker shall receive written notice of and an opportunity to be heard at the review, but the caretaker shall not be made a party to the review solely on the basis of the notice and opportunity to be heard.

The board may determine who may be in attendance at any particular portion of its meeting. Nothing herein shall be interpreted to exclude judges and court support staff from attending review board meetings.

The written notice shall inform the person of his right to attend the review and to submit written information and shall be prepared in a manner which will encourage the person's attendance at the review.

Notice to the child may be waived by the court on a case by case basis either on its own motion or on the petition of any of the above persons in cases where the court determines that notice would be harmful to the child. A waiver of notice to the child shall not waive the notice requirement to counsel for the child or other representatives of the child.

The review board may seek information from any agency which has been involved with the child, parents or legal guardian or temporary care-

taker. If the agency fails to provide the requested information, the court may, upon the request of the board, issue a subpena to the agency for the information.

The board shall conduct a review and make recommendations based upon the written materials; provided, however, that the board shall afford any party or person entitled to notice pursuant to this section a reasonable opportunity to appear and to present his views and recommendations. Upon the request of the board, the Family Part of the Chancery Division of the Superior Court may subpena a person to attend the review board meeting.

A designated agency shall provide relevant and necessary information to the board regarding a child who is reviewed by the board.

88. Section 11 of P.L.1977, c.424 (C.30:4C-60) is amended to read as follows:

C.30:4C-60 Submission of report.

11. Within 10 days after the completion of such review, the board shall submit a written report to the Family Part of the Chancery Division of the Superior Court and the division. Such report shall offer one of the following findings, stating the specific reasons therefor:

a. That continued placement of the child outside of the home is not in the child's best interest and the child should be returned home within two weeks and that the division or designated agency, as appropriate, shall provide reasonable and available services which are necessary to implement the return home;

b. That continued placement outside of the home is in the child's best interest on a temporary basis until the long-term goal is achieved, which long-term goal is:

(1) Return to the child's parents or legal guardian,

(2) Adoption,

(3) Permanent placement with a relative,

(4) Kinship legal guardianship,

(5) Independent living,

(6) Institutionalization, or

(7) An alternative permanent placement;

c. That continued placement outside of the home on a temporary basis is in the child's best interest, but that there is not sufficient information for the board to make a recommendation, therefore, the board requests the court to order the division or designated agency, as appropriate, to provide the needed information within two weeks of the court order.

d. (Deleted by amendment, P.L.1987, c.252.)

In addition to the finding, the board shall state in its report if the placement plan satisfies the criteria provided in section 9 of P.L.1977, c.424 (C.30:4C-58) and if it does not, that the placement plan should be modified or a new plan should be developed.

When making its finding pursuant to this section, the child's health, safety and need for permanency shall be of paramount concern to the board. The board shall give priority to the goal of return to the child's parents or legal guardian unless that goal is not in the best interest of the child. If the return has not been achieved within one year, and after considering the family's efforts; the division's or designated agency's provision of reasonable and available services, if reasonable efforts are required; or other relevant factors; the board shall recommend another permanent plan for the child.

In addition to the finding, the board shall state the reasons and additional factors it deems appropriate to explain its conclusions. When any change in the plan or situation of the child is recommended, the board shall state its specific recommendations and the factual basis therefor.

In accordance with section 8 of P.L.1985, c.85 (C.30:4C-61.1), the board may recommend that the division shall not return a child to his home prior to a review by the board and an order of the court.

Within 10 days of the completion of its review, the board shall provide to those persons entitled to notice under section 10 of P.L.1977, c.424 (C.30:4C-59) the specific finding made pursuant to this section, unless the board recommends that the finding shall not be provided to specific individuals as provided in this paragraph. The court may waive notice of findings to the child on a case-by-case basis on its own motion or on the petition of a person listed in section 10 of P.L.1977, c.424 (C.30:4C-59) in cases where the court determines that the nature of the findings would be harmful to the child, or if notice to the child of review was waived. The court may waive notice of findings to persons included in subsection e. of section 10 of P.L.1977, c.424 (C.30:4C-59) on the recommendation of the board or on the petition of other persons entitled to notice.

89. Section 12 of P.L.1977, c.424 (C.30:4C-61) is amended to read as follows:

C.30:4C-61 Issuance of order by court.

12. a. Upon review of the board's report, the Family Part of the Chancery Division of the Superior Court shall issue an order concerning the child's placement which it deems will best serve the health, safety and interests of the child. The court shall issue the order within 21 calendar days of the court's receipt of the board's report unless the court schedules a summary hearing. The court shall either:

(1) Order the return of the child to his parents or legal guardian within two weeks and order the division or designated agency, as appropriate, to provide any reasonable and available services which are necessary to implement the return home;

(2) Order continued placement on a temporary basis until the long-term goal is achieved; or

(3) Order continued placement on a temporary basis but that the division shall provide further information within two weeks to the court, which information shall be reviewed by the board within 30 days of its receipt.

(4) (Deleted by amendment, P.L.1987, c.252.)

In accordance with section 8 of P.L.1984, c.85 (C.30:4C-61.1), the court may order that the division shall not return a child to his home prior to review by the board and an order of the court.

In addition, if the placement plan does not satisfy the criteria of section 9 of P.L.1977, c.424 (C.30:4C-58), the court shall order that the placement plan be modified or that a new plan be developed within 30 days.

b. In reviewing the report, the court may request that, where available, any written or oral information submitted to the board be provided to the court. The court shall make a determination based upon the report and any other information before it; provided, however, that the court may schedule a summary hearing if:

(1) The court has before it conflicting statements of material fact which it cannot resolve without a hearing; or

(2) A party entitled to participate in the proceedings requests a hearing; or

(3) The court concludes that the interests of justice require that a hearing be held; or

(4) The board recommends that a hearing be held due to lack of compliance with the placement plan, including achievement of the permanent placement identified in the permanency plan; or

(5) The division has documented an exception to the requirement to provide reasonable efforts toward family reunification pursuant to section 25 of P.L.1999, c.53 (C.30:4C-11.3); or

(6) If the review is to serve as a permanency hearing.

c. Notice of such hearing, including a statement of the dispositional alternatives of the court, shall be provided at least 30 days in advance, unless the court finds that it is in the best interest of the child to provide less notice in order to conduct the hearing sooner. Notice shall be provided to the following persons unless the court determines it is not in the best interests of the child:

(1) The division;

(2) The child;

(3) The child's parents including a non-custodial parent or legal guardian;

(4) The review board;

(5) The temporary caretaker;

(6) The counsel for any parent, child or other interested party who has provided or is providing representation in the case before the board; and

(7) If the child's caretaker is a resource family 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.

The court may also request or order additional information from any other persons or agencies which the court determines have an interest in or information relating to the welfare of the child.

The court shall hold the hearing within 60 days of receipt of the board's report and shall issue its order within 15 days of the hearing.

d. The court shall send a copy of its order concerning the child's placement to all persons listed in subsection c. of this section, except that, if notice to the child of the board review was waived pursuant to section 10 of P.L.1977, c.424 (C.30:4C-59), the court may waive the requirement of sending a copy of its order to the child.

e. Any person who receives a copy of the court order shall comply with the confidentiality requirements established by the Supreme Court for the purposes of this act.

90. Section 8 of P.L.1984, c.85 (C.30:4C-61.1) is amended to read as follows:

C.30:4C-61.1 Proposal to return child home.

8. a. If the division proposes to return a child home, although the return home is either prohibited by the placement plan approved by the court or expressly contingent upon certain conditions in the placement plan that have not been met, the division shall promptly notify the board and the court in writing.

b. The board shall conduct a special review within 15 days of receipt of the notice provided pursuant to subsection a. or f. of this section to consider and evaluate the reasons for the proposed action and determine whether the action ensures the safety and serves the best interests of the child. The board shall provide written notice of the special review pursuant to section 10 of P.L.1977, c.424 (C.30:4C-59), except that the 15-day advance notice requirement is waived. The board shall submit its report to the court pursuant to section 11 of P.L.1977, c.424 (C.30:4C-60), except that the board shall submit the report within five days of completion of the special review.

c. The court shall review the board's recommendations within 10 days and issue an order within five days unless a summary hearing is scheduled concerning the child's placement pursuant to section 12 of P.L.1977, c.424 (C.30:4C-61), except that if a party entitled to participate in the proceeding requests a hearing, the court shall hold a summary hearing within 15 days of receipt of the board's report unless the court determines that the request for the hearing is frivolous. The court shall issue its order within five days of the hearing.

d. The division shall not return the child home unless the court approves the division's proposed action and orders the return home of the child.

e. Notwithstanding the provisions of this section to the contrary, in an emergency situation, the court may waive the special review provisions of this section and approve the return home, upon the request of the division to do so. The request of the division for a court waiver of the special review provisions shall be accompanied by a written statement from the division declaring and finding that the out-of-home placement has been disrupted, that no appropriate alternative placement for the child can be found in the home of a relative, a resource family home, group home, shelter, residential care facility or other setting following the change in placement, and that the return home will not endanger the health, safety or welfare of the child. The written statement submitted with a request shall also outline the specific reasons for the findings made. The division shall conduct an on-site visit of the home of a child when in an emergency situation the division plans to request of the court a waiver of the special review provisions. A report of the on-site visit shall be included with the request.

If the court approves the division's request, the division shall promptly notify the board of the court's approval of the request. The board shall conduct a review of the change in the placement plan within 15 days of the date the child is returned home. The division shall conduct a minimum of two on-site visits to the home of a child returned there in an emergency situation within the first 10 days of the return to ascertain the continued health, safety and welfare of the child. The court, upon granting a request for a waiver, may require additional on-site visits. A detailed written report of each on-site visit to the home of a child returned in an emergency situation shall promptly be submitted to the court and to the child placement review board.

Notwithstanding any other provisions of law to the contrary, the court shall retain jurisdiction over the placement of the child after a child has been returned home in an emergency situation for up to six months unless there is a subsequent court hearing or court order.

In any case where, following a court order for the implementation of a placement plan, the board determines upon re-review of the case that there

has been insufficient effort on the part of the division or any other parties toward implementation of the court ordered plan, the board may petition the court for an order to show cause as to why the plan is not being implemented as ordered.

f. If, subsequent to the review and approval of a plan by the court, the division proposes to change the long-term goal in the plan or otherwise substantially modify the plan, it shall notify the court and the board in writing, within five days. The board shall schedule review of the modification. The division shall continue to implement the current court ordered plan until the court orders a modified or new plan.

g. Nothing in this section is intended to limit the court's authority to exercise its regular remedies for enforcement of an order.

91. Section 50 of P.L.1999, c.53 (C.30:4C-61.2) is amended to read as follows:

C.30:4C-61.2 Permanency hearing.

50. a. A permanency hearing shall be held that provides review and approval by the court of the placement plan:

(1) within 30 days after the determination of an exception to the reasonable effort requirement to reunify the child with the parent in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3); or

(2) no later than 12 months after the child has been in placement.

b. Written notice of the date, time and place of the permanency hearing shall be provided at least 15 days in advance to the following, each of whom shall be entitled to attend the hearing and to submit written information to the court:

(1) the division or agency;

(2) the child;

(3) the parents, including a non-custodial parent or legal guardian;

(4) the temporary caretaker;

(5) any other person or agency whom the court determines has an interest in or information relating to the welfare of the child;

(6) the counsel for a parent, child or other interested party who has provided or is providing representation in the case before the court; and

(7) the child's resource family parent or relative providing care for the child shall also receive written notice of and an opportunity to be heard at the hearing, but the resource family parent or relative shall not be made a party to the hearing solely on the basis of the notice and opportunity to be heard.

c. The hearing shall include, but not necessarily be limited to, consideration and evaluation of information provided by the division and other interested parties regarding such matters as:

(1) a statement of the goal for the permanent placement or return home of the child and the anticipated date that the goal will be achieved;

(2) the intermediate objectives relating to the attainment of the goal;

(3) a statement of the duties and responsibilities of the division, the parents or legal guardian and the temporary caretaker, including the services to be provided by the division to the child and to the temporary caretaker;

(4) a statement of the services to be provided to the parent or legal guardian or an exception to the requirement to provide reasonable efforts toward family reunification in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3). Services to facilitate adoption or an alternative permanent placement may be provided concurrently with services to reunify the child with the parent or guardian;

(5) a permanency plan which includes whether and, if applicable, when:

(a) the child shall be returned to the parent or guardian, if the child can be returned home without endangering the child's health or safety;

(b) the division has determined that family reunification is not possible and the division shall file a petition for the termination of parental rights for the purpose of adoption; or

(c) the division has determined that termination of parental rights is not appropriate in accordance with section 31 of P.L.1999, c.53 (C.30:4C-15.3) and the child shall be placed in an alternative permanent placement.

d. If the court approves a permanency plan for the child, the court shall make a specific finding of the reasonable efforts made thus far by the division and the appropriateness of the reasonable efforts to achieve the permanency plan.

92. Section 8 of P.L.1993, c.157 (C.30:4C-81) is amended to read as follows:

C.30:4C-81 Annual report to Governor, Legislature.

8. The Commissioner of Human Services shall report to the Governor and the Legislature by December 31 of each year, on the family preservation services program. The annual report shall contain, but not be limited to:

a. The number of families receiving services through the program;

b. The number of children placed in resource family care, group homes and residential treatment facilities, both in-State and out-of-State;

c. The average cost of providing services to a family through the program;

d. The number of children who remain with their families for one year after receiving services through the program; and

e. Any recommendations needed to improve the delivery of family preservation services in the State.

93. 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 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 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;

(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; or

(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).

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).

94. Section 7 of P.L.1968, c.413 (C.30:4D-7) is amended to read as follows:

C.30:4D-7 Duties of commissioner.

7. Duties of commissioner. The commissioner is authorized and empowered to issue, or to cause to be issued through the Division of Medical Assistance and Health Services, all necessary rules and regulations and administrative orders, and to do or cause to be done all other acts and things necessary to secure for the State of New Jersey the maximum federal participation that is available with respect to a program of medical assistance, consistent with fiscal responsibility and within the limits of funds available for any fiscal year, and to the extent authorized by the medical assistance program plan; to adopt fee schedules with regard to medical assistance benefits and otherwise to accomplish the purposes of this act, including specifically the following:

a. Subject to the limits imposed by this act, to submit a plan for medical assistance, as required by Title XIX of the federal Social Security Act, to the federal Department of Health and Human Services for approval pursuant to

the provisions of such law; to act for the State in making negotiations relative to the submission and approval of such plan, to make such arrangements, not inconsistent with the law, as may be required by or pursuant to federal law to obtain and retain such approval and to secure for the State the benefits of the provisions of such law;

b. Subject to the limits imposed by this act, to determine the amount and scope of services to be covered, that the amounts to be paid are reasonable, and the duration of medical assistance to be furnished; provided, however, that the department shall provide medical assistance on behalf of all recipients of categorical assistance and such other related groups as are mandatory under federal laws and rules and regulations, as they now are or as they may be hereafter amended, in order to obtain federal matching funds for such purposes and, in addition, provide medical assistance for the resource family children specified in subsection i.(7) of section 3 of P.L.1968, c.413 (C.30:4D-3). The medical assistance provided for these groups shall not be less in scope, duration, or amount than is currently furnished such groups, and in addition, shall include at least the minimum services required under federal laws and rules and regulations to obtain federal matching funds for such purposes.

The commissioner is authorized and empowered, at such times as he may determine feasible, within the limits of appropriated funds for any fiscal year, to extend the scope, duration, and amount of medical assistance on behalf of these groups of categorical assistance recipients, related groups as are mandatory, and resource family children authorized pursuant to section 3i. (7) of this act, so as to include, in whole or in part, the optional medical services authorized under federal laws and rules and regulations, and the commissioner shall have the authority to establish and maintain the priorities given such optional medical services; provided, however, that medical assistance shall be provided to at least such groups and in such scope, duration, and amount as are required to obtain federal matching funds.

The commissioner is further authorized and empowered, at such times as he may determine feasible, within the limits of appropriated funds for any fiscal year, to issue, or cause to be issued through the Division of Medical Assistance and Health Services, all necessary rules, regulations and administrative orders, and to do or cause to be done all other acts and things necessary to implement and administer demonstration projects pursuant to Title XI, section 1115 of the federal Social Security Act, including, but not limited to waiving compliance with specific provisions of this act, to the extent and for the period of time the commissioner deems necessary, as well as contracting with any legal entity, including but not limited to corporations organized pursuant to Title 14A, New Jersey Statutes (N.J.S.14A:1-1 et seq.), Title 15, Revised Statutes (R.S.15:1-1 et seq.) and Title 15A, New Jersey Statutes

(N.J.S.15A:1-1 et seq.) as well as boards, groups, agencies, persons and other public or private entities;

c. To administer the provisions of this act;

d. To make reports to the federal Department of Health and Human Services as from time to time may be required by such federal department and to the New Jersey Legislature as hereinafter provided;

e. To assure that any applicant, qualified applicant or recipient shall be afforded the opportunity for a hearing should his claim for medical assistance be denied, reduced, terminated or not acted upon within a reasonable time;

f. To assure that providers shall be afforded the opportunity for an administrative hearing within a reasonable time on any valid complaint arising out of the claim payment process;

g. To provide safeguards to restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with administration of this act;

h. To take all necessary action to recover any and all payments incorrectly made to or illegally received by a provider from such provider or his estate or from any other person, firm, corporation, partnership or entity responsible for or receiving the benefit or possession of the incorrect or illegal payments or their estates, successors or assigns, and to assess and collect such penalties as are provided for herein;

i. To take all necessary action to recover the cost of benefits incorrectly provided to or illegally obtained by a recipient, including those made after a voluntary divestiture of real or personal property or any interest or estate in property for less than adequate consideration made for the purpose of qualifying for assistance. The division shall take action to recover the cost of benefits from a recipient, legally responsible relative, representative payee, or any other party or parties whose action or inaction resulted in the incorrect or illegal payments or who received the benefit of the divestiture, or from their respective estates, as the case may be and to assess and collect the penalties as are provided for herein, except that no lien shall be imposed against property of the recipient prior to his death except in accordance with section 17 of P.L.1968, c.413 (C.30:4D-17). No recovery action shall be initiated more than five years after an incorrect payment has been made to a recipient when the incorrect payment was due solely to an error on the part of the State or any agency, agent or subdivision thereof;

j. To take all necessary action to recover the cost of benefits correctly provided to a recipient from the estate of said recipient in accordance with sections 6 through 12 of this amendatory and supplementary act;

k. To take all reasonable measures to ascertain the legal or equitable liability of third parties to pay for care and services (available under the plan) arising out of injury, disease, or disability; where it is known that a third party

has a liability, to treat such liability as a resource of the individual on whose behalf the care and services are made available for purposes of determining eligibility; and in any case where such a liability is found to exist after medical assistance has been made available on behalf of the individual, to seek reimbursement for such assistance to the extent of such liability;

l. To compromise, waive or settle and execute a release of any claim arising under this act including interest or other penalties, or designate another to compromise, waive or settle and execute a release of any claim arising under this act. The commissioner or his designee whose title shall be specified by regulation may compromise, settle or waive any such claim in whole or in part, either in the interest of the Medicaid program or for any other reason which the commissioner by regulation shall establish;

m. To pay or credit to a provider any net amount found by final audit as defined by regulation to be owing to the provider. Such payment, if it is not made within 45 days of the final audit, shall include interest on the amount due at the maximum legal rate in effect on the date the payment became due, except that such interest shall not be paid on any obligation for the period preceding September 15, 1976. This subsection shall not apply until federal financial participation is available for such interest payments;

n. To issue, or designate another to issue, subpenas to compel the attendance of witnesses and the production of books, records, accounts, papers and documents of any party, whether or not that party is a provider, which directly or indirectly relate to goods or services provided under this act, for the purpose of assisting in any investigation, examination, or inspection, or in any suspension, debarment, disqualification, recovery, or other proceeding arising under this act;

o. To solicit, receive and review bids pursuant to the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) and all amendments and supplements thereto, by any corporation doing business in the State of New Jersey, including nonprofit hospital service corporations, medical service corporations, health service corporations or dental service corporations incorporated in New Jersey and authorized to do business pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985, c.236 (C.17:48E-1 et seq.), or P.L.1968, c.305 (C.17:48C-1 et seq.), and to make recommendations in connection therewith to the State Medicaid Commission;

p. To contract, or otherwise provide as in this act provided, for the payment of claims in the manner approved by the State Medicaid Commission;

q. Where necessary, to advance funds to the underwriter or fiscal agent to enable such underwriter or fiscal agent, in accordance with terms of its contract, to make payments to providers;

r. To enter into contracts with federal, State, or local governmental agencies, or other appropriate parties, when necessary to carry out the provisions of this act;

s. To assure that the nature and quality of the medical assistance provided for under this act shall be uniform and equitable to all recipients;

t. To provide for the reimbursement of State and county-administered skilled nursing and intermediate care facilities through the use of a governmental peer grouping system, subject to federal approval and the availability of federal reimbursement.

(1) In establishing a governmental peer grouping system, the State's financial participation is limited to an amount equal to the nonfederal share of the reimbursement which would be due each facility if the governmental peer grouping system was not established, and each county's financial participation in this reimbursement system is equal to the nonfederal share of the increase in reimbursement for its facility or facilities which results from the establishment of the governmental peer grouping system.

(2) On or before December 1 of each year, the commissioner shall estimate and certify to the Director of the Division of Local Government Services in the Department of Community Affairs the amount of increased federal reimbursement a county may receive under the governmental peer grouping system. On or before December 15 of each year, the Director of the Division of Local Government Services shall certify the increased federal reimbursement to the chief financial officer of each county. If the amount of increased federal reimbursement to a county exceeds or is less than the amount certified, the certification for the next year shall account for the actual amount of federal reimbursement that the county received during the prior calendar year.

(3) The governing body of each county entitled to receive increased federal reimbursement under the provisions of this amendatory act shall, by March 31 of each year, submit a report to the commissioner on the intended use of the savings in county expenditures which result from the increased federal reimbursement. The governing body of each county, with the advice of agencies providing social and health related services, shall use not less than 10% and no more than 50% of the savings in county expenditures which result from the increased federal reimbursement for community-based social and health related programs for elderly and disabled persons who may otherwise require nursing home care. This percentage shall be negotiated annually between the governing body and the commissioner and shall take into account a county's social, demographic and fiscal conditions, a county's social and health related expenditures and needs, and estimates of federal revenues to support county operations in the upcoming year, particularly in the areas of social and health related services.

(4) The commissioner, subject to approval by law, may terminate the governmental peer grouping system if federal reimbursement is significantly reduced or if the Medicaid program is significantly altered or changed by the federal government subsequent to the enactment of this amendatory act. The commissioner, prior to terminating the governmental peer grouping system, shall submit to the Legislature and to the governing body of each county a report as to the reasons for terminating the governmental peer grouping system;

u. The commissioner, in consultation with the Commissioner of Health and Senior Services, shall:

(1) Develop criteria and standards for comprehensive maternity or pediatric care providers and determine whether a provider who requests to become a comprehensive maternity or pediatric care provider meets the department's criteria and standards;

(2) Develop a program of comprehensive maternity care services which defines the type of services to be provided, the level of services to be provided, and the frequency with which qualified applicants are to receive services pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

(3) Develop a program of comprehensive pediatric care services which defines the type of services to be provided, the level of services to be provided, and the frequency with which qualified applicants are to receive services pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

(4) Develop and implement a system for monitoring the quality and delivery of comprehensive maternity and pediatric care services and a system for evaluating the effectiveness of the services programs in meeting their objectives;

(5) Establish provider reimbursement rates for the comprehensive maternity and pediatric care services;

v. The commissioner, jointly with the Commissioner of Health and Senior Services, shall report to the Governor and the Legislature no later than two years following the date of enactment of P.L.1987, c.115 (C.30:4D-2.1 et al.) and annually thereafter on the status of the comprehensive maternity and pediatric care services and their effectiveness in meeting the objectives set forth in section 1 of P.L.1987, c.115 (C.30:4D-2.1) accompanying the report with any recommendations for changes in the law governing the services that the commissioners deem necessary.

95. Section 2 of P.L.1997, c.254 (C.30:5B-6.2) is amended to read as follows:

C.30:5B-6.2 License conditional upon check of child abuse records.

2. a. As a condition of securing a new or renewal license or approval, the division shall conduct a check of the division's child abuse records to determine if an incident of child abuse or neglect has been substantiated pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11), against any staff member of a child care center.

b. The department shall not issue a regular license or approval to a center until the department determines that no staff member employed by or working at the center has a record of substantiated child abuse or neglect.

c. The department shall deny, revoke or refuse to renew the center's license or approval, as appropriate, if the department determines that an incident of child abuse or neglect by an owner or sponsor of a center has been substantiated.

96. Section 3 of P.L.1997, c.254 (C.30:5B-6.3) is amended to read as follows:

C.30:5B-6.3 Written consent for check of records.

3. a. The staff member shall provide prior written consent for the division to conduct a check of its child abuse records.

b. If the owner or sponsor of the center refuses to consent to, or cooperate in, the securing of a division child abuse record information check, the department shall suspend, deny, revoke or refuse to renew the center's license or approval, as appropriate.

c. If a staff member of a center, other than the owner or sponsor, refuses to consent to, or cooperate in, the securing of a division child abuse record information check, the person shall be immediately terminated from employment at the center.

97. Section 6 of P.L.1997, c.254 (C.30:5B-6.6) is amended to read as follows:

C.30:5B-6.6 Incidents considered.

6. The department shall consider, for the purposes of this act, any incidents of child abuse or neglect that were substantiated on or after June 29, 1995, to ensure that perpetrators have had an opportunity to appeal a substantiated finding of abuse or neglect; except that the department may consider substantiated incidents prior to that date if the department, in its judgment, determines that the individual poses a risk of harm to children in a child care center. In cases involving incidents substantiated prior to June 29, 1995, the department shall offer the individual an opportunity for a hearing to contest its action restricting the individual from employment in a child care center.

98. Section 3 of P.L.2000, c.77 (C.30:5B-6.12) is amended to read as follows:

C.30:5B-6.12 Noncompliance; penalties.

3. a. If the owner or sponsor of the child care center refuses to consent to, or cooperate in, the securing of a criminal history record background check, the department shall suspend, deny, revoke or refuse to renew the center's license or life-safety approval, as appropriate.

b. If a staff member of a child care center, other than the owner or sponsor, refuses to consent to, or cooperate in, the securing of a criminal history record background check, the person shall be immediately terminated from employment at the center.

99. Section 4 of P.L.2000, c.77 (C.30:5B-6.13) is amended to read as follows:

C.30:5B-6.13 Request for criminal history record background check, time limits, restrictions upon employees.

4. a. In the case of a child care center established after the effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the owner or sponsor of the center, prior to the center's opening, shall ensure that a request for a criminal history record background check on each staff member is sent to the Department of Human Services for processing by the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation.

A staff member shall not be left alone as the only adult caring for a child at the center until the criminal history record background has been reviewed by the department pursuant to P.L.2000, c.77 (C.30:5B-6.10 et al.).

b. In the case of a child care center licensed or granted life-safety approval prior to the effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the owner or sponsor of the center, at the time of the center's first renewal of license or life-safety approval next following that effective date, shall ensure that a request for a criminal history record background check for each staff member is sent to the department for processing by the Division of State Police and the Federal Bureau of Investigation.

c. Within two weeks after a new staff member begins employment at a child care center, the owner or sponsor of the center shall ensure that a request for a criminal history record background check is sent to the department for processing by the Division of State Police and the Federal Bureau of Investigation.

A new staff member shall not be left alone as the only adult caring for a child at the center until the criminal history record background has been reviewed by the department pursuant to P.L.2000, c.77 (C.30:5B-6.10 et al.).

d. In the case of child care centers under contract to implement early childhood education programs in the Abbott districts as defined in P.L.1996, c.138 (C.18A:7F-3) and in other school districts, the department shall ensure that a criminal history record background check is conducted on all current staff members as soon as practicable, but no later than six months after the effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.).

100. Section 6 of P.L.2000, c.77 (C.30:5B-6.15) is amended to read as follows:

C.30:5B-6.15 Termination of current staff member; exceptions.

6. a. If a staff member of a child care center is convicted of a crime specified in section 5 of P.L.2000, c.77 (C.30:5B-6.14) after the effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the staff member shall be terminated from employment at, or ownership or sponsorship of, a child care center.

b. For crimes and offenses other than those cited in section 5 of P.L.2000, c.77 (C.30:5B-6.14), an applicant or staff member may be eligible for employment at, or ownership or sponsorship of, a child care center if the department determines that the person has affirmatively demonstrated to the department clear and convincing evidence of the person's rehabilitation pursuant to subsection c. of this section.

c. In determining whether a person has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) the nature and responsibility of the position at the child care center which the convicted person would hold, has held or currently holds, as the case may be;

(2) the nature and seriousness of the offense;

(3) the circumstances under which the offense occurred;

(4) the date of the offense;

(5) the age of the person when the offense was committed;

(6) whether the offense was an isolated or repeated incident;

(7) any social conditions which may have contributed to the offense; and

(8) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the person under their supervision.

d. The department shall make the final determination regarding the employment of an applicant or staff member with a criminal conviction.

101. Section 7 of P.L.2000, c.77 (C.30:5B-6.16) is amended to read as follows:

C.30:5B-6.16 Pending criminal charges, notification.

7. If a child care center owner or sponsor has knowledge that a staff member has criminal charges pending against the staff member, the owner or sponsor shall promptly notify the department to determine whether any action concerning the staff member is necessary in order to ensure the safety of the children who attend the center.

102. Section 9 of P.L.2000, c.77 (C.30:5B-6.17) is amended to read as follows:

C.30:5B-6.17 Immunity from liability for child care center.

9. a. A child care center that has received an employment application from an individual or currently employs a staff member shall be immune from liability for acting upon or disclosing information about the disqualification or termination to another center seeking to employ that person if the center has:

(1) received notice from the department that the applicant or staff member, as applicable, has been determined by the department to be disqualified from employment in a child care center pursuant to section 5 or 6 of P.L.2000, c.77 (C.30:5B-6.14 or C.30:5B-6.15); or

(2) terminated the employment of a staff member because the person was disqualified from employment at the center on the basis of a conviction of a crime pursuant to section 5 or 6 of P.L.2000, c.77 (C.30:5B-6.14 or C.30:5B-6.15) after commencing employment at the center.

b. A child care center which acts upon or discloses information pursuant to subsection a. of this section shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the center acted with actual malice toward the person who is the subject of the information.

103. Section 3 of P.L.1987, c.27 (C.30:5B-18) is amended to read as follows:

C.30:5B-18 Definitions.

3. As used in this act:

a. "Certificate of registration" means a certificate issued by the department to a family day care provider, acknowledging that the provider is registered pursuant to the provisions of this act.

b. "Department" means the Department of Human Services.

c. "Family day care home" means a private residence in which child care services are provided for a fee to no less than three and no more than

five children at any one time for no less than 15 hours per week; except that the department shall not exclude a family day care home with less than three children from voluntary registration. A child being cared for under the following circumstances is not included in the total number of children receiving child care services:

(1) The child being cared for is legally related to the provider; or

(2) Care is being provided as part of an employment agreement between the family day care provider and an assistant or substitute provider where no payment for the care is being provided.

d. "Family day care provider" means a person at least 18 years of age who is responsible for the operation and management of a family day care home.

e. "Family day care sponsoring organization" means an agency or organization which contracts with the department to assist in the registration of family day care providers in a specific geographical area.

f. "Monitor" means to visit a family day care provider to review the provider's compliance with the standards established pursuant to this act.

104. Section 4 of P.L.1987, c.27 (C.30:5B-19) is amended to read as follows:

C.30:5B-19 Responsibility; authority; contractual terms.

4. a. The department has the responsibility and authority to contract with family day care sponsoring organizations for the voluntary registration of family day care providers and shall adopt regulations for the operation and maintenance of family day care sponsoring organizations.

b. The department shall contract in writing with an agency or organization authorizing the agency or organization to operate as a family day care sponsoring organization to assist in the voluntary registration of family day care providers in a specific geographical area and to perform other functions with regard to family day care providers in accordance with the provisions of this act and the regulations adopted thereunder for which purposes the organization shall receive funds from the department based upon a fee for the service. The department shall contract with a family day care sponsoring organization for a period of one year.

c. The department shall contract with one family day care sponsoring organization to serve each county; however, the department may, as it deems appropriate, contract with additional family day care sponsoring organizations in a county, except that the department shall make all necessary arrangements to avoid duplication of effort and to promote a cooperative working relationship among the sponsoring organizations. Within one year

following the effective date of this act there shall be a family day care sponsoring organization serving each county in this State.

105. Section 5 of P.L.1987, c.27 (C.30:5B-20) is amended to read as follows:

C.30:5B-20 Contracting organizations; responsibilities, duties.

5. a. A family day care sponsoring organization with which the department contracts is authorized to register family day care providers within its designated geographical area and is responsible for providing administrative services, including, but not limited to, training, technical assistance, and consultation to family day care providers and inspection, supervision, monitoring and evaluation of family day care providers.

b. The family day care sponsoring organization shall maintain permanent records for each family day care provider it registers. The sponsoring organization shall also maintain its own staff and administrative and financial records. All records are open to inspection by an authorized representative of the department for the purpose of determining compliance with this act.

c. The family day care sponsoring organization shall provide a program of outreach and public relations to inform providers of the provisions of this act.

106. Section 8 of P.L.1987, c.27 (C.30:5B-23) is amended to read as follows:

C.30:5B-23 Certificate of registration, standards, violations.

8. a. The department shall also establish standards for the issuance, renewal, denial, suspension and revocation of a certificate of registration which the family day care sponsoring organization shall apply. In developing the standards, the department shall consult with the Advisory Council on Child Care established pursuant to the "Child Care Center Licensing Act," P.L.1983, c.492 (C.30:5B-1 et seq.).

b. A person operating as a registered family day care provider who violates the provisions of this act by failing to adhere to the standards established by the department pursuant to this act shall be notified in writing of the violation of the provisions of this act and provided with an opportunity to comply with those provisions. For a subsequent violation, the person's certificate of registration may be revoked, or the person may be fined in an amount determined by the Commissioner of Human Services, or both. The receipt of excessive complaints by the municipal police or other local or State authorities concerning neglect of children, excessive noise, or property damage resulting from the operation of a family day care home may be

considered by the department when renewing, suspending or revoking a certificate of registration.

c. The department, before denying, suspending, revoking or refusing to renew a certificate of registration, shall give notice thereof to the provider personally, or by certified or registered mail to the last known address of the family day care home with return receipt requested. The notice shall afford the provider the opportunity to be heard. The hearing shall take place within 60 days from the receipt of the notice and shall be conducted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. If the certificate of registration is suspended or revoked or not renewed, the provider shall so notify the parent of each child attending the family day care home in writing within 10 days of the action.

e. (Deleted by amendment, P.L.1993, c.350).

107. Section 2 of P.L.1993, c.350 (C.30:5B-25.2) is amended to read as follows:

C.30:5B-25.2 Definitions.

2. As used in sections 1 through 4 of P.L.1993, c.350 (C.30:5B-25.1 through C.30:5B-25.4):

"Child abuse registry" means the child abuse registry of the Division of Youth and Family Services in the Department of Human Services established pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11).

"Provider" means a family day care provider as defined by section 3 of P.L.1987, c.27 (C.30:5B-18) and includes, but is not limited to, a family day care provider's assistant and a substitute family day care provider.

"Family day care sponsoring organization" means an agency or organization which contracts with the Department of Human Services to assist in the registration of family day care providers in a specific geographic area pursuant to P.L.1987, c.27 (C.30:5B-16 et seq.).

"Household member" means an individual over 14 years of age who resides in a family day care provider's home.

108. Section 3 of P.L.1993, c.350 (C.30:5B-25.3) is amended to read as follows:

C.30:5B-25.3 Child abuse registry search.

3. a. The Division of Youth and Family Services in the Department of Human Services shall conduct a search of its child abuse registry to determine if a report of child abuse or neglect has been filed, pursuant to section 3 of P.L.1971, c.437 (C.9:6-8.10), involving a person registering as a pro-

spective provider or a household member of the prospective provider or as a current provider or household member of the current provider.

b. The division shall conduct the search only upon receipt of the prospective or current provider or household member's written consent to the search. If the person refuses to provide his consent, the family day care sponsoring organization shall deny the prospective or current provider's application for a certificate or renewal of registration.

c. The division shall advise the sponsoring organization of the results of the child abuse registry search within a time period to be determined by the Department of Human Services.

d. The department shall not issue a certificate or renewal of registration to a prospective or current provider unless the department has first determined that no substantiated charge of child abuse or neglect against the prospective or current provider or household member is found during the child abuse registry search.

109. Section 4 of P.L.1993, c.350 (C.30:5B-25.4) is amended to read as follows:

C.30:5B-25.4 Rules, regulations.

4. In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Department of Human Services shall adopt rules and regulations necessary to implement the provisions of sections 1 through 4 of P.L.1993, c.350 (C.30:5B-25.1 through C.30:5B-25.4) including, but not limited to:

a. Implementation of an appeals process to be used in the case of the denial of an application for a certificate or for renewal of registration based upon information obtained during a child abuse registry search; and

b. Establishment of time limits for conducting a child abuse registry search and providing a family day care sponsoring organization with the results of the search.

110. Section 3 of P.L.1993, c.98 (C.30:6D-35) is amended to read as follows:

C.30:6D-35 Definitions.

3. For the purposes of this act:

"Department" means the Department of Human Services.

"Family member with a developmental disability" means a person who has a developmental disability as defined pursuant to section 3 of the "Division of Developmental Disabilities Act," P.L.1985, c.145 (C.30:6D-25).

"Family" means the family member with a developmental disability and his parents and siblings, or spouse and children.

"Family support services" means a coordinated system of ongoing public and private support services which are designed to maintain and enhance the quality of life of a family member with a developmental disability and his family as set forth in section 4 of this act.

"Parent" means the biological or adoptive parent or uncompensated resource family parent or legal guardian who cares for the family member with a developmental disability and with whom the family member with a developmental disability resides.

"System" means the Family Support System established pursuant to section 4 of this act.

111. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to read as follows:

C.34:11B-3 Definitions.

3. As used in this act:

a. "Child" means a biological, adopted, or resource family child, stepchild, legal ward, or child of a parent who is

(1) under 18 years of age; or

(2) 18 years of age or older but incapable of self-care because of a mental or physical impairment.

b. "Director" means the Director of the Division on Civil Rights.

c. "Division" means the Division on Civil Rights in the Department of Law and Public Safety.

d. "Employ" means to suffer or permit to work for compensation, and includes ongoing, contractual relationships in which the employer retains substantial direct or indirect control over the employee's employment opportunities or terms and conditions of employment.

e. "Employee" means a person who is employed for at least 12 months by an employer, with respect to whom benefits are sought under this act, for not less than 1,000 base hours during the immediately preceding 12-month period.

f. "Employer" means a person or corporation, partnership, individual proprietorship, joint venture, firm or company or other similar legal entity which engages the services of an employee and which:

(1) With respect to the period of time from the effective date of this act until the 365th day following the effective date of this act, employs 100 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year;

(2) With respect to the period of time from the 366th day following the effective date of this act until the 1,095th day following the effective date of this act, employs 75 or more employees for each working day during each

of 20 or more calendar workweeks in the then current or immediately preceding calendar year; and

(3) With respect to any time after the 1,095th day following the effective date of this act, employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year. "Employer" includes the State, any political subdivision thereof, and all public offices, agencies, boards or bodies.

g. "Employment benefits" means all benefits and policies provided or made available to employees by an employer, and includes group life insurance, health insurance, disability insurance, sick leave, annual leave, pensions, or other similar benefits.

h. "Parent" means a person who is the biological parent, adoptive parent, resource family parent, step-parent, parent-in-law or legal guardian, having a "parent-child relationship" with a child as defined by law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child.

i. "Family leave" means leave from employment so that the employee may provide care made necessary by reason of:

(1) the birth of a child of the employee;

(2) the placement of a child with the employee in connection with adoption of such child by the employee; or

(3) the serious health condition of a family member of the employee.

j. "Family member" means a child, parent, or spouse.

k. "Reduced leave schedule" means leave scheduled for fewer than an employee's usual number of hours worked per workweek but not for fewer than an employee's usual number of hours worked per workday, unless agreed to by the employee and the employer.

l. "Serious health condition" means an illness, injury, impairment, or physical or mental condition which requires:

(1) inpatient care in a hospital, hospice, or residential medical care facility; or

(2) continuing medical treatment or continuing supervision by a health care provider.

112. Section 1 of P.L.1999, c.410 (C.39:4-50.15) is amended to read as follows:

C.39:4-50.15 Additional penalty for driving under the influence with a minor as a passenger.

1. a. As used in this act:

"Minor" means a person who is 17 years of age or younger.

"Parent or guardian" means any natural parent, adoptive parent, resource family parent, stepparent, or any person temporarily responsible for the care,

custody or control of a minor or upon whom there is a legal duty for such care, custody or control.

b. A parent or guardian who is convicted of a violation of R.S.39:4-50 and who, at the time of the violation, has a minor as a passenger in the motor vehicle is guilty of a disorderly persons offense.

c. In addition to the penalties otherwise prescribed by law, a person who is convicted under subsection b. of this section shall forfeit the right to operate a motor vehicle over the highways of this State for a period of not more than six months and shall be ordered to perform community service for a period of not more than five days.

113. Section 53 of P.L.1975, c.291 (C.40:55D-66) is amended to read as follows:

C.40:55D-66 Miscellaneous provisions relative to zoning.

53. a. For purposes of this act, model homes or sales offices within a subdivision and only during the period necessary for the sale of new homes within such subdivision shall not be considered a business use.

b. No zoning ordinance governing the use of land by or for schools shall, by any of its provisions or by any regulation adopted in accordance therewith, discriminate between public and private nonprofit day schools of elementary or high school grade accredited by the State Department of Education.

c. No zoning ordinance shall, by any of its provisions or by any regulation adopted in accordance therewith, discriminate between children who are members of families by reason of their relationship by blood, marriage or adoption, and resource family children placed with such families in a dwelling by the Division of Youth and Family Services in the Department of Human Services or a duly incorporated child care agency and children placed pursuant to law in single family dwellings known as group homes. As used in this section, the term "group home" means and includes any single family dwelling used in the placement of children 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.

114. N.J.S.40A:10-16 is amended to read as follows:

Definitions.

40A:10-16. As used in this subarticle:

a. "Dependents" means an employee's spouse and the employee's unmarried children, including stepchildren, legally adopted children, and,

at the option of the employer and the carrier, children placed by the Division of Youth and Family Services, under the age of 19 who live with the employee in a regular parent-child relationship, and may also include, at the option of the employer and the carrier, other unmarried children of the employee under the age of 23 who are dependent upon the employee for support and maintenance, but shall not include a spouse or child while serving in the military service;

b. "Employees" may, at the option of the employer, include elected officials, but shall not include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, or persons whose compensation from the employer is limited to reimbursement of necessary expenses actually incurred in the discharge of their duties;

c. "Federal Medicare Program" means the coverage provided under Title XVIII of the Social Security Act as amended in 1965, or its successor plan or plans.

115. Section 1 of P.L.1983, c.191 (C.40A:10-34.1) is amended to read as follows:

C.40A:10-34.1 Contract; coverage.

1. Any municipality or county, or agency thereof, hereinafter referred to as employers, may enter into contracts of group legal insurance with any insurer authorized, pursuant to P.L.1981, c.160 (C.17:46C-1 et seq.), to engage in the business of legal insurance in this State or may contract with a duly recognized prepaid legal services plan with respect to the benefits which they are authorized to provide. Such contract or contracts shall provide such coverage for the employees of such employer and may include their dependents. "Dependents" shall include an employee's spouse and the employee's unmarried children, including stepchildren and legally adopted children, and, at the option of the employer and the carrier, children placed by the Division of Youth and Family Services in the Department of Human Services, under the age of 19 who live with the employee in a regular parent-child relationship, and may also include, at the option of the employer and the carrier, other unmarried children of the employee under the age of 23 who are dependent upon the employee for support and maintenance. A spouse or child enlisting or inducted into military service shall not be considered a dependent during such military service.

Elected officials may be considered, at the option of the employer, to be "employees" for the purposes hereof, but "employees" shall not otherwise include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, or persons whose compen-

sation from the public employer is limited to reimbursement of necessary expenses actually incurred in the discharge of their duties.

The contract shall include provisions to prevent duplication of benefits and shall condition the eligibility of any employee for coverage upon satisfying a waiting period stated in the contract.

The coverage of any employee, and of his dependents, if any, shall cease upon the discontinuance of his employment or upon cessation of active full-time employment in the classes eligible for coverage, subject to such provision as may be made in any contract by his employer for limited continuance of coverage during disability, part-time employment, leave of absence other than leave for military service or layoff, or for continuance of coverage after retirement.

116. R.S.43:21-4 is amended to read as follows:

Benefit eligibility conditions.

43:21-4. Benefit eligibility conditions. An unemployed individual shall be eligible to receive benefits with respect to any week only if:

(a) The individual has filed a claim at an unemployment insurance claims office and thereafter continues to report at an employment service office or unemployment insurance claims office, as directed by the division in accordance with such regulations as the division may prescribe, except that the division may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs, and as to such other types of cases or situations with respect to which the division finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this act; provided that no such regulation shall conflict with subsection (a) of R.S.43:21-3.

(b) The individual has made a claim for benefits in accordance with the provisions of subsection (a) of R.S.43:21-6.

(c) (1) The individual is able to work, and is available for work, and has demonstrated to be actively seeking work, except as hereinafter provided in this subsection or in subsection (f) of this section.

(2) The director may modify the requirement of actively seeking work if such modification of this requirement is warranted by economic conditions.

(3) No individual, who is otherwise eligible, shall be deemed ineligible, or unavailable for work, because the individual is on vacation, without pay, during said week, if said vacation is not the result of the individual's own action as distinguished from any collective action of a collective bargaining agent or other action beyond the individual's control.

(4) (A) Subject to such limitations and conditions as the division may prescribe, an individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible because the individual is attending a training program approved for the individual by the division to enhance the individual's employment opportunities or because the individual failed or refused to accept work while attending such program.

(B) For the purpose of this paragraph (4), any training program shall be regarded as approved by the division for the individual if the program and the individual meet the following requirements:

(i) The training is for a labor demand occupation and is likely to enhance the individual's marketable skills and earning power;

(ii) The training is provided by a competent and reliable private or public entity approved by the Commissioner of Labor and Workforce Development pursuant to the provisions of section 8 of the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-8);

(iii) The individual can reasonably be expected to complete the program, either during or after the period of benefits;

(iv) The training does not include on the job training or other training under which the individual is paid by an employer for work performed by the individual during the time that the individual receives benefits; and

(v) The individual enrolls in vocational training, remedial education or a combination of both on a full-time basis.

(C) If the requirements of subparagraph (B) of this paragraph (4) are met, the division shall not withhold approval of the training program for the individual for any of the following reasons:

(i) The training includes remedial basic skills education necessary for the individual to successfully complete the vocational component of the training;

(ii) The training is provided in connection with a program under which the individual may obtain a college degree, including a post-graduate degree;

(iii) The length of the training period under the program; or

(iv) The lack of a prior guarantee of employment upon completion of the training.

(D) For the purpose of this paragraph (4), "labor demand occupation" means an occupation for which there is or is likely to be an excess of demand over supply for adequately trained workers, including, but not limited to, an occupation designated as a labor demand occupation by the New Jersey Occupational Information Coordinating Committee pursuant to the provisions of subsection h. of section 1 of P.L.1987, c.457 (C.34:1A-76) or section 12 of P.L.1992, c.43 (C.34:1A-78).

(5) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's attendance before a court in response to a summons for service on a jury.

(6) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's attendance at the funeral of an immediate family member, provided that the duration of the attendance does not extend beyond a two-day period.

For purposes of this paragraph, "immediate family member" includes any of the following individuals: father, mother, mother-in-law, father-in-law, grandmother, grandfather, grandchild, spouse, child, child placed by the Division of Youth and Family Services in the Department of Human Services, sister or brother of the unemployed individual and any relatives of the unemployed individual residing in the unemployed individual's household.

(7) No individual, who is otherwise eligible, shall be deemed ineligible or unavailable for work with respect to any week because, during that week, the individual fails or refuses to accept work while the individual is participating on a full-time basis in self-employment assistance activities authorized by the division, whether or not the individual is receiving a self-employment allowance during that week.

(8) Any individual who is determined to be likely to exhaust regular benefits and need reemployment services based on information obtained by the worker profiling system shall not be eligible to receive benefits if the individual fails to participate in available reemployment services to which the individual is referred by the division or in similar services, unless the division determines that:

(A) The individual has completed the reemployment services; or

(B) There is justifiable cause for the failure to participate, which shall include participation in employment and training, self-employment assistance activities or other activities authorized by the division to assist reemployment or enhance the marketable skills and earning power of the individual and which shall include any other circumstance indicated pursuant to this section in which an individual is not required to be available for and actively seeking work to receive benefits.

(9) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's work as a board worker for a county board of elections on an election day.

(d) With respect to any benefit year commencing before January 1, 2002, the individual has been totally or partially unemployed for a waiting period of one week in the benefit year which includes that week. When benefits become payable with respect to the third consecutive week next following the waiting period, the individual shall be eligible to receive

benefits as appropriate with respect to the waiting period. No week shall be counted as a week of unemployment for the purposes of this subsection:

(1) If benefits have been paid, or are payable with respect thereto; provided that the requirements of this paragraph shall be waived with respect to any benefits paid or payable for a waiting period as provided in this subsection;

(2) If it has constituted a waiting period week under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.);

(3) Unless the individual fulfills the requirements of subsections (a) and of this section;

(4) If with respect thereto, claimant was disqualified for benefits in accordance with the provisions of subsection (d) of R.S.43:21-5.

The waiting period provided by this subsection shall not apply to benefit years commencing on or after January 1, 2002. An individual whose total benefit amount was reduced by the application of the waiting period to a claim which occurred on or after January 1, 2002 and before the effective date of P.L.2002, c.13, shall be permitted to file a claim for the additional benefits attributable to the waiting period in the form and manner prescribed by the division, but not later than the 180th day following the effective date of P.L.2002, c.13 unless the division determines that there is good cause for a later filing.

(e) (1) (Deleted by amendment, P.L.2001, c.17).

(2) With respect to benefit years commencing on or after January 1, 1996 and before January 7, 2001, except as otherwise provided in paragraph (3) of this subsection, the individual has, during his base year as defined in subsection of R.S.43:21-19:

(A) Established at least 20 base weeks as defined in paragraph (2) of subsection (t) of R.S.43:21-19; or

(B) If the individual has not met the requirements of subparagraph (A) of this paragraph (2), earned remuneration not less than an amount 12 times the Statewide average weekly remuneration paid to workers, as determined under R.S.43:21-3(c), which amount shall be adjusted to the next higher multiple of $100 if not already a multiple thereof; or

If the individual has not met the requirements of subparagraph (A) or (B) of this paragraph (2), earned remuneration not less than an amount 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of $100 if not already a multiple thereof.

(3) With respect to benefit years commencing before January 7, 2001, notwithstanding the provisions of paragraph (2) of this subsection, an unemployed individual claiming benefits on the basis of service performed in the

production and harvesting of agricultural crops shall, subject to the limitations of subsection (i) of R.S.43:21-19, be eligible to receive benefits if during his base year, as defined in subsection of R.S.43:21-19, the individual:

(A) Has established at least 20 base weeks as defined in paragraph (2) of subsection (t) of R.S.43:21-19; or

(B) Has earned 12 times the Statewide average weekly remuneration paid to workers, as determined under R.S.43:21-3(c), raised to the next higher multiple of $100.00 if not already a multiple thereof, or more; or

(C) Has performed at least 770 hours of service in the production and harvesting of agricultural crops.

(4) With respect to benefit years commencing on or after January 7, 2001, except as otherwise provided in paragraph (5) of this subsection, the individual has, during his base year as defined in subsection of R.S.43:21-19:

(A) Established at least 20 base weeks as defined in paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

(B) If the individual has not met the requirements of subparagraph (A) of this paragraph (4), earned remuneration not less than an amount 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of $100 if not already a multiple thereof.

(5) With respect to benefit years commencing on or after January 7, 2001, notwithstanding the provisions of paragraph (4) of this subsection, an unemployed individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops shall, subject to the limitations of subsection (l) of R.S.43:21-19, be eligible to receive benefits if during his base year, as defined in subsection of R.S.43:21-19, the individual:

(A) Has established at least 20 base weeks as defined in paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

(B) Has earned remuneration not less than an amount 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of $100 if not already a multiple thereof; or

(C) Has performed at least 770 hours of service in the production and harvesting of agricultural crops.

(6) The individual applying for benefits in any successive benefit year has earned at least six times his previous weekly benefit amount and has had four weeks of employment since the beginning of the immediately preceding

benefit year. This provision shall be in addition to the earnings requirements specified in paragraph (2), (3), (4) or (5) of this subsection, as applicable.

(f) (1) The individual has suffered any accident or sickness not compensable under the workers' compensation law, R.S.34:15-1 et seq. and resulting in the individual's total disability to perform any work for remuneration, and would be eligible to receive benefits under this chapter (R.S.43:21-1 et seq.) (without regard to the maximum amount of benefits payable during any benefit year) except for the inability to work and has furnished notice and proof of claim to the division, in accordance with its rules and regulations, and payment is not precluded by the provisions of R.S.43:21-3(d); provided, however, that benefits paid under this subsection (f) shall be computed on the basis of only those base year wages earned by the claimant as a "covered individual," as defined in R.S.43:21-27(b); provided further that no benefits shall be payable under this subsection to any individual:

(A) For any period during which such individual is not under the care of a legally licensed physician, dentist, optometrist, podiatrist, practicing psychologist or chiropractor;

(B) (Deleted by amendment, P.L.1980, c.90.)

(C) For any period of disability due to willfully or intentionally self-inflicted injury, or to injuries sustained in the perpetration by the individual of a crime of the first, second or third degree;

(D) For any week with respect to which or a part of which the individual has received or is seeking benefits under any unemployment compensation or disability benefits law of any other state or of the United States; provided that if the appropriate agency of such other state or the United States finally determines that the individual is not entitled to such benefits, this disqualification shall not apply;

(E) For any week with respect to which or part of which the individual has received or is seeking disability benefits under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.);

(F) For any period of disability commencing while such individual is a "covered individual," as defined in subsection (b) of section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27).

(2) Benefit payments under this subsection (f) shall be charged to and paid from the State disability benefits fund established by the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), and shall not be charged to any employer account in computing any employer's experience rate for contributions payable under this chapter.

(g) Benefits based on service in employment defined in subparagraphs (B) and of R.S.43:21-19 (I)(1) shall be payable in the same amount and on the terms and subject to the same conditions as benefits payable on the basis of other service subject to the "unemployment compensation law"; except

that, notwithstanding any other provisions of the "unemployment compensation law":

(1) With respect to service performed after December 31, 1977, in an instructional research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(2) With respect to weeks of unemployment beginning after September 3, 1982, on the basis of service performed in any other capacity for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that if benefits are denied to any individual under this paragraph (2) and the individual was not offered an opportunity to perform these services for the educational institution for the second of any academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this clause;

(3) With respect to those services described in paragraphs (1) and (2) above, benefits shall not be paid on the basis of such services to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such period or holiday recess;

(4) With respect to any services described in paragraphs (1) and (2) above, benefits shall not be paid as specified in paragraphs (1), (2), and (3) above to any individual who performed those services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing those services to one or more educational institutions.

(h) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sports seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(i) (1) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time the services were performed and was lawfully present for the purpose of performing the services or otherwise was permanently residing in the United States under color of law at the time the services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any modifications of the provisions of section 3304(a)(14) of the Federal Unemployment Tax Act (26 U.S.C. s.3304 (a)(14)), as provided by Pub.L.94-566, which specify other conditions or other effective dates than stated herein for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under State law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be deemed applicable under the provisions of this section.

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(3) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of alien status shall be made except upon a preponderance of the evidence.

(j) Notwithstanding any other provision of this chapter, the director may, to the extent that it may be deemed efficient and economical, provide for consolidated administration by one or more representatives or deputies of claims made pursuant to subsection (f) of this section with those made pursuant to Article III (State plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

117. Section 2 of P.L.1997, c.38 (C.44:10-56) is amended to read as follows:

C.44:10-56 Findings, declarations relative to Work First New Jersey Program.

2. The Legislature finds and declares that:

a. The federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, establishes the federal block grant for temporary assistance for needy families and provides the opportunity for a state to establish and design its own welfare program;

b. Work and the earning of income promote the best interests of families and children;

c. Working individuals and families needing temporary assistance should have the transitional support necessary to obtain and keep a job in order to be able to avoid cycling back onto public assistance;

d. Teenage pregnancy is counter to the best interests of children;

e. Successful welfare reform requires the active involvement of the private sector as well as all departments of State government;

f. Personal and family security and stability, including the protection of children and vulnerable adults, are important to the establishment and maintenance of successful family life and childhood development and a family's inability or failure to qualify for benefits under the Work First New Jersey program established pursuant to this act shall not in and of itself be the basis for the separation of a dependent child from his family or the justification for the resource family care placement of a dependent child;

g. Children and teenagers need the benefits of the support and guidance which a family structure provides; the welfare system has provided a vehicle for breaking up families by giving teenage mothers the means to shift their financial dependence from their parents to the State; in the process, these youths deprive themselves of the education and family structure necessary to support themselves and their babies; and the support and structure provided by families are important to the development of a child's maximum potential; and

h. The Work First New Jersey program established pursuant to this act incorporates and builds upon the fundamental concepts of the Family Development Initiative established pursuant to P.L.1991, c.523 (C.44:10-19 et seq.) in a manner that is consistent with the federal program of temporary assistance for needy families, by establishing requirements for: time limits on cash assistance; the participation of recipients in work activities; enhanced efforts to establish paternity and establish and enforce child support obligations; sanctions for failure to comply with program requirements; a cap on the use of funds for administrative costs; the maintenance of State and county financial support of the program; teenage parent recipients to live at home and finish high school; and restrictions on eligibility for benefits for aliens.

118. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to read as follows:

C.52:14-17.26 Definitions relative to health care benefits for public employees.

2. As used in this act:

(a) The term "State" means the State of New Jersey.

(b) The term "commission" means the State Health Benefits Commission, created by section 3 of this act.

(c) The term "employee" means an appointive or elective officer or full-time employee of the State of New Jersey. For the purposes of this act an employee of Rutgers, The State University of New Jersey, shall be deemed to be an employee of the State, and an employee of the New Jersey Institute of Technology shall be considered to be an employee of the State during such time as the Trustees of the Institute are party to a contractual agreement with the State Treasurer for the provision of educational services. The term "employee" shall further mean, for purposes of this act, a former employee of the South Jersey Port Corporation, who is employed by a subsidiary corporation or other corporation, which has been established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the Delaware River Port Authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), and who is eligible for continued membership in the Public Employees' Retirement System pursuant to subsection j. of section 7 of P.L.1954, c.84 (C.43:15A-7).

For the purposes of this act the term "employee" shall not include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, persons having less than two months of continuous service or persons whose compensation from the State is limited to reimbursement of necessary expenses actually incurred in the discharge of their official duties. An employee paid on a 10-month basis, pursuant to an annual contract, will be deemed to have satisfied the two-month waiting period if the employee begins employment at the beginning of the contract year. The term "employee" shall also not include retired persons who are otherwise eligible for benefits under this act but who, although they meet the age eligibility requirement of Medicare, are not covered by the complete federal program. A determination by the commission that a person is an eligible employee within the meaning of this act shall be final and shall be binding on all parties.

(d) (1) The term "dependents" means an employee's spouse, or an employee's domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), and the employee's unmarried children under the age of 23 years who live with the employee in a regular parent-child relationship. "Children" shall include stepchildren, legally adopted children and children

placed by the Division of Youth and Family Services, provided they are reported for coverage and are wholly dependent upon the employee for support and maintenance. A spouse, domestic partner or child enlisting or inducted into military service shall not be considered a dependent during the military service. The term "dependents" shall not include spouses or domestic partners of retired persons who are otherwise eligible for the benefits under this act but who, although they meet the age eligibility requirement of Medicare, are not covered by the complete federal program.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary and subject to the provisions of paragraph (3) of this subsection, for the purposes of an employer other than the State that is participating in the State Health Benefits Program pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34), the term "dependents" means an employee's spouse and the employee's unmarried children under the age of 23 years who live with the employee in a regular parent-child relationship. "Children" shall include stepchildren, legally adopted children and children placed by the Division of Youth and Family Services in the Department of Human Services provided they are reported for coverage and are wholly dependent upon the employee for support and maintenance. A spouse or child enlisting or inducted into military service shall not be considered a dependent during the military service. The term "dependents" shall not include spouses of retired persons who are otherwise eligible for benefits under P.L.1961, c.49 (C.52:14-17.25 et seq.) but who, although they meet the age eligibility requirement of Medicare, are not covered by the complete federal program.

(3) An employer other than the State that is participating in the State Health Benefits Program pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34) may adopt a resolution providing that the term "dependents" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

(e) The term "carrier" means a voluntary association, corporation or other organization, including a health maintenance organization as defined in section 2 of the "Health Maintenance Organizations Act," P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing or paying for or reimbursing the cost of, personal health services, including hospitalization, medical and surgical services, under insurance policies or contracts, membership or subscription contracts, or the like, in consideration of premiums or other periodic charges payable to the carrier.

(f) The term "hospital" means (1) an institution operated pursuant to law which is primarily engaged in providing on its own premises, for compensation from its patients, medical diagnostic and major surgical facilities for the care and treatment of sick and injured persons on an inpatient basis, and which provides such facilities under the supervision of a staff of physicians

and with 24 hour a day nursing service by registered graduate nurses, or (2) an institution not meeting all of the requirements of (1) but which is accredited as a hospital by the Joint Commission on Accreditation of Hospitals. In no event shall the term "hospital" include a convalescent nursing home or any institution or part thereof which is used principally as a convalescent facility, residential center for the treatment and education of children with mental disorders, rest facility, nursing facility or facility for the aged or for the care of drug addicts or alcoholics.

(g) The term "State managed care plan" means a health care plan under which comprehensive health care services and supplies are provided to eligible employees, retirees, and dependents: (1) through a group of doctors and other providers employed by the plan; or (2) through an individual practice association, preferred provider organization, or point of service plan under which services and supplies are furnished to plan participants through a network of doctors and other providers under contracts or agreements with the plan on a prepayment or reimbursement basis and which may provide for payment or reimbursement for services and supplies obtained outside the network. The plan may be provided on an insured basis through contracts with carriers or on a self-insured basis, and may be operated and administered by the State or by carriers under contracts with the State.

(h) The term "Medicare" means the program established by the "Health Insurance for the Aged Act," Title XVIII of the "Social Security Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), as amended, or its successor plan or plans.

(i) The term "traditional plan" means a health care plan which provides basic benefits, extended basic benefits and major medical expense benefits as set forth in section 5 of P.L.1961, c.49 (C.52:14-17.29) by indemnifying eligible employees, retirees, and dependents for expenses for covered health care services and supplies through payments to providers or reimbursements to participants.

119. Section 5 of P.L.2003, c.187 (C.52:17D-5) is amended to read as follows:

C.52:17D-5 Powers of the Child Advocate.

5. 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 or the Juvenile Justice Commission;

(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 by or approved for payment by the Department of Human Services; and

(3) any other public or private residential 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; and

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.

120. Section 9 of P.L.2003, c.187 (C.52:17D-9) is amended to read as follows:

C.52:17D-9 Protection of children institutionalized or in resource family care.

9. 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 its 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 his 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, residential school, shelter, psychiatric hospital and developmental center.

121. Section 2 of P.L.1985, c.69 (C.53:1-20.6) is amended to read as follows:

C.53:1-20.6 Rules, regulations concerning dissemination of information; fees.

2. a. The Superintendent of State Police, with the approval of the Attorney General, shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations authorizing the dissemination, by the State Bureau of Identification, of criminal history record background information requested by State, county and local government agencies, including the Division of State Police, in noncriminal matters, or requested by individuals, nongovernmental entities or other governmental entities whose access to such criminal history record background information is not prohibited by law. A fee not to exceed $30 shall be imposed for processing fingerprint identification checks; a fee not to exceed $18 shall be imposed for processing criminal history name search identification checks. These fees shall be in addition to any other fees required by law. In addition to any fee specified herein, a nonrefundable fee, the amount of which shall be determined by the Superintendent of State Police, with the approval of the Attorney General, shall be collected to cover the cost of securing and processing a federal criminal records check for each applicant.

b. State, county and local government agencies, including the Division of State Police, and nongovernmental entities are authorized to impose and collect the processing fee established pursuant to subsection a. of this section

from the person for whom the criminal history record background check is being processed or from the party requesting the criminal history record background check. The Superintendent of State Police shall provide this processing service without the collection of fees from the applicants in processing background checks of prospective resource family parents or members of their immediate families. In such cases, the Department of Human Services shall be responsible for paying the fees imposed pursuant to subsection a. of this section. Nothing in this section shall prohibit the Superintendent of State Police, with the approval of the Attorney General, from providing this processing service without the collection of fees from the applicant in other circumstances which in his sole discretion he deems appropriate, if the applicants would not receive a wage or salary for the time and services they provide to an organization or who are considered volunteers. In those circumstances where the Superintendent of State Police, with the approval of the Attorney General, determines to provide this processing service without the collection of fees to the individual applicants, the superintendent may assess the fees for providing this service on behalf of the applicants to any department of State, county or municipal government which is responsible for operating or overseeing that volunteer program. The agencies shall transfer all moneys collected for the processing fee to the Division of State Police.

122. Section 8 of P.L.2000, c.77 (C.53:1-20.9b) is amended to read as follows:

C.53:1-20.9b Exchange of fingerprint data, information; determination; challenge.

8. a. The Commissioner of Human Services is authorized to exchange fingerprint data with, and to receive information from, the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation.

Upon receipt of the criminal history record information for an applicant or staff member of a child care center from the Federal Bureau of Investigation and the Division of State Police, the Department of Human Services shall notify the applicant or staff member, as applicable, and the child care center, in writing, of the applicant's or staff member's qualification or disqualification for employment or service under P.L.2000, c.77 (C.30:5B-6.10 et al.). If the applicant or staff member is disqualified, the convictions that constitute the basis for the disqualification shall be identified in the written notice to the applicant or staff member. The applicant or staff member shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information. If no challenge is filed or if the determination of the accuracy of the criminal history record

information upholds the disqualification, the Department of Human Services shall notify the center that the applicant or staff member has been disqualified from employment.

b. The Division of State Police shall promptly notify the Department of Human Services in the event an applicant or staff member who was the subject of a criminal history record background check conducted pursuant to subsection a. of this section, is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of such notification, the Department of Human Services shall make a determination regarding the employment of the applicant or staff member.

123. Section 3 of P.L.1979, c.496 (C.55:13B-3) is amended to read as follows:

C.55:13B-3 Terms defined.

3. As used in this act:

a. "Boarding house" means any building, together with any related structure, accessory building, any land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space arranged or intended for single room occupancy, exclusive of any such unit occupied by an owner or operator, and wherein personal or financial services are provided to the residents, including any residential hotel or congregate living arrangement, but excluding any hotel, motel or established guest house wherein a minimum of 85% of the units of dwelling space are offered for limited tenure only, any resource family home as defined in section 1 of P.L.1962, c.137 (C.30:4C-26.1), any community residence for the developmentally disabled and any community residence for the mentally ill as defined in section 2 of P.L.1977, c.448 (C.30:11B-2), any adult family care home as defined in section 3 of P.L.2001, c.304 (C.26:2Y-3), any dormitory owned or operated on behalf of any nonprofit institution of primary, secondary or higher education for the use of its students, any building arranged for single room occupancy wherein the units of dwelling space are occupied exclusively by students enrolled in a full-time course of study at an institution of higher education approved by the New Jersey Commission on Higher Education, any facility or living arrangement operated by, or under contract with, any State department or agency, upon the written authorization of the commissioner, and any owner-occupied, one-family residential dwelling made available for occupancy by not more than six guests, where the primary purpose of the occupancy is to provide charitable assistance to the guests and where the owner derives no income from the occupancy. A dwelling shall be deemed "owner-occupied" within the meaning of this section if it is owned or operated by a nonprofit religious or charitable association or

corporation and is used as the principal residence of a minister or employee of that corporation or association. For any such dwelling, however, fire detectors shall be required as determined by the Department of Community Affairs.

b. "Commissioner" means the Commissioner of the Department of Community Affairs.

c. "Financial services" means any assistance permitted or required by the commissioner to be furnished by an owner or operator to a resident in the management of personal financial matters, including, but not limited to, the cashing of checks, holding of personal funds for safekeeping in any manner or assistance in the purchase of goods or services with a resident's personal funds.

d. "Limited tenure" means residence at a rooming or boarding house on a temporary basis, for a period lasting no more than 90 days, when a resident either maintains a primary residence at a location other than the rooming or boarding house or intends to establish a primary residence at such a location and does so within 90 days after taking up original residence at the rooming or boarding house.

e. "Operator" means any individual who is responsible for the daily operation of a rooming or boarding house.

f. "Owner" means any person who owns, purports to own, or exercises control of any rooming or boarding house.

g. "Personal services" means any services permitted or required to be furnished by an owner or operator to a resident, other than shelter, including, but not limited to, meals or other food services, and assistance in dressing, bathing or attending to other personal needs.

h. "Rooming house" means a boarding house wherein no personal or financial services are provided to the residents.

i. "Single room occupancy" means an arrangement of dwelling space which does not provide a private, secure dwelling space arranged for independent living, which contains both the sanitary and cooking facilities required in dwelling spaces pursuant to the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), and which is not used for limited tenure occupancy in a hotel, motel or established guest house, regardless of the number of individuals occupying any room or rooms.

j. "Unit of dwelling space" means any room, rooms, suite, or portion thereof, whether furnished or unfurnished, which is occupied or intended, arranged or designed to be occupied for sleeping or dwelling purposes by one or more persons.

k. "Alzheimer's disease and related disorders" means a form of dementia characterized by a general loss of intellectual abilities of sufficient severity to interfere with social or occupational functioning.

l. "Dementia" means a chronic or persistent disorder of the mental processes due to organic brain disease, for which no curative treatment is available, and marked by memory disorders, changes in personality, deterioration in personal care, impaired reasoning ability and disorientation.

124. Section 3 of P.L.1983, c.530 (C.55:14K-3) is amended to read as follows:

C.55:14K-3 Definitions.

3. As used in this act:

a. "Agency" means the New Jersey Housing and Mortgage Finance Agency as consolidated by section 4 of P.L.1983, c.530 (C.55:14K-4), or, if that agency shall be abolished by law, the person, board, body or commission succeeding to the powers and duties thereof or to whom its powers and duties shall be given by law.

b. "Boarding house" means any building, together with any related structure, accessory building, any land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space arranged or intended for single room occupancy, exclusive of any such unit occupied by an owner or operator, including:

(1) any residential hotel or congregate living arrangement, but excluding any hotel, motel or established guesthouse wherein a minimum of 85% of the units of dwelling space are offered for limited tenure only; (2) 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.); (3) any resource family home as defined in section 1 of P.L.1962, c.137 (C.30:4C-26.1); (4) any community residence for the developmentally disabled as defined in section 2 of P.L.1977, c.448 (C.30:11B-2); (5) any dormitory owned or operated on behalf of any nonprofit institution of primary, secondary or higher education for the use of its students; (6) any building arranged for single room occupancy wherein the units of dwelling space are occupied exclusively by students enrolled in a full-time course of study at an institution of higher education approved by the Department of Higher Education; and (7) any facility or living arrangement operated by, or under contract with, any State department or agency.

c. "Bonds" mean any bonds, notes, bond anticipation notes, debentures or other evidences of financial indebtedness issued by the agency pursuant to this act.

d. "Continuing-care retirement community" means any work or undertaking, whether new construction, improvement or rehabilitation, which may be financed in part or in whole by the agency and which is designed to complement fully independent residential units with social and health care

services (usually including nursing and medical services) for retirement families and which is intended to provide continuing care for the term of a contract in return for an entrance fee or periodic payments, or both, and which may include such appurtenances and facilities as the agency deems to be necessary, convenient or desirable.

e. "Eligible loan" means a loan, secured or unsecured, made for the purpose of financing the operation, maintenance, construction, acquisition, rehabilitation or improvement of property, or the acquisition of a direct or indirect interest in property, located in the State, which is or shall be: (1) primarily residential in character or (2) used or to be used to provide services to the residents of an area or project which is primarily residential in character. The agency shall adopt regulations defining the term "primarily residential in character," which may include single-family, multi-family and congregate or other single room occupancy housing, continuing-care retirement communities, mobile homes and nonhousing properties and facilities which enhance the livability of the residential property or area; and specifying the types of residential services and facilities for which eligible loans may be made, which may include, but shall not be limited to, parking facilities, streets, sewers, utilities, and administrative, community, educational, welfare and recreational facilities, food, laundry, health and other services and commercial establishments and professional offices providing supplies and services enhancing the area. The term "loan" includes an obligation the return on which may vary with any appreciation in value of the property or interest in property financed with the proceeds of the loan, or a co-ventured instrument by which an institutional lender or the agency assumes an equity position in the property. Any undivided interest in an eligible loan shall qualify as an eligible loan.

f. "Family" means two or more persons who live or expect to live together as a single household in the same dwelling unit; but any individual who (1) has attained retirement age as defined in section 216a of the federal Social Security Act, or (2) is under a disability as defined in section 223 of that act, or (3) such other individuals as the agency by rule or regulation shall include, shall be considered as a family for the purpose of this act; and the surviving member of a family whose other members died during occupancy of a housing project shall be considered as a family for the purposes of permitting continued occupancy of the dwelling unit occupied by such family.

g. "Gross aggregate family income" means the total annual income of all members of a family, from whatever source derived, including but not limited to, pension, annuity, retirement and social security benefits; except that there may be excluded from income (1) such reasonable allowances for dependents, (2) such reasonable allowances for medical expenses, (3) all or

any proportionate part of the earnings of gainfully employed minors, or (4) such income as is not received regularly, as the agency by rule or regulation may determine.

h. "Housing project" or "project" means any work or undertaking, other than a continuing-care community, whether new construction, improvement, rehabilitation, or acquisition of existing buildings or units which is designed for the primary purpose of providing multi-family rental housing or acquisition of sites for future multi-family rental housing.

i. "Housing sponsor" means any person, partnership, corporation or association, whether organized as for profit or not for profit, to which the agency has made or proposes to make a loan, either directly or through an institutional lender, for a housing project.

j. "Institutional lender" means any bank or trust company, savings bank, national banking association, savings and loan association, or building and loan association maintaining an office in the State, or any insurance company or any mortgage banking firm or mortgage banking corporation authorized to transact business in the State.

k. "Life safety improvement" means any addition, modification or repair to a boarding house which is necessary to improve the life safety of the residents of the boarding house, as certified by the Department of Community Affairs, including, but not limited to, the correction of a violation of the" State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et seq.), or the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.) and the administrative regulations promulgated in accordance with these acts.

l. "Life safety improvement loan" means an eligible loan the proceeds of which are to be used to finance, in whole or in part, the construction, acquisition or rendering of life safety improvements at or to boarding houses.

m. "Loan originator" means any bank or trust company, savings bank, national banking association, savings and loan association, or building and loan association maintaining an office in the State, or any insurance company or any mortgage banking firm or mortgage banking corporation authorized to transact business in the State, or any agency or instrumentality of the United States or the State or a political subdivision of the State, which is authorized to make eligible loans.

n. "Municipality" means any city of any class or any town, township, village or borough.

o. "Mutual housing" means a housing project operated or to be operated upon completion of construction, improvement or rehabilitation exclusively for the benefit of the families who are entitled to occupancy by reason of ownership of stock in the housing sponsor, or by reason of co-ownership of

premises in a horizontal property regime pursuant to P.L.1963, c.168; but the agency may adopt rules and regulations permitting a reasonable percentage of space in such project to be rented for residential or for commercial use.

p. "Persons and families of low and moderate income" mean persons and families, irrespective of race, creed, national origin or sex, determined by the agency to require assistance on account of personal or family income being not sufficient to afford adequate housing. In making such determination the agency shall take into account the following:

(1) the amount of the total income of such persons and families available for housing needs, (2) the size of the family, (3) the cost and condition of housing facilities available and (4) the eligibility of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing. In the case of projects with respect to which income limits have been established by any agency of the federal government having jurisdiction thereover for the purpose of defining eligibility of low and moderate income families, the agency may determine that the limits so established shall govern. In all other cases income limits for the purpose of defining low or moderate income persons shall be established by the agency in its rules and regulations.

q. "Project cost" means the sum total of all costs incurred in the acquisition, development, construction, improvement or rehabilitation of a housing project, which are approved by the agency as reasonable or necessary, which costs shall include, but are not necessarily limited to, (1) cost of land acquisition and any buildings thereon, (2) cost of site preparation, demolition and development, (3) architect, engineer, legal, agency and other fees paid or payable in connection with the planning, execution and financing of the project, (4) cost of necessary studies, surveys, plans and permits, (5) insurance, interest, financing, tax and assessment costs and other operating and carrying costs during construction, (6) cost of construction, reconstruction, fixtures, and equipment related to the real property, (7) cost of land improvements, (8) necessary expenses in connection with initial occupancy of the project, (9) a reasonable profit or fee to the builder and developer, (10) an allowance established by the agency for working capital and contingency reserves, and reserves for any operating deficits, (11) costs of guarantees, insurance or other additional financial security for the project and (12) the cost of such other items, including tenant relocation, as the agency shall determine to be reasonable and necessary for the development of the project, less any and all net rents and other net revenues received from the operation of the real and personal property on the project site during construction, improvement or rehabilitation.

All costs shall be subject to approval and audit by the agency. The agency may adopt rules and regulations specifying in detail the types and categories of cost which shall be allowable if actually incurred in the development, acquisition, construction, improvement or rehabilitation of a housing project.

r. "Retirement family" means one or more persons related by blood, marriage or adoption who live or expect to live together as a single household in the same dwelling unit, provided that at least one of the persons is an individual who (1) has attained retirement age as defined in section 216a of the Federal Social Security Act, or (2) is under a disability as defined in section 223 of that act, or (3) such individuals as the agency by rule or regulation shall include; and provided further, that the surviving member of a retirement family whose other members died during occupancy of a continuing-care retirement community shall be considered as a retirement family for purposes of permitting continued occupancy of the dwelling unit occupied by such retirement family.

125. Section 1 of P.L.2003, c.186 (C.30:4C-27.16) is amended to read as follows:

C.30:4C-27.16 Definitions relative to background checks for residential child care staff.

1. As used in sections 1 through 6 and 8 through 11 of this act:

"Department" means the Department of Human Services.

"Division" means the Division of Youth and Family Services in the Department of Human Services.

"Residential child care facility" or "facility" means any public or private establishment subject to the regulatory authority of the department that provides room, board, care, shelter or treatment services for children on a 24-hour-a-day basis. The term shall include: residential facilities operated by or under contract or agreement with the division to serve 13 or more children with emotional or behavioral problems as defined pursuant to section 2 of P.L.1951, c.138 (C.30:4C-2); State-operated children's psychiatric facilities providing inpatient treatment; group homes, treatment homes, teaching family homes, alternative care homes and supervised transitional living homes operated by or under contract or agreement with the division to serve 12 or fewer children with emotional or behavioral problems as defined pursuant to N.J.A.C.10:128-1.2; and shelter care facilities and homes, including shelters serving children in juvenile-family crisis and in need of temporary shelter care, as defined pursuant to section 3 of P.L.1982, c.77 (C.2A:4A-22).

"Staff member" means an individual 18 years of age or older who is an administrator of, employed by, or works in a facility on a regularly scheduled basis

during the facility's operating hours, including full-time, part-time, voluntary, contract, consulting and substitute staff, whether compensated or not.

C.30:4C-2.5 Rules, regulations.

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

Repealer.

127. The following are repealed:
Section 5 of P.L.1951, c.138 (C.30:4C-5); and
Section 11 of P.L.2001, c.419 (C.30:4C-27.13).

Repealer.

128. P.L.1992, c.139 (C.30:4C-26.10 et seq.) is repealed.

129. This act shall take effect immediately, except that sections 88 and 128 shall take effect on September 1, 2005.

Approved August 27, 2004.

CHAPTER 131

AN ACT concerning the administrators and trustees of charter schools and supplementing P.L.1991, c.393 (C.18A:12-21 et seq.).

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

C.18A:12-23.1 Applicability of "School Ethics Act" to charter school administrators, trustees.

1. The provisions of the "School Ethics Act," P.L.1991, c.393 (C.18A:12-21 et seq.) shall apply to an administrator and a member of the board of trustees of a charter school that is established pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.).

2. This act shall take effect immediately.

Approved August 31, 2004.

CHAPTER 132

AN ACT concerning wills and estates and revising various sections of the statutory law.

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

1. N.J.S.3B:1-1 is amended to read as follows:

Definitions A to H.

3B:1-1. As used in this title, unless otherwise defined:

"Administrator" includes general administrators of an intestate and unless restricted by the subject or context, administrators with the will annexed, substituted administrators, substituted administrators with the will annexed, temporary administrators and administrators pendente lite.

"Beneficiary," as it relates to trust beneficiaries, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer and as it relates to a charitable trust, and includes any person entitled to enforce the trust.

"Child" means any individual, including a natural or adopted child, entitled to take by intestate succession from the parent whose relationship is involved and excludes any individual who is only a stepchild, a resource family child, a grandchild or any more remote descendant.

"Claims" include liabilities whether arising in contract, or in tort or otherwise, and liabilities of the estate which arise at or after the death of the decedent, including funeral expenses and expenses of administration, but does not include estate or inheritance taxes, demands or disputes regarding title to specific assets alleged to be included in the estate.

"Cofiduciary" means each of two or more fiduciaries jointly serving in a fiduciary capacity.

"Descendant" of an individual means all of his progeny of all generations, with the relationship of parent and child at each generation being determined by the definition of child contained in this section and parent contained in N.J.S.3B:1-2.

"Devise," when used as a noun, means a testamentary disposition of real or personal property and when used as a verb, means to dispose of real or personal property by will.

"Devisee" means any person designated in a will to receive a devise. In the case of a devise to an existing trust or trustee, or to a trustee of a trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.

"Distributee" means any person who has received property of a decedent from his personal representative other than as a creditor or purchaser. A trustee is a distributee only to the extent of a distributed asset or increment thereto remaining in his hands. A beneficiary of a trust to whom the trustee

has distributed property received from a personal representative is a distributee of the personal representative.

"Domiciliary foreign fiduciary" means any fiduciary who has received letters, or has been appointed, or is authorized to act as a fiduciary, in the jurisdiction in which the decedent was domiciled at the time of his death, in which the ward is domiciled or in which is located the principal place of the administration of a trust.

"Estate" means all of the property of a decedent, minor or incapacitated individual, trust or other person whose affairs are subject to this title as the property is originally constituted and as it exists from time to time during administration.

"Fiduciary" includes executors, general administrators of an intestate estate, administrators with the will annexed, substituted administrators, substituted administrators with the will annexed, guardians, substituted guardians, trustees, substituted trustees and, unless restricted by the subject or context, temporary administrators, administrators pendente lite, administrators ad prosequendum, administrators ad litem and other limited fiduciaries.

"Governing instrument" means a deed, will, trust, insurance or annuity policy, account with the designation "pay on death" (POD) or "transfer on death" (TOD), security registered in beneficiary form with the designation "pay on death" (POD) or "transfer on death" (TOD), pension, profit-sharing, retirement or similar benefit plan, instrument creating or exercising a power of appointment or a power of attorney, or a dispositive, appointive, or nominative instrument of any similar type.

"Guardian" means a person who has qualified as a guardian of the person or estate of a minor or incapacitated individual pursuant to testamentary or court appointment, but excludes one who is merely a guardian ad litem.

"Heirs" means those persons, including, but not limited to, the surviving spouse and the descendants of the decedent, who are entitled under the statutes of intestate succession to the property of a decedent.

2. 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 of the testator.

"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.

3. N.J.S.3B:1-3 is amended to read as follows:

Devolution of property upon death.

3B:1-3. Upon the death of an individual, his real and personal property devolves to the persons to whom it is devised by his will or to those indicated as substitutes for them in cases involving lapse, renunciation, or other circumstances affecting the devolution of testate estates, or in the absence of testamentary disposition, to his heirs, or to those indicated as substitutes for them in cases involving renunciation or other circumstances affecting devolution of intestate estates, subject to rights of creditors and to administration.

4. N.J.S.3B:2-5 is amended to read as follows:

Disputes or doubts in proceedings before the surrogate.

3B:2-5. In the event of any dispute or doubt arising before the surrogate or in the surrogate's court, neither the surrogate nor the court shall take any further action therein, except in accordance with the order of the Superior Court.

5. N.J.S.3B:2-6 is amended to read as follows:

Oath; affidavit; deposition or proof.

3B:2-6. Any oath, affidavit, deposition or proof required to be made or taken in any proceeding before a surrogate, the surrogate's court or in the Superior Court, or necessary or proper to be used before the surrogate or the court, may be made and taken before the surrogate or before any individual authorized by law to administer oaths. Qualifications of executors and administrators and acceptances of trusteeships and guardianships may be taken as provided by the rules of the Supreme Court.

6. N.J.S.3B:2-7 is amended to read as follows:

Issuance of subpoenas by surrogate.

3B:2-7. A surrogate may issue process of subpoenas to any person within the State to appear and give evidence in any matter pending before the surrogate's court.

7. N.J.S.3B:2-8 is amended to read as follows:

Penalty for failure to obey subpoena.

3B:2-8. Any person subpoenaed as a witness by a surrogate, who does not appear pursuant thereto, or appearing refuses to be sworn or give evidence, without reasonable cause assigned, shall, for every such default or refusal, be subject to a fine of not more than $50.00, as the surrogate's court issuing the subpoena shall by judgment determine proper to impose. The fine, when collected, shall be paid to the county.

In default of the payment of a fine so imposed, the surrogate's court by its judgment may commit the witness to the county jail of the county until it is paid or he is sooner discharged.

The judgment of the surrogate's court imposing a fine or committing a witness to jail shall be reviewable by the Superior Court in the same manner as other judgments of the court are reviewed.

8. N.J.S.3B:3-1 is amended to read as follows:

Individuals competent to make a will and appoint a testamentary guardian.

3B:3-1. Any individual 18 or more years of age who is of sound mind may make a will and may appoint a testamentary guardian.

9. N.J.S.3B:3-2 is amended to read as follows:

Execution; Witnessed Wills; Writings Intended as Wills.

3B:3-2. 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 writings intended as wills, portions of the document that are not in the testator's handwriting.

10. N.J.S.3B:3-3 is amended to read as follows:

Writings intended as wills.

3B:3-3. 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 formerly revoked portion of the will.

11. N.J.S.3B:3-4 is amended to read as follows:

Making will self-proved at time of execution.

3B:3-4. Any will executed on or after September 1, 1978 may be simultaneously executed, attested, and made self-proved, by acknowledgment thereof by the testator and affidavits of the witnesses, each made before an officer authorized pursuant to R.S.46:14-6.1 to take acknowledgments and proofs of instruments entitled to be recorded under the laws of this State, in substantially the following form:

I, ..., the testator, sign my name to this instrument this .... day of ....., 20..., and being duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

.....
Testator

We,....., the witnesses, sign our names to this instrument, and, being duly sworn, do hereby declare to the undersigned authority that the testator signs and executes this instrument as the testator's last will and that the testator signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the testator, hereby signs this will as witness to the testator's signing, and that to the best of our knowledge

the testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

.....
Witness

.....
Witness

The State of.....
County of.....

Subscribed, sworn to and acknowledged before me by ....., the testator and subscribed and sworn to before me by ..... and ....., witnesses, this ..... day of.....

(Signed).....
.....
(Official capacity of officer)

12. N.J.S.3B:3-5 is amended to read as follows:

Making will self-proved subsequent to time of execution.

3B:3-5. A will executed in compliance with N.J.S.3B:3-2 may at any time subsequent to its execution be made self-proved by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized pursuant to R.S.46:14-6.1 to take acknowledgments and proofs of instruments entitled to be recorded under the laws of this State, attached or annexed to the will in substantially the following form:

The State of .....

County of .....

We,....., ... and ....., the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as his last will and that the testator had signed willingly (or willingly directed another to sign for the testator), and that he executed it as the testator's free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of his knowledge the testator was at that time 18 years of age or older, of sound mind and under no constraint or undue influence.

.....
Testator

.....
Witness
.....
Witness

Subscribed, sworn to and acknowledged before me by ....., the testator, and subscribed and sworn to before me by ..... and ....., witnesses, this ..... day of ..... .

(Signed).....
.....
(Official capacity of officer)

13. N.J.S.3B:3-7 is amended to read as follows:

Who may witness a will.

3B:3-7. Any individual generally competent to be a witness may act as a witness to a will and to testify concerning execution thereof.

14. N.J.S.3B:3-11 is amended to read as follows:

Identifying devise of tangible personal property by separate writing.

3B:3-11. A will may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money. To be admissible under this section as evidence of the intended disposition, the writing must be either in the handwriting of the testator or be signed by the testator and must describe the items and the devisees with reasonable certainty. The writing may be referred to as one to be in existence at the time of the testator's death; it may be prepared before or after the execution of the will; it may be altered by the testator after its preparation; and it may be a writing which has no significance apart from its effect upon the dispositions made by the will.

15. N.J.S.3B:3-12 is amended to read as follows:

Acts and events of independent significance.

3B:3-12. A will may dispose of property by reference to acts and events which have significance apart from their effect upon the dispositions made by the will, whether they occur before or after the execution of the will or before or after the testator's death. The execution or revocation of a will of another individual is such an event.

16. N.J.S.3B:3-13 is amended to read as follows:

Revocation by writing or by act.

3B:3-13. A will or any part thereof is revoked:

a. By the execution of a subsequent will that revokes the previous will or part expressly or by inconsistency; or

b. By the performance of a revocatory act on the will, if the testator performed the act with the intent and for the purpose of revoking the will or part or if another individual performed the act in the testator's conscious presence and by the testator's direction. For purposes of this subsection, "revocatory act on the will" includes burning, tearing canceling, obliterating or destroying the will or any part of it. A burning, tearing or cancelling is a "revocatory act on the will," whether or not the burn, tear, or cancellation touched any of the words on the will.

(1) If a subsequent will does not expressly revoke a previous will, the execution of the subsequent will wholly revokes the previous will by inconsistency if the testator intended the subsequent will to replace rather than supplement the previous will.

(2) The testator is presumed to have intended a subsequent will to replace rather than supplement a previous will if the subsequent will makes a complete disposition of the testator's estate. If this presumption arises and is not rebutted by clear and convincing evidence, the previous will is revoked; only the subsequent will is operative on the testator's death.

(3) The testator is presumed to have intended a subsequent will to supplement rather than replace a previous will if the subsequent will does not make a complete disposition of the testator's estate. If this presumption arises and is not rebutted by clear and convincing evidence, the subsequent will revokes the previous will only to the extent the subsequent will is inconsistent with the previous will; each will is fully operative on the testator's death to the extent they are not inconsistent.

17. 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. 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 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.

18. N.J.S.3B:3-15 is amended to read as follows:

Revival of revoked will.

3B:3-15. a. Except as otherwise provided in N.J.S.3B:3-14 or as provided in subsections b., c. and d. of this section, a revoked will or codicil shall not be revived except by reexecution or by a duly executed codicil expressing an intention to revive it.

b. If a subsequent will that wholly revoked a previous will is thereafter revoked by a revocatory act described in N.J.S.3B:3-13, the previous will remains revoked unless it is revived. The previous will is revived if there is clear and convincing evidence from the circumstances of the revocation of the subsequent will or from the testator's contemporary or subsequent declarations that the testator intended the previous will to take effect as executed.

c. If a subsequent will that partly revoked a previous will is thereafter revoked by a revocatory act described in N.J.S.3B:3-13, a revoked part of the previous will is revived unless there is clear and convincing evidence from the circumstances of the revocation of the subsequent will or from the testator's contemporary or subsequent declarations that the testator did not intend the revoked part to take effect as executed.

d. If a subsequent will that revoked a previous will in whole or in part is thereafter revoked by another, later will, the previous will remains revoked in whole or in part, unless it or its revoked part is revived. The previous will or its revoked part is revived to the extent it appears from the terms of the later will that the testator intended the previous will to take effect.

19. N.J.S.3B:3-17 is amended to read as follows:

Probate of will and grant of letters.

3B:3-17. The surrogates of the several counties or the Superior Court may take depositions to wills, admit the same to probate, and grant thereon letters testamentary or letters of administration with the will annexed.

20. N.J.S.3B:3-19 is amended to read as follows:

Proof required to probate will.

3B:3-19. A will executed as provided in N.J.S.3B:3-2 may be admitted to probate by the surrogate upon the proof of one of the attesting witnesses or by some other individual having knowledge of the facts relating to the proper execution of the will by the testator and its attestation by one of the witnesses.

A will executed and acknowledged in the manner provided in N.J.S.3B:3-4, or N.J.S.3B:3-5 may be admitted to probate by the surrogate without further affidavit, deposition or proof.

A writing intended as a will may be admitted to probate only in the manner provided by the Rules Governing the Courts of the State of New Jersey.

21. N.J.S.3B:3-20 is amended to read as follows:

Probate of a will of testator who died in military service or within 2 years of discharge.

N.J.S.3B:3-20. When a resident of this State dies while a member of the armed forces of the United State or within 2 years from the date of his discharge from the armed forces and no witness to his will is available in this State to prove the will, either because of death, incapacity, nonresidence, absence, or for any other reason, the will shall be admitted to probate upon proof of the signature of the testator by any two individuals, provided the will was validly executed as provided in N.J.S.3B:3-9, and the will would have been admitted to probate if the witnesses were dead.

22. N.J.S.3B:3-24 is amended to read as follows:

Where a will of a resident is to be probated; effect of failure to probate.

3B:3-24. The will of any individual resident within any county of this State at his death may be admitted to probate in the surrogate's court of the county or in the Superior Court. If the will of any individual resident within the State at his death is probated outside the State, it shall be without effect unless or until probate is granted within the State.

23. N.J.S.3B:3-26 is amended to read as follows:

Probate of will of nonresident probated in another state or country.

3B:3-26. When the will of any individual not resident in this State at his death shall have been admitted to probate in any state of the United States or other jurisdiction or country, the surrogate's court of any county may admit it to probate for any purpose and issue letters thereon, provided the will is valid under the laws of this State.

24. N.J.S.3B:3-28 is amended to read as follows:

Probate of will of nonresident decedent where property situated in New Jersey.

3B:3-28. Where the will of any individual not resident in this State at his death has not been admitted to probate in the state, jurisdiction or country in which he then resided and no proceeding is there pending for the probate of the will, and he died owning real estate situate in any county of this State or personal property, or evidence of the ownership thereof, situate therein at the time of probate, the Superior Court or the surrogate's court may admit the will to probate and grant letters thereon.

25. N.J.S.3B:3-28.1 is amended to read as follows:

Probate of will of nonresident where laws of decedent's domicile are discriminatory.

3B:3-28.1. Where the will of any individual who is not resident in this State at the time of his death has not been admitted to probate in the state in which he resided and no proceeding is there pending for the probate of the will, the Superior Court may admit the will to probate and grant letters thereon if the laws of that state discriminate against residents of New Jersey either as a beneficiary or as a fiduciary.

26. N.J.S.3B:3-31 is amended to read as follows:

Judgment for probate; conclusive effect on title to real property after 7 years.

3B:3-31. Where judgment has been or shall be entered by any surrogate's court in this State or Superior Court of the State, admitting to probate the will of any individual whether or not a resident of the State at his death and 7 years have elapsed after the judgment, the judgment unless set aside, shall, as to all matters adjudicated thereby, be conclusive upon the title to real estate.

27. N.J.S.3B:3-32 is amended to read as follows:

Requirement of survival by 120 hours; exceptions; survivorship with respect to future interests.

3B:3-32. a. Except as provided in subsections b. and c., for purposes of construing a will, trust agreement, or other governing instrument, an individual who is not established by clear and convincing evidence to have survived an event, including the death of another individual, by 120 hours is deemed to have predeceased the event.

b. If it is not established by clear and convincing evidence that one of two co-owners with right of survivorship survived the other co-owner by 120 hours, one-half of the property passes as if one had survived by 120 hours and one-half as if the other had survived by 120 hours.

c. If there are more than two co-owners and it is not established by clear and convincing evidence that at least one of them survived the others by 120 hours, the property passes in the proportion that one bears to the whole number of co-owners.

d. The 120 hour survival requirement of subsections a., b. and c. shall not apply if: (1) the will, trust agreement, or other governing instrument, contains some language applicable to the event dealing explicitly with simultaneous deaths or deaths in a common disaster, or requiring survival for a stated time period; (2) application would cause a non-vested property interest or power of appointment to be invalid under a rule against perpetuities concerning an interest created prior to the enactment of P.L. 1999, c. 159 (effective on July 8, 1999); or (3) it is established by clear and convincing evidence that application to multiple governing instruments would result in an unintended failure or duplication of a disposition.

e. For purposes of this section, "co-owners with right of survivorship" includes joint tenants, tenants by the entireties, and other co-owners of property or accounts held under circumstances that entitle one or more to the whole of the property or account on the death of the other or others.

To the extent this section is inconsistent with the "Uniform Simultaneous Death Law" (N.J.S.3B:6-1 et seq.), the provisions of this section shall apply.

C.3B:3-33.1 Testator's intention; settlor's intention; rules of construction applicable to wills, trusts and other governing instruments.

28. a. The intention of a testator as expressed in his will controls the legal effect of his dispositions, and the rules of construction expressed in N.J.S.3B:3-34 through N.J.S.3B:3-48 shall apply unless the probable intention of the testator, as indicated by the will and relevant circumstances, is contrary.

b. The intention of a settlor as expressed in a trust, or of an individual as expressed in a governing instrument, controls the legal effect of the dispositions therein and the rules of construction expressed in N.J.S.3B:34 through N.J.S.3B:3-48 shall apply unless the probable intent of such settlor or of such individual, as indicated by the trust or by such governing instrument and relevant circumstances, is contrary. For purposes of this Title, when construing each of these rules of construction the word "testator" shall include but not be limited to a settlor or a creator of any other governing instrument; the word "will" shall include a trust or other governing instrument; the word "devise" shall include any disposition in a trust or other governing instrument; and the word "devisee" shall include a beneficiary of a trust or other governing instrument.

29. N.J.S.3B:3-33 is amended to read as follows:

Choice of law as to meaning and effect of wills; testator's intention; rules of construction.

3B:3-33. The meaning and legal effect of a disposition in a will, trust or other governing instrument shall be determined by the local law of a particular state selected in the will, trust or other governing instrument, unless the application of that law is contrary to the provisions relating to the elective share described in N.J.S.3B:8-1 et seq. or any other public policy of this State otherwise applicable to the disposition.

30. N.J.S.3B:3-34 is amended to read as follows:

Will construed to pass all property of testator including after-acquired property.

3B:3-34. Unless a will expressly provides otherwise, it is construed to pass all property the testator owns at death including property acquired after the execution of the will, and all property acquired by the estate after the testator's death.

31. N.J.S.3B:3-35 is amended to read as follows:

Anti-lapse; deceased devisee; class gifts.

3B:3-35. If a devisee who is a grandparent, stepchild or a lineal descendant of a grandparent of the testator is dead at the time of the execution of the will, fails to survive the testator, or is treated as if he predeceased the testator, any descendants of the deceased devisee who survives the testator 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 testator is treated as a devisee for purposes of this section whether his death occurred before or after the execution of the will. For purposes of this section, a"stepchild" means a child of the surviving, deceased or former spouse of the testator.

32. N.J.S.3B:3-36 is amended to read as follows:

Failure of testamentary provision; residuary devise to two or more residuary devisees; death of one or more before testator.

3B:3-36. Except as provided in N.J.S.3B:3-35:

a. a devise, other than a residuary devise, that fails for any reason becomes a part of the residue.

b. if the residue is devised to two or more persons, unless a contrary intention shall appear by the will, the share of a residuary devise that fails for any reason passes to the other residuary devisee, or to other residuary devisees in proportion to the interest of each in the remaining part of the residue.

33. N.J.S.3B:3-38 is amended to read as follows:

Construction of words "die without issue" or "die without descendants".

3B:3-38. In a devise of real or personal property the words "die without issue" or "die without descendants" or "die without lawful issue" or "die without lawful descendants" or "have no issue" or "have no descendants" or other words which may import a want or failure of issue or descendants of an individual in his lifetime, or at his death, or an indefinite failure of his issue or descendants, shall be construed to mean a failure of issue or descendants at the death of the individual, unless a contrary intention shall otherwise appear by the will.

34. N.J.S.3B:3-41 is amended to read as follows:

Issue and descendants to take by representation.

3B:3-41. Where under any will or trust provision is made for the benefit of issue and descendants and no contrary intention is expressed, the issue or descendants shall take by representation.

35. N.J.S.3B:3-42 is amended to read as follows:

Increase in securities, accessions.

3B:3-42. a. If a testator executes a will that devises securities and the testator then owned securities that meet the description in the will, the devise includes additional securities owned by the testator at death to the extent the additional securities were acquired by the testator after the will was executed as a result of the testator's ownership of the described securities and are securities of any of the following types:

(1) securities of the same organization acquired by reason of action initiated by the organization or any successor, related, or acquiring organization, excluding any acquired by exercise of purchase options;

(2) securities of another organization acquired as a result of a merger, consolidation, reorganization, or other distribution by the organization or any successor, related, or acquiring organization; or

(3) securities of the same organization acquired as a result of a plan of reinvestment.

b. Distributions in cash declared and payable as of a record date before death with respect to a described security, whether paid before or after death, are not part of the devise.

36. N.J.S.3B:3-43 is amended to read as follows:

Nonademption of specific devise; sale by or payment of condemnation award or insurance proceeds to guardian of testator or agent.

3B:3-43. If specifically devised property is sold or mortgaged by a guardian for a testator, or by an agent acting within the authority of a durable

power of attorney for an incapacitated individual, or if a condemnation award, insurance proceeds or recovery for injury to the property are paid to a guardian for a testator or such agent as a result of condemnation, fire or casualty, the specific devisee has the right to a general pecuniary devise equal to the net sale price, the amount of the unpaid loan, the condemnation award, the insurance proceeds or the recovery. This section does not apply if subsequent to the sale, mortgage, condemnation, casualty, or recovery the guardianship is terminated or the durable power of attorney is revoked by the testator and the testator survives by 1 year the judgment terminating the guardianship or such revocation. The right of the specific devisee under this section is reduced by any right he has under N.J.S.3B:3-44.

37. N.J.S.3B:3-44 is amended to read as follows:

Specific devise; right of devisee after sale, condemnation, casualty loss or foreclosure.

3B:3-44. A specific devisee has the right to the remaining specifically devised property in the testator's estate at death and:

a. Any balance of the purchase price (together with any security interest) owing from a purchaser to the testator at death by reason of sale of the property;

b. Any amount of a condemnation award for the taking of the property unpaid at death;

c. Any proceeds unpaid at death on fire or casualty insurance on, or other recovery for injury to, the property; and

d. Property owned by testator at his death as a result of foreclosure, or obtained in lieu of foreclosure, of the security for a specifically devised obligation.

38. N.J.S.3B:3-46 is amended to read as follows:

Ademption by satisfaction.

3B:3-46. a. Property which a testator gave in his lifetime to a person is treated as a satisfaction of a devise to that person in whole or in part, only if the will provides for deduction of the lifetime gift, or the testator declares in a contemporaneous writing that the value of the gift is to be deducted from the value of the devise or is in satisfaction of the devise, or the devisee acknowledges in writing that the gift is in satisfaction of the devise or that its value is to be deducted from the value of the devise.

b. For purpose of partial satisfaction, property given during lifetime is valued as of the time the devisee came into possession or enjoyment of the property or as of the time of death of the testator, whichever occurs first.

c. If the devisee fails to survive the testator, in the case of a substituted devise or a devise saved from lapse, the gift is treated as a full or partial

satisfaction of the devise, as appropriate, unless the testator's contemporaneous writing provides otherwise.

39. N.J.S.3B:3-48 is amended to read as follows:

Construction of generic terms included in class gift terminology.

3B:3-48. a. Adopted individuals and individuals born out of wedlock, and their respective descendants if appropriate to the class, are included in class gifts and other terms of relationship in accordance with the rules for intestate succession. Terms of relationship that do not differentiate relationships by the half blood from those by the whole blood, such as "brothers," "sisters," "nieces," or "nephews," are construed to include both types of relationships.

b. In addition to the requirements of subsection a., in construing a donative disposition by a transferor who is not the natural parent, an individual born to the natural parent is not considered the child of that parent unless the individual lived while a minor as a regular member of the household of that natural parent or of that parent's parent, brother, sister, spouse or surviving spouse.

c. In addition to the requirements of subsection a., in construing a dispositive provision by a transferor who is not the adoptive parent, an adopted individual is not considered the child of the adoptive parent unless the adopted individual lived while a minor, either before or after the adoption, as a regular member of the household of the adoptive parent.

40. N.J.S.3B:4-2 is amended to read as follows:

Devise to trustee of trust created other than by testator's will.

3B:4-2. A will may validly devise property to the trustee of a trust established or a trust which will be established: (1) during the testator's lifetime by the testator, or by the testator and some other person, or by some other person including a funded or unfunded life insurance trust, although the settlor has reserved any or all rights of ownership of the insurance contracts, or (2) at the testator's death by the testator's devise to the trustee, if the trust is identified in the testator's will, and its terms are set forth in a written instrument, other than a will, executed before, concurrently with, or after the execution of the testator's will or in another individual's will, executed before, concurrently with or after the execution of the testator's will, if that other individual has predeceased the testator, regardless of the existence, size, or character of the corpus of the trust.

41. N.J.S.3B:4-3 is amended to read as follows:

Devise not invalidated because trust is amendable or revocable.

3B:4-3. A devise made as provided in N.J.S.3B:4-2 shall not be invalid because the trust is amendable or revocable, or because the trust was amended after the execution of the will or the testator's death.

42. N.J.S.3B:4-4 is amended to read as follows:

Administration of trust.

3B:4-4. Unless the testator's will provides otherwise, property devised to a trust described in N.J.S.3B:4-2 shall not be deemed to be held under a testamentary trust of the testator, but shall become a part of the trust to which it is devised and shall be administered and disposed of in accordance with the provisions of the governing instrument setting forth the terms of the trust, including any amendments thereto made before or after the testator's death.

43. N.J.S.3B:4-5 is amended to read as follows:

Lapse of devise.

3B:4-5. Unless the testator's will provides otherwise, a revocation or termination of the trust before the testator's death causes the devise to lapse.

44. N.J.S.3B:5-1 is amended to read as follows:

Requirement that heir survive decedent by 120 hours.

3B:5-1. For the purposes of intestate succession an individual who is not established by clear and convincing evidence to have survived the decedent by 120 hours is deemed to have predeceased the decedent. This section is not to be applied where its application would result in a taking of intestate estate by the State.

45. N.J.S.3B:5-2 is amended to read as follows:

Intestate estate.

3B:5-2. a. Any part of the decedent's estate not effectively disposed of by his will passes by intestate succession to the decedent's heirs as prescribed in N.J.S.3B:5-3 through N.J.S.3B:5-14, except as modified by the decedent's will.

b. A decedent by will may expressly exclude or limit the right of an individual or class to succeed to property of the decedent passing by intestate succession. If that individual or member of that class survives the decedent, the share of the decedent's intestate estate to which that individual or class would have succeeded passes as if that individual or each member of that class had disclaimed his intestate share.

46. N.J.S.3B:5-3 is amended to read as follows:

Intestate share of decedent's surviving spouse.

3B:5-3. The intestate share of the surviving spouse is:

a. The entire intestate estate if:

(1) No descendant or parent of the decedent survives the decedent; or

(2) All of the decedent's surviving descendants are also descendants of the surviving spouse and there is no other descendant of the surviving spouse who survives the decedent;

b. The first 25% of the intestate estate, but not less than $50,000.00 nor more than $200,000.00, plus three-fourths of any balance of the intestate estate, if no descendant of the decedent survives the decedent, but a parent of the decedent survives the decedent;

c. The first 25% of the intestate estate, but not less than $50,000.00 nor more than $200,000.00, plus one-half of the balance of the intestate estate:

(1) If all of the decedent's surviving descendants are also descendants of the surviving spouse and the surviving spouse has one or more surviving descendants who are not descendants of the decedent; or

(2) If one or more of the decedent's surviving descendants is not a descendant of the surviving spouse.

47. N.J.S.3B:5-4 is amended to read as follows:

Intestate shares of heirs other than surviving spouse.

3B:5-4. Any part of the intestate estate not passing to the decedent's surviving spouse under N.J.S.3B:5-3, or the entire intestate estate if there is no surviving spouse, passes in the following order to the individuals designated below who survive the decedent:

a. To the decedent's descendants by representation;

b. If there are no surviving descendants, to the decedent's parents equally if both survive, or to the surviving parent;

c. If there are no surviving descendants or parent, to the descendants of the decedent's parents or either of them by representation;

d. If there is no surviving descendant, parent or descendant of a parent, but the decedent is survived by one or more grandparents, half of the estate passes to the decedent's paternal grandparents equally if both survive, or to the surviving paternal grandparent, or to the descendants of the decedent's paternal grandparents or either of them if both are deceased, the descendants taking by representation; and the other half passes to the decedent's maternal relatives in the same manner; but if there is no surviving grandparent, or descendant of a grandparent on either the paternal or the maternal side, the entire estate passes to the decedent's relatives on the other side in the same manner as the half.

e. If there is no surviving descendant, parent, descendant of a parent, or grandparent, but the decedent is survived by one or more descendants of grandparents, the descendants take equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take by representation.

f. If there are no surviving descendants of grandparents, then the decedent's step-children or their descendants by representation.

48. Section 1 of P.L. 2001, c. 109 (C.3B:5-5.1) is amended to read as follows:

C.3B:5-5.1 Diligent inquiry by fiduciary to find heirs.

1. If it appears to a fiduciary administering an intestate estate that there may be individuals whose names or addresses are unknown who may be entitled to participate in the distribution of the estate, the fiduciary shall make a diligent inquiry, under the circumstances, to identify and locate the individuals. The actions taken by a fiduciary shall be those that have some reasonable likelihood of finding the individuals and are reasonable in cost compared with the amount of the distribution involved.

49. N.J.S.3B:5-6 is amended to read as follows:

Determining representation.

3B:5-6. a. As used in this section:

(1) "Deceased descendant," "deceased parent," or "deceased grandparent" means a descendant, parent or grandparent who either predeceased the decedent or is deemed to have predeceased the decedent under N.J.S.3B:5-1.

(2) "Surviving descendant" means a descendant who neither predeceased the decedent nor is deemed to have predeceased the decedent under N.J.S.3B:5-1.

b. If, under N.J.S.3B:5-4, a decedent's intestate estate or part thereof passes "by representation" to the decedent's descendants, the estate or part thereof is divided into as many equal shares as there are: (1) surviving descendants in the generation nearest to the decedent 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 decedent.

c. If, under section c. or d. of N.J.S.3B:5-4, a decedent's intestate estate or a part thereof passes "by representation" to the descendants of the dece-

dent's deceased parents or either of them or to the descendants of the decedent's deceased paternal or maternal grandparents or either of them, the estate or part thereof is divided into as many equal shares as there are: (1) surviving descendants in the generation nearest the deceased parents or either of them, or the deceased grandparents or either of them, that 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 decedent.

50. N.J.S.3B:5-8 is amended to read as follows:

After born heirs.

3B:5-8. An individual in gestation at a particular time is treated as living at that time if the person lives 120 hours or more after birth.

51. N.J.S.3B:5-9 is amended to read as follows:

Adopted child.

3B:5-9. If, for the purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through or from an individual, the relationships and rights of a minor adopted child shall be those as provided in section 14 of P.L.1977, c.367 (C.9:3-50), and the relationships and rights of an adopted adult shall be as provided in N.J.S.2A:22-3.

52. N.J.S.3B:5-10 is amended to read as follows:

Establishment of Parent-Child Relationship.

3B:5-10. If, for the purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from an individual, in cases not covered by N.J.S.3B:5-9, an individual is the child of the individual's parents regardless of the marital state of the individual's parents, and the parent and child relationship may be established as provided by the "New Jersey Parentage Act," P.L.1983, c.17 (C.9:17-38 et seq.). The parent and child relationship may be established for purposes of this section regardless of the time limitations set forth in subsection b. of section 8 of P.L.1983, c.17 (C.9:17-45).

53. N.J.S.3B:5-11 is amended to read as follows:

Debt to decedent.

3B:5-11. A debt owed to a decedent is not charged against the intestate share of any individual except the debtor. If the debtor fails to survive the decedent, the debt is not taken into account in computing the intestate share of the debtor's descendants.

54. N.J.S.3B:5-12 is amended to read as follows:

Aliens not disqualified; individuals related to decedent through two lines.

3B:5-12. a. An individual is not disqualified to take as an heir because he or an individual through whom he claims is or has been an alien.

b. An individual who is related to the decedent through two lines of relationship is entitled to only a single share based on the relationship that would entitle the individual to the larger share.

55. N.J.S.3B:5-13 is amended to read as follows:

Advancements.

3B:5-13. a. If an individual dies intestate as to all or a portion of his estate, property the decedent gave during the decedent's lifetime to an individual who, at the decedent's death, is an heir is treated as an advancement against the heir's intestate share only if: (1) the decedent declared in a contemporaneous writing or the heir acknowledged in writing that the gift is an advancement; or (2) the decedent's contemporaneous writing or the heir's written acknowledgment otherwise indicates that the gift is to be taken into account in computing the division and distribution of the decedent's intestate estate.

b. For purposes of subsection a., property advanced is valued as of the time the heir came into possession or enjoyment of the property or as of the time of the decedent's death, whichever occurs first.

c. If the recipient of the property fails to survive the decedent, the property is not taken into account in computing the division and distribution of the decedent's intestate estate, unless the decedent's contemporaneous writing or the heir's written acknowledgment provides otherwise.

56. N.J.S.3B:5-15 is amended to read as follows:

Entitlement of spouse; premarital will.

3B:5-15. a. If a testator's surviving spouse married the testator after the testator executed his will, the surviving spouse is entitled to receive, as an intestate share, no less than the value of the share of the estate she would have received if the testator had died intestate, unless:

(1) it appears from the will or other evidence that the will was made in contemplation of the testator's marriage to the surviving spouse;

(2) the will expresses the intention that it is to be effective notwithstanding any subsequent marriage; or

(3) the testator provided for the spouse by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by the testator's statements or is reasonably inferred from the amount of the transfer or other evidence.

b. In satisfying the share provided by this section, devises made by the will to the testator's surviving spouse, if any, are applied first, and other devises shall abate ratably and in proportion to their respective interests therein.

c. Notwithstanding any other provision of law to the contrary, this section shall apply only to wills executed on or after September 1, 1978.

57. N.J.S.3B:5-16 is amended to read as follows:

Omitted children.

3B:5-16. a. Except as provided in subsection b., if a testator fails to provide in his will for any of his children born or adopted after the execution of his will, the omitted after-born or after-adopted child receives a share in the estate as follows;

(1) If the testator had no child living when he executed the will, an omitted after-born or after-adopted child receives a share in the estate equal in value to that which the child would have received had the testator died intestate, unless the will devised all or substantially all of the estate to the other parent of the omitted child or to a trust primarily for the benefit of that other parent and that other parent survives the testator and is entitled to take under the will.

(2) If the testator had one or more children living when he executed the will, and the will devised property or an interest in property to one or more of the then-living children, an omitted after-born or after-adopted child is entitled to share in the testator's estate as follows:

(a) the portion of the testator's estate in which the omitted after-born or after-adopted child is entitled to share is limited to devises made to the testator's then-living children under the will.

(b) the omitted after-born or after-adopted child is entitled to receive the share of the testator's estate, as limited in subparagraph (a), that the child would have received had the testator included all omitted after-born and after-adopted children with the children to whom devises were made under the will and had given an equal share of the estate to each child.

(c) to the extent feasible, the interest granted an omitted after-born or after-adopted child under this section must be of the same character, whether equitable or legal, present or future, as that devised to the testator's then-living children under the will.

(d) in satisfying a share provided by this paragraph, devises to the testator's children who were living when the will was executed abate ratably. In abating the devises of the then-living children, the court shall preserve to the maximum extent possible the character of the testamentary plan adopted by the testator.

b. Neither subsection a. (1) nor subsection a. (2) applies if:

(1) it appears from the will that the omission was intentional; or

(2) the testator provided for the omitted after-born or after-adopted child by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by the testator's statements or is reasonably inferred from the amount of the transfer or other evidence.

c. If at the time of execution of the will the testator fails to provide in his will for a living child solely because he believes the child to be dead, the child is entitled to a share in the estate as if the child were an omitted after-born or after-adopted child.

d. The share provided by subsection a. (1) shall be taken from devisees under the will ratably and in proportion to their respective interests therein.

C.3B:7-1.1. Effect of intentional killing on intestate succession, wills, trusts, joint assets, life insurance and beneficiary designations.

58. 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 a person 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.

C.3B:7-1.2 Effect of revocation.

59. Provisions of a governing instrument are given effect as if the killer or relative of the killer disclaimed all provisions revoked by this chapter or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the killer or relative of the killer predeceased the decedent.

60. N.J.S.3B:7-5 is amended to read as follows:

Other acquisitions of property by decedent's killer.

3B:7-5. Any other acquisition of property or interest by the decedent's killer or by a relative of the killer not covered by this chapter shall be treated in accordance with the principle that a killer or a relative of a killer cannot profit from the killer's wrongdoing.

61. N.J.S.3B:7-6 is amended to read as follows:

Effect of final judgment of conviction.

3B:7-6. A final judgment of conviction establishing responsibility for the intentional killing of the decedent is conclusive for purposes of this chapter. In the absence of such a conviction the court may determine by a preponderance of evidence whether the individual was responsible for the intentional killing of the decedent for purposes of this chapter.

62. N.J.S.3B:7-7 is amended to read as follows:

Rights of purchasers; protection of payors and other third parties.

3B:7-7. This chapter does not affect the rights of any person who, before rights under this chapter have been adjudicated, purchases from the killer 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 killer would have acquired except for this chapter, but the killer is liable for the amount of the proceeds or the value of the property. 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 an intentional killing is not liable by reason of this chapter unless prior to such payment or

transfer it has received at its home office or principal address written notice of a claimed forfeiture or revocation under this chapter.

63. N.J.S.3B:9-1 is amended to read as follows:

Definitions.

3B:9-1. As used in this chapter:

a. A "present interest" is one to take effect in immediate possession, use or enjoyment without the intervention of a preceding estate or interest or without being dependent upon the happening of any event or thing;

b. A "future interest" is one to take effect in possession, use or enjoyment dependent upon the termination of an intervening estate or interest or the happening of any event or thing;

c. A "devisee" means any person designated in a will to receive a devise, but does not mean a trustee or trust designated in a will to receive a devise;

d. The "effective date" is the date on which a property right vests, or a contract right arises, even though the right is subject to divestment;

e. "Joint property" is property that is owned by two or more persons with rights of survivorship and includes a tenancy by the entirety, a joint tenancy, a joint tenancy with rights of survivorship and a joint life estate with contingent remainder in fee. For purposes of this chapter, joint property is deemed to consist of a present interest and a future interest. The future interest is the right of survivorship;

f. "Joint tenant" is the co-owner of joint property.

64. N.J.S.3B:9-2 is amended to read as follows:

Disclaimer of an interested party.

3B:9-2. a. Any person who is an heir, or a devisee or beneficiary under a will or testamentary trust, or appointee under a power of appointment exercised by a will or testamentary trust, including a person succeeding to a disclaimed interest, may disclaim in whole or in part any property or interest therein, including a future interest, by delivering and filing a disclaimer under this chapter.

b. Any person who is a grantee, donee, surviving joint tenant, surviving party to a P.O.D. account or a trust deposit account, person succeeding to a disclaimed interest, beneficiary under a nontestamentary instrument or contract, appointee under a power of appointment exercised by a nontestamentary instrument, or a beneficiary under an insurance policy, may disclaim in whole or in part any such property or interest therein by delivering, and if required by N.J.S. 3B:9-7, by filing, a written disclaimer under this chapter.

c. A surviving joint tenant may disclaim as a separate interest any property or interest therein devolving to him by right of survivorship without regard to the extent, if any, the surviving joint tenant contributed to the creation of the joint property interest.

d. A disclaimer may be of a pecuniary or a fractional share, expressed as either a percentage or dollar amount, specific property or any limited interest or estate.

65. N.J.S.3B:9-3 is amended to read as follows:

Requirements of a disclaimer.

3B:9-3. a. A disclaimer shall be in writing, signed and acknowledged by the person disclaiming, and shall:

(1) Describe the property, interest, power or discretion disclaimed;

(2) If the property interest disclaimed is real property, identify the municipality and county in which the real property is situated; and

(3) Declare the disclaimer and the extent thereof.

b. The disclaimer shall be made within the time prescribed by section 68 of P.L.2004, c.132 (C.3B:9-4.2).

66. N.J.S.3B:9-4 is amended to read as follows:

Disclaimer by a fiduciary of an interest in property.

3B:9-4. a. A fiduciary or agent acting on behalf of a principal within the express, general or implied authority of a power of attorney, may disclaim property or any interest therein.

b. Except as provided in subsection c. of this section, such disclaimer shall not be effective unless, prior thereto, the fiduciary or agent has been authorized to disclaim by the court having jurisdiction over the fiduciary or the principal after finding that such disclaimer is advisable and will not materially prejudice the rights of: (1) creditors, devisees, heirs or beneficiaries of the estate; (2) beneficiaries of the trust; or (3) the minor, the incapacitated individual, the conservatee or the principal for whom such fiduciary or agent acts.

c. If the governing instrument expressly authorizes the fiduciary or the agent to disclaim, the disclaimer by the fiduciary or agent shall be effective without court authorization.

C.3B:9-4.1 Disclaimer by a fiduciary of a power of discretion.

67. a. Any fiduciary, including an agent acting on behalf of a principal within the implied or general authority of a power of attorney, may disclaim any power or discretion held by such fiduciary in a fiduciary capacity. Unless the governing instrument specifically authorizes the fiduciary to

disclaim such power or discretion without obtaining court authorization to do so, the disclaimer by the fiduciary shall not be effective unless, prior thereto, such fiduciary has been authorized to disclaim by the court having jurisdiction over the fiduciary after finding that it is advisable and will not materially prejudice the rights of: (1) devisees, heirs, or beneficiaries of the decedent; (2) the minor, the incapacitated individual, the conservatee, or the principal; or (3) the beneficiaries of the trust.

b. Unless expressly authorized by the court or by the governing instrument:

(1) Any disclaimer under this section shall be personal to the fiduciary so disclaiming and shall not constitute a disclaimer by a co-fiduciary or a successor or substituted fiduciary of such power or discretion;

(2) No disclaimer shall affect the rights of: (a) devisees, heirs or beneficiaries of the decedent; (b) the minor, the incapacitated individual, the conservatee, or the principal; or (c) the beneficiaries of the trust.

C.3B:9-4.2 Time for disclaiming.

68. 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:9-10. 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.

69. N.J.S.3B:9-6 is amended to read as follows:

Delivering and filing disclaimer.

3B:9-6. a. The disclaimer of an interest by an intestate heir, or a person who is a devisee or beneficiary under a will or a testamentary trust or who is an appointee under a power of appointment exercised by a will or testamentary trust, including a person succeeding to a disclaimed interest, shall be filed in the office of the surrogate or clerk of the Superior Court in which proceedings have been commenced or will be commenced for the administration of the estate of the decedent or deceased donee of the power of appointment. A copy of the disclaimer shall also be delivered to any personal representative, or other fiduciary of the decedent or to the donee of the power or to the holder of the legal title to which the interest relates. The fiduciary shall promptly notify the person or persons who take the disclaimed interest,

although any such failure to provide the notice required herein shall not affect the validity of the disclaimer.

b. The disclaimer of an interest in property, other than property passing under or pursuant to a will or testamentary trust shall be delivered to the fiduciary, payor or other person having legal title to or possession of the property or interest disclaimed or who is entitled thereto in the event of disclaimer. Any fiduciary, payor or other person having title to or possession of the property or interest who receives such disclaimer shall promptly notify the person or persons who take the disclaimed interest, although any such failure to provide the notice required herein shall not affect the validity of the disclaimer.

c. In the case of a disclaimer by a fiduciary of a power or discretion:

(1) If such disclaimer is made after court authorization, the fiduciary shall deliver a copy to such person or persons and in such manner as shall be directed by the court; or

(2) If such disclaimer is made without court authorization pursuant to N.J.S.3B:9-4(a), the fiduciary shall deliver a copy to all co-fiduciaries, but if there are none, then to all persons whose property interests are affected by the disclaimer.

d. In the case of a will or testamentary trust or power of appointment under a will or testamentary trust, if real property or any interest therein is disclaimed, the surrogate or clerk of the Superior Court, as the case may be, shall forthwith forward a copy of the disclaimer for filing in the office of the clerk or register of deeds and mortgages of the county in which the real property is situated. In the case of a nontestamentary instrument or contract, if real property or any interest therein is disclaimed, the original thereof shall be filed in the office of the clerk or register of deeds and mortgages of the county in which the real property is situated.

e. For the purposes of this section, delivery may be effected: (1) in person; (2) by registered or certified mail; or (3) by another means which is reasonably likely to accomplish delivery.

70. N.J.S.3B:9-7 is amended to read as follows:

Recording of disclaimer where real property or interest therein is disclaimed.

3B:9-7. Each county clerk or register of deeds and mortgages shall provide a book to be entitled "Disclaimers," so arranged that he may record therein:

a. The name of the disclaimant;

b. The name of the decedent or the name of the donee of the power of appointment, the name of the trustee or other person having legal title to, or

possession of, the property or interest disclaimed or entitled thereto in the event of disclaimer or the name of the donee of the power of appointment;

c. The location of the property;

d. The file number of the county clerk's office or the office of register of deeds and mortgages indorsed upon each disclaimer filed;

e. The date of filing the disclaimer.

The county clerk or the register of deeds and mortgages shall maintain in the record an alphabetical index of the names of all disclaimants stated in any disclaimer file, and also keep in his office for public inspection, all disclaimers so filed therein.

71. N.J.S.3B:9-8 is amended to read as follows:

Effect of disclaimer.

3B:9-8. 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 disclaimant, 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.

72. N.J.S.3B:9-9 is amended to read as follows:

Bar of right to disclaim.

3B:9-9. a. The right of a person 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 is seized under judicial process issued against him; or

(5) the expiration of the permitted applicable perpetuities period; or

(6) a fraud on the person'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.

73. N.J.S.3B:9-10 is amended to read as follows:

Binding effect of disclaimer or waiver.

3B:9-10. The disclaimer or written waiver of the right to disclaim a property interest shall be binding upon the disclaimant or the person waiving and all persons claiming by, through or under him.

74. N.J.S.3B:9-11 is amended to read as follows:

Spendthrift provision not to affect right to disclaim.

3B:9-11. The right to disclaim a property interest exists notwithstanding any limitation on the interest of the disclaimant in the nature of a spendthrift provision or similar restriction or any restriction or limitation on the right to disclaim a property interest contained in the governing instrument.

75. N.J.S.3B:9-12 is amended to read as follows:

Right to disclaim, etc.; under other law not abridged.

3B:9-12. This chapter does not abridge the right of a person to waive, release, disclaim or renounce property or an interest therein under any other statute or law.

76. 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. 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.

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:9-10.

77. N.J.S.3B:10-3 is amended to read as follows:

When spouse entitled to assets without administration.

3B:10-3. Where the total value of the real and personal assets of the estate of an intestate will not exceed $20,000.00, the surviving spouse upon the execution of an affidavit before the surrogate of the county where the

intestate resided at his death, or, if then nonresident in this State, where any of the assets are located, or before the Superior Court, shall be entitled absolutely to all the real and personal assets without administration, and the assets of the estate up to $5,000.00 shall be free from all debts of the intestate. Upon the execution and filing of the affidavit as provided in this section, the surviving spouse shall have all of the rights, powers and duties of an administrator duly appointed for the estate. The surviving spouse may be sued and required to account as if he had been appointed administrator by the surrogate or the Superior Court. The affidavit shall state that the affiant is the surviving spouse of the intestate and that the value of the intestate's real and personal assets will not exceed $20,000.00, and shall set forth the residence of the intestate at his death, and specifically the nature, location and value of the intestate's real and personal assets. The affidavit shall be filed and recorded in the office of such surrogate or, if the proceeding is before the Superior Court, then in the office of the clerk of that court. Where the affiant is domiciled outside this State, the surrogate may authorize in writing that the affidavit be executed in the affiant's domicile before any of the officers authorized by R.S.46:14-7 and R.S.46:14-8 to take acknowledgments or proofs.

78. N.J.S.3B:10-4 is amended to read as follows:

When heirs entitled to assets without administration.

3B:10-4. Where the total value of the real and personal assets of the estate of an intestate will not exceed $10,000.00 and the intestate leaves no surviving spouse, and one of his heirs shall have obtained the consent in writing of the remaining heirs, if any, and shall have executed before the surrogate of the county where the intestate resided at his death, or, if then nonresident in this State, where any of the intestate's assets are located, or before the Superior Court, the affidavit herein provided for, shall be entitled to receive the assets of the intestate of the benefit of all the heirs and creditors without administration or entering into a bond. Upon executing the affidavit, and upon filing it and the consent, he shall have all the rights, powers and duties of an administrator duly appointed for the estate and may be sued and required to account as if he had been appointed administrator by the surrogate or the Superior Court.

The affidavit shall set forth the residence of the intestate at his death, the names, residences and relationships of all of the heirs and specifically the nature, location and value of the real and personal assets and also a statement that the value of the intestate's real and personal assets will not exceed $10,000.00.

The consent and the affidavit shall be filed and recorded, in the office of the surrogate or, if the proceeding is before the Superior Court, then in the office of the clerk of that court. Where the affiant is domiciled outside this State, the surrogate may authorize in writing that the affidavit be executed in the affiant's domicile before any of the officers authorized by R.S.46:14-7 and R.S.46:14-8 to take acknowledgments or proofs.

C.3B:9-14 Federal law.

79. The provisions of this chapter, as amended and supplemented by P.L.2004, c.132 (C.3B:3-33.1 et al.) are not intended to enlarge, limit, modify or otherwise affect the federal requirements for a qualified disclaimer under 26 U.S.C. section 2518 or 26 U.S.C. section 2046.

80. N.J.S.3B:14-24 is amended to read as follows:

Authorization to exercise other powers.

3B:14-24. The court having jurisdiction of the estate or trust may authorize the fiduciary to exercise any other power or to disclaim any power, if the court determines such exercise or disclaimer is necessary or advisable which in the judgment of the court is necessary for the proper administration of the estate or trust.

C.3B:17-13 Effect of nonjudicial settlement or waiver of account.

81. Unless the governing instrument expressly provides otherwise, an instrument settling or waiving an account, executed by all persons whom it would be necessary to join as parties in a proceeding for the judicial settlement of the account, shall be binding and conclusive on all other persons who may have a future interest in the property to the same extent as that instrument binds the person who executed it.

82. N.J.S.3B:22-2 is amended to read as follows:

Order of priority of claims when assets insufficient.

3B:22-2. If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

a. Reasonable funeral expenses;

b. Costs and expenses of administration;

c. Debts and taxes with preference under federal law or the laws of this State, including debts for the reasonable value of services rendered to the decedent by the Office of the Public Guardian for Elderly Adults;

d. Reasonable medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him;

e. Judgments entered against the decedent according to the priorities of their entries respectively;

f. All other claims.

No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due. The commencement of an action against the personal representative for the recovery of a debt or claim or the entry of a judgment thereon against the personal representative shall not entitle such debt or claim to preference over others of the same class.

83. N.J.S.3B:22-3 is amended to read as follows:

Abatement for purpose of paying claims and debts.

3B:22-3. The property of a decedent's estate shall abate for the purposes of paying debts and claims in the order prescribed in N.J.S.3B:23-12.

84. N.J.S.3B:22-4 is amended to read as follows:

Limitation of time to present claims of creditors to personal representative; discharge of personal representative where claim is not duly presented before distribution.

3B:22-4. Creditors of the decedent shall present their claims to the personal representative of the decedent's estate in writing and under oath, specifying the amount claimed and the particulars of the claim, within nine months from the date of the decedent's death. If a claim is not so presented to the personal representative within nine months from the date of the decedent's death, the personal representative shall not be liable to the creditor with respect to any assets which the personal representative may have delivered or paid in satisfaction of any lawful claims, devises or distributive shares, before the presentation of the claim.

85. N.J.S.3B:22-39 is amended to read as follows:

"Heirs and devisees" defined.

3B:22-39. As used in this article, heirs and devisees shall include the heirs and devisees of a deceased debtor and the heirs and devisees of any of them, who shall have died before the commencement of the action, authorized by this article, to whom any of the real or personal property, of which the debtor died seized or possessed, descended or was devised.

86. N.J.S.3B:23-12 is amended to read as follows:

Abatement generally.

3B:23-12. Except as provided in N.J.S.3B:23-14 and except as provided in connection with the share of a surviving spouse who elects to take an

elective share, shares of distributees abate, without any preference or priority as between real and personal property, in the following order:

a. Property passing by intestacy;

b. Residuary devises;

c. General devises;

d. Specific devises; and

e. Abatement within each classification is in proportion to the amount of property each of the beneficiaries would have received if full distribution of the property had been made in accordance with the terms of the will.

87. 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. 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 person 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.

88. 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. 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 him 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.

89. 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. The widow or widower, whether alien or not, of a person dying intestate or otherwise, shall be endowed for the term of her or 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.

90. 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 in real property shall arise if, on or after May 28, 1980, a person shall become married, or such person or another to his or her use, shall become seized of an estate of inheritance.

91. 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. a. During life every married person shall be entitled to joint possession with his or her 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 a person 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.

92. 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. 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 person; 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.46:2E-14 Disclaimer of interests previously governed by P.L.1979, c.492 (C.46:2E-1 to 46:2E-13).

93. A disclaimer of an interest by any person who is a grantee, donee, surviving joint tenant, surviving tenant by the entirety, surviving party to a joint deposit account, a P.O.D. account or a trust deposit account, person succeeding to a disclaimed interest, beneficiary under a nontestamentary instrument or contract, appointee under a power of appointment exercised by a nontestamentary instrument or a beneficiary under an insurance policy is governed by N.J.S.3B:9-1 et seq., as amended and supplemented by P.L.2004, c.132 (C.3B:3-33.1 et al.).

Repealer.

94. The following are hereby repealed:
N.J.S.3B:4-6;
N.J.S.3B:7-1 through 3B:7-4, inclusive;
N.J.S.3B:9-5;
N.J.S.3B:22-9; and
Laws of P.L.1979, c.492 (C.46:2E-1 to 46:2E-13 both inclusive).

95. This act shall take effect on the 180th day after enactment.

Approved August 31, 2004.

CHAPTER 133

AN ACT appropriating $1,080,000 from the "1996 Dredging and Containment Facility Fund," established pursuant to section 18 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, for a feasibility study.

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

1. There is appropriated to the Department of Environmental Protection from the "1996 Dredging and Containment Facility Fund," established pursuant to section 18 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, the sum of $1,080,000 for the remaining portion of the State share of the cost of the Intracoastal Waterway Feasibility Study.

2. Any transfer of funds appropriated by this act shall require the approval of the Joint Budget Oversight Committee or its successor.

3. The expenditure of the funds appropriated by this act is subject to the provisions and conditions of P.L.1996, c.70, and to any regulations adopted by the Department of Environmental Protection pursuant thereto.

4. This act shall take effect immediately.

Approved August 31, 2004.

CHAPTER 134

AN ACT concerning the regulation of security guards, supplementing Title 45 of the Revised Statutes and amending P.L.1939, c.369 and P.L.1971, c.342.

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

C.45:19A-1 Short title.

1. This act shall be known and may be cited as the "Security Officer Registration Act."

C.45:19A-2 Definitions relative to security officers.

2. As used in this act:

a. "Owner" or "operator" means an officer, director, member, sole proprietor, partner or associate of a private security company.

b. "Security officer" means any person who performs any of the following functions or activities as an employee, agent or subcontractor of a security officer company as defined in subsection c. of this section for a fee, hire or reward, notwithstanding the fact that other functions and activities may also be performed by the same person for fee, hire or reward:

(1) protection of person or property, real or personal, from injury or harm or for any other purpose whatsoever;

(2) deterrence, observation, detection or reporting of incidents and activities for the purpose of preventing the theft, or the unlawful taking, conversion, concealment or misappropriation of goods, wares, merchandise, money, bonds, stocks, notes or other valuable instruments, documents, papers or articles; or

(3) deterrence, observation, detection or reporting of incidents and activities for the purpose of preventing any unauthorized or unlawful activity, including but not limited to, robbery, burglary, arson, criminal mischief, vandalism or trespass.

The term shall not mean or include, and nothing in this act shall apply to, any law enforcement officer of this State, or any political subdivision of the State, while in the actual performance of his duties. For the purposes of this section, a law enforcement officer shall be deemed to be in the actual performance of his duties if the law enforcement officer is in uniform, or is exhibiting evidence of his authority, is performing public safety functions on behalf of and as assigned by his chief of police or the chief law enforcement officer of his law enforcement agency and is receiving compensation, if any, from his law enforcement agency at the rates or stipends as are established by law. A law enforcement officer shall not be deemed to be in the actual performance of his duties, for the purposes of this section, if the law enforcement officer is performing private security functions or activities for a private employer while receiving compensation for those duties from the private employer, and a law enforcement officer shall not wear his uniform, or otherwise exhibit evidence of his authority as a law enforcement officer, while performing private security functions or activities for a private employer.

c. "Security officer company" means any body, board, person, firm, corporation, partnership, proprietorship, joint venture, fund, authority or similar entity that is organized for the purpose of or primarily engages in the business of furnishing for a fee, hire, reward or compensation one or more security officers. The term shall not mean or include, and nothing in this act shall apply to, any board, body, commission or agency of the United States of America or of this State or any other state, territory or possession of the United States of America, or any county, municipality or school district or any officer or employee solely, exclusively and regularly employed by any

of the foregoing. The term shall include any business of watch, guard or patrol agency.

d. "Superintendent" means the Superintendent of the Division of State Police in the Department of Law and Public Safety.

C.45:19A-3 Licensing of security officer companies; requirements.

3. a. No person shall engage in the business of a security officer company, or advertise or hold out a business to be a security officer company, unless the business is licensed by the superintendent as set forth in this section. Any person who violates the provisions of this section shall be guilty of a crime of the fourth degree.

b. An application to be licensed as a security officer company shall be submitted to the superintendent by each owner and operator of the company, on a form and in a manner prescribed by the superintendent, and shall contain the following information:

(1) the full name, age, which shall be at least 25 years, and residence of the owners or operators of the security officer company;

(2) the full and complete employment history of the owners or operators;

(3) that the owners or operators have five years' law enforcement experience and are no longer employed by or attached in any capacity whatsoever to a law enforcement agency, or five years' experience working in a supervisory or management capacity for a licensed security officer company;

(4) the municipality and location of the security company's principal place of business and any office, bureau, agency or subdivision of the company; and

(5) such further information as the superintendent may require to show the good character, competency and integrity of the owners or operators of the security officer company.

Each application shall be accompanied by the written approval, for each owner or operator of the security officer company, of not less than five reputable citizens who have known the applicant for at least three years preceding the date of application and who shall certify that the applicant is a person of good moral character and behavior.

Any person who shall knowingly make a false statement in or knowingly omit any material information from the application required by this subsection shall be guilty of a crime of the fourth degree in addition to any other crime or offense specified by law.

c. No security officer company shall be licensed under the provisions of this section if any owner or operator of the company has been convicted, as indicated by a criminal history record background check performed pursuant to the provisions of this section, of: a crime of the first, second, third or fourth degree; any offense involving the unlawful use, possession

or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2; or any offense where the issuance of a license would be contrary to the public interest, as determined by the superintendent. The fingerprints of each owner or operator and the written consent of the owner or operator shall be submitted to the superintendent for a criminal history record background check to be performed. The superintendent shall compare these fingerprints with fingerprints on file with the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The owner or operator shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

d. The superintendent, when satisfied with the examination of any application and such further inquiry and investigations as he shall deem proper as to the good character, competency and integrity of the applicant, shall issue a license to an approved security officer company upon payment of a fee in an amount established by the superintendent by rule and regulation and execution of a bond in a manner, form and amount satisfactory to the superintendent as established by rule and regulation. The license shall be renewable every two years upon payment of a renewal fee in an amount established by the superintendent by rule and regulation. The license may be revoked or suspended by the superintendent for a violation of any of the provisions of this act or for other good cause.

e. The revocation or suspension of any license by the superintendent shall be subject to notice and a hearing.

f. A person who, as an owner or operator of a licensed security officer company employs a security officer who is not registered with the superintendent as required under section 4 of this act shall be guilty of a crime of the fourth degree in addition to any other crime or offense specified by law. Each violation of this section shall constitute a separate offense.

Each owner and operator of a licensed security officer company shall be liable, accountable and responsible for the actions and conduct in connection with the employer's business of each security officer employed by the company.

g. A security officer company shall require each person in its employ to execute and furnish a verified statement, to be known as an "employee's statement," which shall set forth the employee's full name, age, residence, place and date of birth and such other information as the superintendent shall require by rule or regulation. The security officer company shall retain in safe keeping each "employee's statement." The superintendent shall at all times be given access to and may from time to time examine each "employee's statement" retained by the security officer company as provided in this subsection.

h. A security officer company shall immediately but in no case after 48 hours, notify the superintendent if a security officer is terminated for cause at any time.

C.45:19A-4 Registration required for security officers.

4. a. No person shall be employed as, or perform the functions and activities of, a security officer unless that person is registered with the superintendent as required in this section. Any person who violates the provisions of this section shall be guilty of a crime of the fourth degree.

b. An application for registration as a security officer shall be filed with the superintendent on a form and in a manner prescribed by the superintendent and shall set forth under oath:

(1) the applicant's full name, age, which shall be at least 18 years, and residence;

(2) the name and address of all employers or occupations engaged in for the immediately preceding five years;

(3) that the applicant has not been convicted of any disqualifying crime or offense as set forth in subsection c. of this section; and

(4) such further information as the superintendent may require to show the good character, competency and integrity of the applicant.

Any person who shall knowingly make a false statement in, or knowingly omit any material information from, an application as required by this subsection shall be guilty of a crime of the fourth degree in addition to any other crime or offense specified by law.

c. No person shall be issued a certificate of registration as a security officer under the provisions of this section if the person has been convicted, as indicated by a criminal history record background check performed pursuant to the provisions of this section, of: a crime of the first, second, third or fourth degree; any offense involving the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2; or any offense where the registration of the individual would be contrary to the public interest, as determined by the superintendent. Each applicant shall submit to the superintendent the applicant's fingerprints and written consent for a criminal history record background check to be performed. The superintendent shall compare these to fingerprints on file with the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation, consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

d. A person whose application has been approved by the superintendent shall complete the required education and training program established in

section 5 of this act. Upon satisfactory completion of this program, and upon the payment of a fee in an amount established by the superintendent, the applicant shall be entitled to and the superintendent shall issue and deliver to the applicant a security officer certificate of registration.

e. The superintendent may revoke or suspend such certificate of registration for a violation of any of the provisions of this act or for other good cause. A certificate of registration shall be surrendered to the superintendent within 72 hours after its term has expired or after notice in writing to the holder that the certificate of registration has been revoked.

f. The certificate of registration shall be renewed every two years upon forms prescribed by the superintendent and payment of a fee in an amount established by the superintendent by rule and regulation. The certificate of registration may be renewed without further investigation unless it is deemed by the superintendent that the applicant no longer qualifies or verified objections to the renewal are received by the superintendent prior to issuance.

g. The revocation or suspension of any certificate of registration by the superintendent shall be subject to notice and a hearing.

C.45:19A-5 Establishment of education and training program.

5. a. An education and training program for security officers shall be established by the superintendent through rule and regulation. The program shall consist of such subjects and courses as the superintendent may deem appropriate and shall include a minimum number of hours of classroom or other instruction.

b. In implementing and administering the education and training program required in subsection a. of this section, the superintendent shall have the power:

(1) to implement and administer or approve the minimum courses of study and training;

(2) to implement and administer or approve physical and psychological testing and screening of applicants;

(3) to issue certificates of approval to schools approved by the superintendent and to withdraw certificates of approval from those schools disapproved by the superintendent;

(4) to certify instructors pursuant to the minimum qualifications established by the superintendent;

(5) to consult and cooperate with universities, colleges, community colleges and institutes for the development of specialized courses for security officers;

(6) to consult and cooperate with departments and agencies of this State, other states and the federal government concerned with training of security officers;

(7) to certify those persons who have satisfactorily completed basic educational and training requirements;

(8) to annually visit and inspect approved schools;

(9) to establish reasonable charges for training and education provided by the superintendent; and

(10) to make such rules and regulations and to perform such other duties as may be reasonably necessary or appropriate to implement the education and training program.

C.45:19A-6 Issuance of identification card to registered security officer.

6. a. The superintendent shall cause to be issued to a registered security officer an identification card containing such information as the superintendent shall prescribe. The identification card shall incorporate appropriate security features.

b. A person who is issued an identification card pursuant to subsection a. of this section shall be responsible for its safekeeping and shall not lend, let or allow any other person to use, possess, exhibit or display the card.

c. No person shall use, possess, exhibit or display any license, card, shield or badge of any design or material purporting to authorize the holder or wearer to act as a security officer, unless such person holds a valid certificate of registration as a security officer pursuant to section 4 of this act.

d. If it is established to the satisfaction of the superintendent that an identification card has been lost or destroyed, the superintendent shall, upon payment of an appropriate fee, cause to be issued a duplicate identification card for the unexpired portion of the term of the registration.

e. Any person who violates the provisions of this section shall be guilty of a crime of the fourth degree in addition to any other crime or offense specified by law.

C.45:19A-7 Electronic registry of security officers; registration fee.

7. a. The superintendent shall develop and maintain an electronic database or similar electronic registry, which shall be accessible by licensed security officer companies, and which shall list all persons who are registered as security officers pursuant to the provisions of this act and such other information as the superintendent shall require by rule and regulation.

b. Each applicant for a certificate of registration as a security officer shall pay a fee to the superintendent in an amount established by the superintendent by rule and regulation. These fees shall be used exclusively for the development and maintenance of the electronic database or registry established pursuant to subsection a. of this section.

C.45:19A-8 Additional penalties.

8. a. In addition to any other penalties prescribed by this act or any other law, an owner or operator of a licensed security officer company who employs a security officer in violation of the provisions of this act shall be liable to a civil penalty not to exceed $10,000 for the first offense and not more than $20,000 for a second or subsequent offense. For the purposes of this subsection, each violation shall constitute a separate offense.

b. In addition to any other penalties prescribed by this act or any other law, a person who permits himself to be employed as or performs the functions and activities of a security officer while in violation of the provisions of this act shall be liable to a civil penalty not to exceed $1,000 for a first offense and not more than $2,500 for a second or subsequent offense. For the purposes of this subsection, each violation shall constitute a separate offense.

c. A penalty imposed under subsection a. or b. of this section shall be recovered in a civil action pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

C.45:19A-9 Powers of superintendent.

9. For the purpose of investigating whether a person has engaged in, or is engaging in, any act or practice declared unlawful under this act, or for the purpose of investigating the character, competency, integrity or methods of operation of applicants, licensees or registrants hereunder, or of any owner or operator of any licensed security officer company, the superintendent shall have the power to:

a. Require any person to file on such form as may be prescribed by the superintendent, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning any matter being investigated;

b. Administer oaths or affirmations and examine any person in connection with any investigation;

c. Inspect any premises and examine and impound any record, book, computer, electronic database, recording device, document, account, paper or other tangible thing, without prior notification, in connection with any investigation;

d. Hold investigative hearings and issue subpoenas to compel the attendance of any person or the production of any record, book, computer, electronic database, recording device, document, account, paper or other tangible thing in connection with any investigation; and

e. Apply to the Superior Court for an order compelling compliance with any subpoena or other request for information.

C.45:19A-10 Violations; revocation, suspension of license; prosecution.

10. A violation of any of the provisions of this act shall be cause for revocation or suspension of any license or registration issued hereunder, notwithstanding that the same violation may constitute a crime or other offense under the laws of this State or any other state or jurisdiction. An indictment, prosecution and conviction arising out of any of the provisions of this act shall not be construed to preclude, if the evidence so warrants, an indictment, prosecution and conviction for any other crime or offense in this State or any other state or jurisdiction.

C.45:19A-11 Compliance required by March 1, 2006.

11. Each owner or operator of a security officer company and each person employed as a security officer on the effective date of this act shall comply with the requirements of this act by the first day of the seventh month after its effective date.

C.45:19A-12 Rules, regulations.

12. The superintendent shall promulgate rules and regulations necessary to carry out the provisions of this act.

13. Section 2 of P.L.1939, c.369 (C.45:19-9) is amended to read as follows:

C.45:19-9 Definitions.

2. Definitions:

(a) The term "private detective business" shall mean the business of conducting a private detective agency or for the purpose of making for hire or reward any investigation or investigations for the purpose of obtaining information with reference to any of the following matters, notwithstanding the fact that other functions and services may also be performed by the same person, firm, association or corporation for fee, hire or reward, to wit: (1) crime or wrong done or threatened or assumed to have been done or threatened against the Government of the United States of America, or any State, Territory or Possession of the United States of America; (2) the identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation or character of any person, association, organization, society or groups of persons, firms or corporations; (3) the credibility of witnesses or other persons; (4) the whereabouts of missing persons; (5) the location or recovery of lost or stolen property; (6) the causes and origin of, or responsibility for, fires, libels, accidents, damage, injuries or losses to persons, firms, associations or corporations, or to real or personal property; (7) the affiliation, connection or relation of any person, firm or corporation with any organization, society, association, or with any official member or

representative thereof; (8) with reference to the conduct, honesty, efficiency, loyalty or activities of employees, agents, contractors and subcontractors; (9) the securing of evidence to be used before any investigating committee, board of award, board of arbitration, or in the trial of any civil or criminal cause; provided, however, that the term shall not include a person, firm, association or corporation engaged exclusively in the business of making investigations and reports as to the financial standing, credit and financial responsibility of persons, firms, associations or corporations nor to electrically controlled burglar or fire alarm system with a central unit, nor to any person, firm, association or corporation engaged in the business of making reports for insurance or credit purposes. The term shall not include and nothing in this act shall apply to any lawful activity of any board, body, commission or agency of the United States of America or of any State, Territory or Possession of the United States of America, or any county, municipality, school district, or any officer or employee solely, exclusively and regularly employed by any of the foregoing; nor to any attorney or counselor-at-law in connection with the regular practice of his profession, nor to any person employed by any such attorney or counsellor-at-law when engaged upon his employer's business; nor to any employee, investigator or investigators solely, exclusively and regularly employed by any person, firm, association or corporation which is not engaged in any of the businesses hereinbefore described in items numbered one to nine, both inclusive, of this subsection insofar as their acts may relate solely to the business of the respective employers; nor to any person, firm, association or corporation licensed to do a business of insurance of any nature under the insurance laws of this State, nor to any employee or licensed agent thereof; nor to any person, firm, association or corporation conducting any investigation solely for its own account.

(b) The terms "the business of detective agency" and "the business of investigator" shall mean any person, firm, association or corporation engaged in the private detective business as defined in subsection (a) of this section, who employs one or more persons in conducting such business, but shall not include the business of watch, guard or patrol agency.

(c) The terms "private detective" or "investigator" shall mean and include any person who singly and for his own account and profit conducts a private detective business without the aid or assistance of any employees or associates.

(d) The masculine shall include the feminine and the neuter genders.

(e) The term "superintendent" means the Superintendent of State Police.

(f) The terms "firm" and "association" shall include partnerships, but shall not include corporations.

14. Section 3 of P.L.1971, c.342 (C.45:19-12.1) is amended to read as follows:

C.45:19-12.1 Employees of licensee; fees payable, violations, penalties.

3. a. Subsequent to the effective date of this act, every licensee shall pay to the superintendent an additional fee of $15.00 for each person in its employ engaged in said employment in this State as a private detective or investigator. Any licensee who shall employ any person in the aforementioned categories subsequent to its securing a license or renewal thereof and for whom the fee of $15.00 has not been paid shall pay the fee of $15.00 for each of said persons prior to the commencement of said employment with the licensee. Thereafter any licensee at the time of any renewal if its license hereunder shall pay a renewal fee of $5.00 for each of said employees in the aforementioned categories for whom an initial fee of $15.00 has been paid by said licensee.

b. Any licensee who shall employ any person in the aforementioned categories in subsection a. above without having paid the fees in accordance with said subsection a. shall be a disorderly person.

15. Section 12 of P.L.1939, c.369 (C.45:19-19) is amended to read as follows:

C.45:19-19 Badge, shield, certain; prohibited, violations deemed misdemeanor.

12. No person licensed under the provisions of this act, or the officers, directors, employees, operators or agents thereof, shall wear, carry or accept any badge or shield purporting to indicate that such person is a private detective or investigator or connected with the private detective business. Any person violating the provisions of this section shall be guilty of a misdemeanor.

16. This act shall take effect on the 365th day after enactment, except that the superintendent may take, prior to the effective date, such anticipatory administrative action as shall be necessary for the implementation of this act

Approved August 31, 2004.

CHAPTER 135

AN ACT concerning the Delaware River and Bay Authority and authorizing a certain project.

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

C.32:11E-1.11 Project in Gloucester County, certain, authorized.

1. For the purposes of complying with the provisions of section 1 of P.L.1989, c.191 (C.32:11E-1.1), the Delaware River and Bay Authority created pursuant to the "Delaware-New Jersey Compact," enacted pursuant to 53 Laws of Delaware, Chapter 145 (17 Del. C. s. 1701 et seq.) and P.L.1961, c.66 (C.32:11E-1 et seq.) with the consent of the Congress of the United States in accordance with Pub.L.87-678 (1962), is authorized, pursuant to the procedures set forth in section 1 of P.L.1989, c.191 (C.32:11E-1.1), to undertake a project in Gloucester County for the development of a building within the South Jersey Technology Park at Rowan University, including the leasing of a site for the project and the planning, development, financing, construction, operation, maintenance, improvement and purchase thereof, and the authority to lease and to sell the same, which shall be considered a project of the authority as defined pursuant to Article II of the "Delaware-New Jersey Compact," P.L.1961, c.66, as amended by P.L.1989, c.192 (C.32:11E-1 et seq.), P.L.2001, c.414 (C.32:11E-1 et seq.) and P.L.2003, c.192 (C.32:11E-1 et seq.)

Not less than the prevailing wage rate shall be paid to workers employed in the performance of any construction contract undertaken in connection with a project authorized pursuant to this section. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.).

2. This act shall take effect immediately.

Approved August 31, 2004.

CHAPTER 136

AN ACT concerning the designation of stroke centers, supplementing P.L.1971, c.136 (C.26:2H-1 et seq.) and making an appropriation.

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

C.26:2H-12.27 Findings, declarations relative to designation of stroke centers.

1. The Legislature finds and declares that:

a. Despite significant advances in diagnosis, treatment and prevention, stroke remains a common disorder; an estimated 700,000 to 750,000 new

and recurrent strokes occur each year in this country; and with the aging of the population, the number of persons who have strokes is projected to increase;

b. Although new treatments are available to improve the clinical outcomes of stroke, many acute care hospitals lack the necessary staff and equipment to optimally triage and treat stroke patients, including the provision of optimal, safe and effective emergency care for these patients;

c. Two levels of stroke centers should be established for the treatment of acute stroke. Primary stroke centers should be established in as many acute care hospitals as possible. These centers would evaluate, stabilize and provide emergency care to patients with acute stroke and then, depending on the patient's needs and the center's capabilities, either admit the patient and provide inpatient care or transfer the patient to a comprehensive stroke center. Comprehensive stroke centers should be established in hospitals that meet the criteria set forth in this act, to ensure coverage for all patients throughout the State who require this level of care. These centers would provide complete and specialized care to patients who experience the most complex strokes, which require specialized testing, highly technical procedures and other interventions. Also, these centers would provide education and guidance to affiliated primary stroke centers;

d. There is a public health need for acute care hospitals in this State to establish stroke centers to ensure the rapid triage, diagnostic evaluation and treatment of patients suffering a stroke. This should result in increased survival and a decrease in the disabilities associated with stroke; and

e. Therefore, it is in the best interest of the residents of this State to establish a program to designate stroke centers throughout the State, to provide specific patient care and support services criteria that stroke centers must meet in order to ensure that stroke patients receive safe and effective care, and to provide financial support to acute care hospitals to encourage them to develop stroke centers in all areas of the State.

C.26:2H-12.28 Designation of hospitals as stroke centers.

2. The Commissioner of Health and Senior Services shall designate hospitals that meet the criteria set forth in this act as primary or comprehensive stroke centers.

a. A hospital shall apply to the commissioner for designation and shall demonstrate to the satisfaction of the commissioner that the hospital meets the criteria set forth in section 3 or 4 of this act for a primary or comprehensive stroke center, respectively.

b. The commissioner shall designate as many hospitals as primary stroke centers as apply for the designation, provided that the hospital meets the criteria set forth in section 3 of this act. In addition to the criteria set forth

in section 3 of this act, the commissioner is encouraged to take into consideration whether the hospital contracts with carriers that provide coverage through the State Medicaid program, established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), the Children's Health Care Coverage Program, established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.), and the FamilyCare Health Coverage Program, established pursuant to P.L.2000, c.71 (C.30:4J-1 et seq.).

c. The commissioner shall designate as many hospitals as comprehensive stroke centers as apply for the designation, provided that the hospital meets the criteria set forth in section 4 of this act.

d. The commissioner may suspend or revoke a hospital's designation as a stroke center, after notice and hearing, if the commissioner determines that the hospital is not in compliance with the requirements of this act.

C.26:2H-12.29 Minimum criteria for primary stroke centers.

3. A hospital designated as a primary stroke center shall, at a minimum, meet the following criteria:

a. With respect to patient care, the hospital shall:

(1) maintain acute stroke team availability to see an emergency department patient within 15 minutes of arrival at the emergency department, 24 hours a day, seven days a week;

(2) maintain written care protocols and standing orders for emergency care of stroke patients;

(3) maintain neurology and emergency department personnel trained in the diagnosis and treatment of acute stroke;

(4) maintain telemetry or critical care beds staffed by physicians and nurses who are trained and experienced in caring for acute stroke patients;

(5) provide for neurosurgical services, including operating room availability either at the hospital or under agreement with a comprehensive stroke center, within two hours, 24 hours a day, seven days a week;

(6) provide acute care rehabilitation services; and

(7) enter into and maintain a written transfer agreement with a comprehensive stroke center so that patients with complex strokes can be transported to the comprehensive center for care when clinically warranted.

b. With respect to support services, the hospital shall:

(1) demonstrate an institutional commitment and support of a stroke center, including having a designated physician stroke center director with special training and experience in caring for patients with stroke;

(2) maintain neuro-imaging services capability, which shall include computerized tomography scanning or magnetic resonance imaging and interpretation of the image, that is available 24 hours a day, seven days a week, within 25 minutes of order entry;

(3) maintain laboratory services capability, which shall include blood testing, electrocardiography and X-ray services that are available 24 hours a day, seven days a week, within 45 minutes of order entry;

(4) develop and maintain outcomes and quality improvement activities, which include a database or registry to track patient outcomes. These data shall include, at a minimum: (a) the number of patients evaluated; (b) the number of patients receiving acute interventional therapy; (c) the amount of time from patient presentation to delivery of acute interventional therapy; (d) patient length of stay; (e) patient functional outcome; and (f) patient morbidity. A primary stroke center may share these data with its affiliated comprehensive stroke center for the purposes of quality improvement and research;

(5) provide annual continuing education on stroke to support and emergency services personnel regarding stroke diagnosis and treatment, which will be the responsibility of the stroke center director;

(6) require the stroke center director to obtain a minimum of eight hours of continuing education on stroke each year; and

(7) demonstrate a continuing commitment to ongoing education to the general public about stroke, which includes conducting at least two programs annually for the general public on the prevention, recognition, diagnosis and treatment of stroke.

C.26:2H-12.30 Minimum criteria for comprehensive stroke centers.

4. A hospital designated as a comprehensive stroke center shall use proven state-of-the-art technology and medical techniques and, at a minimum, meet the criteria set forth in this section.

a. The hospital shall meet all of the criteria required for a primary stroke center pursuant to section 3 of this act.

b. With respect to patient care, the hospital shall:

(1) maintain a neurosurgical team that is capable of assessing and treating complex stroke and stroke-like syndromes;

(2) maintain on staff a neuro-radiologist with Certificate of Added Qualifications and a physician with neuro-interventional angiographic training and skills;

(3) provide comprehensive rehabilitation services either on site or by transfer agreement with another health care facility; and

(4) enter into and maintain written transfer agreements with primary stroke centers to accept transfer of patients with complex strokes when clinically warranted.

c. With respect to support services, the hospital shall:

(1) have magnetic resonance imaging and computed tomography angiography capabilities;

(2) have digital subtraction angiography and a suite equipped for neuro-interventional procedures;

(3) develop and maintain sophisticated outcomes assessment and performance improvement capability that incorporates data from affiliated primary stroke centers and integrates regional, State and national data;

(4) provide guidance and continuing medical education to primary stroke centers;

(5) provide graduate medical education in stroke; and

(6) conduct research on stroke-related topics.

d. If the Commissioner of Health and Senior Services determines that a new drug, device, technique or technology has become available for the treatment of stroke that provides a diagnostic or therapeutic advantage over existing elements included in the criteria established in this section or in section 3 of this act, the commissioner may, by regulation, revise or update the criteria accordingly.

C.26:2H-12.31 Awarding of matching grants to designated stroke centers.

5. a. In order to encourage and ensure the establishment of stroke centers throughout the State, the Commissioner of Health and Senior Services shall award matching grants to hospitals that seek designation as stroke centers and demonstrate a need for financial assistance to develop the necessary infrastructure, including personnel and equipment, in order to satisfy the criteria for designation provided pursuant to this act. The matching grants shall not exceed $250,000 or 50% of the hospital's cost for developing the necessary infrastructure, whichever is less.

b. A hospital seeking designation as a stroke center shall apply to the commissioner for a matching grant, in a manner and on a form required by the commissioner, and provide such information as the commissioner deems necessary to determine if the hospital is eligible for the grant.

c. The commissioner may provide matching grants to as many hospitals as the commissioner deems appropriate, except that:

(1) Matching grant awards shall be made to at least two applicant hospitals in the northern region of this State (comprising Bergen, Hudson, Essex, Passaic, Morris, Sussex, and Warren counties), at least two applicant hospitals in the central region of this State (comprising Union, Somerset, Hunterdon, Mercer, Middlesex, and Monmouth counties) and at least two applicant hospitals in the southern region of this State (comprising Burlington, Camden, Gloucester, Salem, Cumberland, Cape May, Atlantic, and Ocean counties), provided in the case of each region that the applicant hospitals receiving the awards must be eligible therefor under the provisions of this act; and

(2) No more than 20% of the funds appropriated pursuant to this act shall be allocated to hospitals that seek designation as comprehensive stroke centers.

C.26:2H-12.32 Report to Governor, Legislature.

6. The Commissioner of Health and Senior Services shall, not later than September 1, 2005, prepare and submit to the Governor, the President of the Senate, and the Speaker of the General Assembly a report indicating, as of June 30, 2005, the total number of hospitals that shall have applied for grants under section 5 of this act and the number of those applicants that shall have been found to be eligible for such grants, the total number of grants awarded, the name and address of each grantee hospital and the amount of the award to each, and the amount of each award that shall have been paid to the grantee.

7. The Commissioner of Health and Senior Services shall adopt 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.

8. There is appropriated $3,000,000 from the General Fund to the Department of Health and Senior Services for the purpose of awarding grants to acute care hospitals in the State to establish stroke centers.

9. This act shall take effect on the 60th day after the date of enactment.

Approved September 1, 2004.

CHAPTER 137

AN ACT concerning the New Jersey Office on Minority and Multicultural Health and supplementing Title 26 of the Revised Statutes.

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

C.26:2-167.1 "Eliminating Health Disparities Initiative" in Office on Minority and Multicultural Health.

1. The Commissioner of Health and Senior Services shall establish the "Eliminating Health Disparities Initiative" in the Office on Minority and Multicultural Health. The commissioner shall require the office to develop and implement a comprehensive, coordinated plan to reduce health disparities between White and racial and ethnic minority populations in the State

in the following priority areas: asthma; infant mortality; breast, cervical, prostate and colorectal cancer screening; kidney disease; HIV/AIDS; hepatitis C; sexually transmitted diseases; adult and child immunizations; cardiovascular disease; diabetes; and accidental injuries and violence. As used in this act, "office" means the New Jersey Office on Minority and Multicultural Health.

C.26:2-167.2 Duties of office.

2. The office shall:

a. Establish measurable outcomes to achieve the goal of reducing health disparities in the areas provided in section 1 of this act.

b. Enhance current data tools to ensure a Statewide assessment of the risk behaviors associated with the health disparity priority areas provided in section 1 of this act. To the extent feasible, the office shall conduct the assessment so that the results may be compared to national data.

C.36:2-167.3 Rules, regulations.

3. 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 effectuate the purposes of this act.

4. This act shall take effect immediately.

Approved September 1, 2004.

CHAPTER 138

AN ACT establishing a Statewide automated and electronic immunization registry in the Department of Health and Senior Services and supplementing Title 26 of the Revised Statutes.

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

C.26:4-131 Short title.

1. This act shall be known and may be cited as the "Statewide Immunization Registry Act."

C.26:4-132 Findings, declarations relative to Statewide automated and electronic immunization registry.

2. The Legislature finds and declares that the establishment of a Statewide automated and electronic immunization registry will serve the following public health purposes:

a. ensure the greatest possible protection to the public from morbidity and death related to infectious diseases preventable by appropriate and timely immunizations;

b. establish the public health infrastructure necessary:

(1) to assist individuals and families to maximize their personal protection from vaccine-preventable diseases in as efficient and efficacious a manner as possible;

(2) for community-wide and population-specific surveillance of potential susceptibility to outbreaks of vaccine-preventable diseases; and

(3) for an effective response to a bio-terrorism event utilizing a potentially vaccine-preventable disease organism or to an epidemic or pandemic outbreak of a novel influenza virus of unusual virulence;

c. ensure that a registrant, or the registrant's parent or legal guardian if the registrant is a minor, can more easily obtain from his health care provider or local health authority, or by other means as determined by the Commissioner of Health and Senior Services, the registrant's full immunization history if the registrant changes health care providers or requires documentation of immunization;

d. provide health care providers, licensed child care centers, schools, colleges, and other public agencies and private organizations authorized to access the immunization registry with information concerning immunizations and other preventive health screenings, and the ability to determine relevant immunization and other preventive health screening histories of the individuals whom they serve;

e. provide the State with greatly improved accuracy in its records concerning immunization rates among the State's residents;

f. improve the State's ability to respond to outbreaks of communicable and vaccine-preventable diseases in a manner that reduces the risk of unnecessary additional immunizations;

g. enable the efficient allocation of public health resources to provide the widest possible protection of the general population from vaccine-preventable diseases;

h. ensure that all vulnerable children can be brought to completed immunization status as quickly as possible following manufacturing or distribution delays that may occur; and

i. establish the legal and administrative framework necessary to ensure a properly functioning, universal, Statewide immunization registry inclusive of both public and private partners working cooperatively to share immunization data in a timely manner.

C.26:4-133 Definitions relative to Statewide automated and electronic immunization registry.

3. As used in this act:

"Commissioner" means the Commissioner of Health and Senior Services.

"Department" means the Department of Health and Senior Services.

"Health care provider" means a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) or a health care professional whose practice is regulated pursuant to Title 45 of the Revised Statutes.

"Registry" means the New Jersey Immunization Information System established pursuant to this act.

C.26:4-134 Statewide automated and electronic immunization registry.

4. a. There is established a Statewide automated and electronic immunization registry, to be designated as the New Jersey Immunization Information System, in the Department of Health and Senior Services. The registry shall be designed to serve as a single repository of immunization records to aid, coordinate and help promote effective and cost-efficient disease screening, prevention and control efforts in the State.

b. A newborn infant in New Jersey, who is born on or after January 1, 1998, shall be enrolled in the registry immediately following birth unless the parent or legal guardian of the infant provides a written request to not participate in the registry.

A child born prior to January 1, 1998 may be enrolled in the registry at the parent's or legal guardian's written request.

c. Access to the information in the registry shall be limited to: health care providers, schools, colleges, licensed child care centers, and public agencies and private organizations as determined by regulation of the commissioner. A registrant, or the registrant's parent or legal guardian if the registrant is a minor, shall have access to the registrant's immunization and other preventive health screening information in the registry.

d. The information contained in the registry shall be used for the following purposes:

(1) to help ensure that registrants receive all recommended immunizations in a timely manner by providing access to the registrants' immunization records;

(2) to help improve immunization rates by providing notice to registrants of overdue or upcoming immunizations; and

(3) to help control communicable diseases by assisting in the identification of persons who require immediate immunization in the event of a vaccine-preventable disease outbreak.

e. The authentic immunization and other preventive health screening record of a child, which shall consist of a paper or electronic copy of the registry entry that is a true and accurate representation of the information contained therein, obtained from the registry shall be accepted as a valid

immunization and preventive health screening record of the registrant for the purpose of meeting immunization and preventive health screening documentation requirements for admission to a school, college or licensed child care center.

f. A health care provider shall not discriminate in any way against a person solely because the person elects not to participate in the registry.

g. An authorized user granted access as provided in subsection c. of this section shall only access information in the registry on a specific patient or client who is presently receiving services, is under the user's care or is within the applicable governmental health authority's jurisdiction.

h. An agency, organization or other entity authorized to access information in the registry shall not use any report made by a health care provider pursuant to this act in any punitive manner against the provider.

i. The commissioner, in consultation with the Public Health Council, 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, including, but not limited to:

(1) the establishment and maintenance of the registry;

(2) the methods for submitting, and the content of, reports of immunizations to the registry, for which purpose the commissioner shall provide, to the maximum extent practicable, for reporting options to facilitate compliance with the requirements of subsection b. of this section;

(3) procedures for the birth hospital of a newborn infant or health care provider, as applicable, to inform the parent or legal guardian of a newborn infant or minor of the purpose of the registry and its potential uses by parties having authorized access to registry information, and the content of that information;

(4) procedures for a registrant, or the registrant's parent or legal guardian if the registrant is a minor, to review and correct information contained in the registry;

(5) procedures for the parent or legal guardian of a newborn infant or minor, or a person over 18 years of age, to request to not participate in the registry at any time and to remove or inactivate information from the registry;

(6) limits on, and methods of, access to the registry by those authorized pursuant to subsection c. of this section;

(7) procedures for health insurers to obtain immunization information from the registry concerning only their covered persons, as well as summary statistics, which information or statistics shall not be used or disclosed for any other purpose than to:

(a) improve patient care;

(b) provide quality assurance to employers purchasing group coverage and to health care providers;

(c) improve outreach and education efforts with respect to their covered persons and health care providers; and

(d) monitor and improve quality of care standards as developed by professional organizations, accreditation agencies and government agencies in collaboration with the department; and

(8) procedures for the department to disseminate statistical information and supporting commentary.

C.26:4-135 Immunity from liability.

5. Notwithstanding any other provision of this act to the contrary, a person or entity, who is authorized by the commissioner to report, receive or disclose information relating to the registry pursuant to this act, shall be immune from liability for:

a. reporting information to, receiving information from, or disclosing information received from, the registry in accordance with the provisions of this act or any regulation adopted pursuant thereto; and

b. any error or inaccuracy in the information that is reported to, received from, or disclosed after receipt from, the registry in accordance with the provisions of this act or any regulation adopted pursuant thereto, and any consequence of that error or inaccuracy.

C.26:4-136 Construction of act relative to obligations, rights of persons.

6. The provisions of this act shall not be construed to affect the obligation of any person, or the person's parent or legal guardian if the person is a minor, to comply with any immunization requirement, or the right of that person, parent or legal guardian to request an exemption from the immunization requirement on the grounds that an immunization is medically contraindicated or that the requirement conflicts with the religious tenets or practices of the person, parent or legal guardian, as otherwise established by statute or by regulation of the department.

C.26:4-137 Confidentiality of registry information.

7. a. Information contained in the registry is confidential and shall be disclosed only for the purposes authorized by this act.

b. A person who is aggrieved as a result of a violation of this act may commence a civil action against the person or entity committing the violation to obtain appropriate relief, including actual damages, equitable relief and reasonable attorney's fees and court costs. Punitive damages may be awarded when the violation evidences wantonly reckless or intentionally malicious conduct by the person or entity who committed the violation.

c. A person who discloses information in violation of this act is guilty of a disorderly persons offense. Each disclosure made in violation of this act is a separate and actionable offense.

C.26:4-138 Certain transmissions of information permitted.

8. The provisions of this act shall not prohibit the transmission or exchange of immunization information from other government database systems, immunization registries of other states or similar regional registries officially recognized by those states, health maintenance organizations or health benefits plans, health insurance companies, practice management or billing vendors, or other similar databases containing immunization histories, if the transmission is in accordance with the provisions of this act and other relevant State and federal laws and regulations.

9. This act shall take effect on the 180th day after enactment, but the commissioner may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved September 2, 2004.

CHAPTER 139

AN ACT creating Health Enterprise Zones in certain municipalities and supplementing Title 54A of the New Jersey Statutes and Titles 34 and 54 of the Revised Statutes.

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

C.54A:3-7 Designation of "Health Enterprise Zones."

1. Each area that is designated by the Commissioner of Health and Senior Services as a State designated underserved area pursuant to N.J.S.18A:71C-35 shall be deemed to be a "Health Enterprise Zone" for the purposes of P.L.2004, c.139 (C.54A:3-7 et al.).

C.54A:3-8 Tax deduction for qualified receipts, definitions.

2. a. A taxpayer who is providing primary care as defined in N.J.S.18A:71C-32 at:

(1) a practice that is located in a Health Enterprise Zone as described in section 1 of P.L.2004, c.139 (C.54A:3-7); or

(2) a qualified practice that is located within 5 miles of a Health Enterprise Zone as described in section 1 of P.L.2004, c.139 (C.54A:3-7);

shall be allowed to deduct from the taxpayer's gross income in a taxable year an amount equal to that proportion of the taxpayer's net income deriving from that practice for the taxable year that the qualified receipts of that

practice for the taxable year bear to the total amount received for services at that practice for the taxable year.

b. For the purposes of this section:

"Qualified practice" means a practice at which 50% or more of the total amount received for services at that practice for the taxable year are qualified receipts and 50% or more of the patients whose services are compensated by qualified receipts reside in a Health Enterprise Zone; and

"Qualified receipts" means amounts received for services from the Medicaid program pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), including amounts received from managed care organizations under contract with the Medicaid program, the FamilyCare Health Coverage Program pursuant to P.L.2000, c.71 (C.30:4J-1 et seq.), and the Children's Health Care Coverage Program pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.) for providing health care services to eligible program recipients.

C.34:1B-189 Low-interest loans for medical offices in Health Enterprise Zones, definitions.

3. a. In consultation with the Commissioner of Health and Senior Services, the Executive Director of the New Jersey Economic Development Authority shall establish and administer a program that makes low-interest loans for the purposes of constructing and renovating medical offices in Health Enterprise Zones as described in section 1 of P.L.2004, c.139 (C.54A:3-7) and the offices of a qualified practice that is located within 5 miles of a Health Enterprise Zone and purchasing medical equipment for use by primary care providers as defined in N.J.S.18A:71C-32 at practices located in Health Enterprise Zones or at qualified practices that are located within 5 miles of a Health Enterprise Zone. The executive director shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C:52:14B-1 et seq.), necessary to effectuate the purposes of this section.

b. For the purposes of this section:

"Qualified practice" means a practice at which 50% or more of the total amount received for services at that practice for the taxable year are qualified receipts and 50% or more of the patients whose services are compensated by qualified receipts reside in a Health Enterprise Zone; and

"Qualified receipts" means amounts received for services from the Medicaid program pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), including amounts received from managed care organizations under contract with the Medicaid program, the FamilyCare Health Coverage Program pursuant to P.L.2000, c.71 (C.30:4J-1 et seq.), and the Children's Health Care Coverage Program pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.) for providing health care services to eligible program recipients.

C.54:4-3.160 Resolution to provide property tax exemption for medical practices in Health Enterprise Zones.

4. A municipality that has within its boundaries a Health Enterprise Zone as described in section 1 of P.L.2004, c.139 (C.54A:3-7) may adopt a resolution that provides for an exemption from taxation as real property of that portion of a structure or building that is used to house a medical or dental primary care practice as defined in N.J.S.18A:71C-32 and that is located in that designated area. The exemption shall be in effect for tax years that are within the period of designation as a State designated underserved area and shall be contingent upon an annual application therefor filed by the property owner with, and approved by, the local tax assessor.

C.54:4-3.161 Tenant rebate to medical dental practice, administration.

5. a. Upon the granting of an exemption from taxation as real property pursuant to section 4 of P.L.2004, c.139 (C.54:4-3.160), an owner of the building or structure granted the exemption shall rebate to a tenant engaged in the medical or dental primary care practice an amount equal to the exemption, which may be a lump sum or rebated through discounted rental payments.

b. The tenant engaged in the medical or dental primary care practice or the owner of the building or structure granted the exemption shall annually submit proof to the local tax assessor that the amount of the exemption was rebated to the eligible tenant. If proof satisfactory to the tax assessor is not provided in the manner that the tax assessor shall establish, the exemption shall not be allowed for the tax year and the owner of the property shall refund the amount of the exemption for that tax year to the municipal tax collector.

6. This act shall take effect on the 180th day following the date of enactment, except that section 2 shall apply to taxable years beginning after enactment.

Approved September 2, 2004.

CHAPTER 140

AN ACT establishing a State rental assistance program for low income households, supplementing P.L.1984, c.180 (C.52:27D-280 et seq.) and amending P.L.1985, c.222.

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

C.52:27D-287.1 Rental assistance program for low income households.

1. The Commissioner of Community Affairs shall establish a rental assistance program for low income individuals or households. This program shall be in addition to and supplement any existing programs established pursuant to the "Prevention of Homelessness Act (1984)," P.L.1984, c.180 (C.52:27D-280 et seq.).

a. The program shall provide rental assistance grants comparable to the federal section 8 program, but shall be available only to State residents who are not currently holders of federal section 8 vouchers.

b. Assistance to an individual or household under the State program shall be terminated upon the award of federal section 8 rental assistance to the same individual or household.

c. The program shall reserve a portion of the grants for assistance to senior citizens aged 65 or older who otherwise meet the criteria of subsection a. of this section.

C.52:27D-287.2 Regulations.

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

C.52:27D-287.3 Annual RTF allocation to fund rental assistance grants.

3. The commissioner shall annually allocate from the receipts of the portion of the realty transfer fee 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 pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1) such amounts as may be necessary to fund rental assistance grants authorized by P.L.2004, c.140 (C.52:27D-287.1 et al.), provided that not less than $3 million be annually allocated for the purposes of subsection c. of section 1 of P.L.2004, c.140 (C.52:27D-287.1) and not less than $7 million be annually allocated for the purposes of subsection a. of section 1 of P.L.2004, c.140 (C.52:27D-287.1).

4. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to read as follows:

C.52:27D-320 Neighborhood Preservation Nonlapsing Revolving Fund.

20. The Neighborhood Preservation Program within the Department of Community Affairs' Division of Housing and Development, established pursuant to the Commissioner of Community Affairs' authority under section 8 of P.L.1975, c.248 (C.52:27D-149), shall establish a separate Neighborhood Preservation Nonlapsing Revolving Fund for monies appropriated by

section 33 of P.L.1985, c.222, or other monies as may be appropriated by the Legislature for the purposes of the fund.

a. Except as permitted pursuant to subsection g. of this section, the commissioner shall award grants or loans from this fund for housing projects and programs in municipalities whose housing elements have received substantive certification from the council, in municipalities receiving State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), in municipalities subject to builder's remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328) or in receiving municipalities in cases where the council has approved a regional contribution agreement and a project plan developed by the receiving municipality. Programs and projects in any municipality shall be funded only after receipt by the commissioner of a written statement in support of the program or project from the municipal governing body.

b. The commissioner shall establish rules and regulations governing the qualifications of applicants, the application procedures, and the criteria for awarding grants and loans and the standards for establishing the amount, terms and conditions of each grant or loan.

c. During the first 12 months from the effective date of P.L.1985, c.222 (C.52:27D-301 et al.) and for any additional period which the council may approve, the commissioner may assist affordable housing programs which are not located in municipalities whose housing elements have been granted substantive certification or which are not in furtherance of a regional contribution agreement; provided that the affordable housing program will meet all or part of a municipal low and moderate income housing obligation.

d. Amounts deposited in the Neighborhood Preservation Fund shall be targeted to regions based on the region's percentage of the State's low and moderate income housing need as determined by the council. Amounts in the fund shall be applied for the following purposes in designated neighborhoods;

(1) Rehabilitation of substandard housing units occupied or to be occupied by low and moderate income households;

(2) Creation of accessory apartments to be occupied by low and moderate income households;

(3) Conversion of nonresidential space to residential purposes; provided a substantial percentage of the resulting housing units are to be occupied by low and moderate income households;

(4) Acquisition of real property, demolition and removal of buildings, or construction of new housing that will be occupied by low and moderate income households, or any combination thereof;

(5) Grants of assistance to eligible municipalities for costs of necessary studies, surveys, plans and permits; engineering, architectural and other technical services; costs of land acquisition and any buildings thereon; and

costs of site preparation, demolition and infrastructure development for projects undertaken pursuant to an approved regional contribution agreement;

(6) Assistance to a local housing authority, nonprofit or limited dividend housing corporation or association or a qualified entity acting as a receiver under P.L.2003, c.295 (C.2A:42-114 et al.) for rehabilitation or restoration of housing units which it administers which: (a) are unusable or in a serious state of disrepair; (b) can be restored in an economically feasible and sound manner; and (c) can be retained in a safe, decent and sanitary manner, upon completion of rehabilitation or restoration; and

(7) Other housing programs for low and moderate income housing, including, without limitation, (a) infrastructure projects directly facilitating the construction of low and moderate income housing not to exceed a reasonable percentage of the construction costs of the low and moderate income housing to be provided and (b) alteration of dwelling units occupied or to be occupied by households of low or moderate income and the common areas of the premises in which they are located in order to make them accessible to handicapped persons.

e. Any grant or loan agreement entered into pursuant to this section shall incorporate contractual guarantees and procedures by which the division will ensure that any unit of housing provided for low and moderate income households shall continue to be occupied by low and moderate income households for at least 20 years following the award of the loan or grant, except that the division may approve a guarantee for a period of less than 20 years where necessary to ensure project feasibility.

f. Notwithstanding the provisions of any other law, rule or regulation to the contrary, in making grants or loans under this section, the department shall not require that tenants be certified as low or moderate income or that contractual guarantees or deed restrictions be in place to ensure continued low and moderate income occupancy as a condition of providing housing assistance from any program administered by the department, when that assistance is provided for a project of moderate rehabilitation if the project (1) contains 30 or fewer rental units and (2) is located in a census tract in which the median household income is 60 percent or less of the median income for the housing region in which the census tract is located, as determined for a three person household by the council in accordance with the latest federal decennial census. A list of eligible census tracts shall be maintained by the department and shall be adjusted upon publication of median income figures by census tract after each federal decennial census.

g. In addition to other grants or loans awarded pursuant to this section, and without regard to any limitations on such grants or loans for any other purposes herein imposed, the commissioner shall annually allocate such

amounts as may be necessary in the commissioner's discretion, and in accordance with section 3 of P.L.2004, c.140 (C.52:27D-287.3), to fund rental assistance grants under the program created pursuant to P.L.2004, c.140 (C.52:27D-287.1 et al.). Such rental assistance grants shall be deemed necessary and authorized pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), in order to meet the housing needs of certain low income households who may not be eligible to occupy other housing produced pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).

5. Section 21 of P.L.1985, c.222 (C.52:27D-321) is amended to read as follows:

C.52:27D-321 Affordable housing assistance.

21. The agency shall establish affordable housing programs to assist municipalities in meeting the obligation of developing communities to provide low and moderate income housing.

a. Of the bond authority allocated to it under section 24 of P.L.1983, c.530 (C.55:14K-24) the agency will allocate, for a reasonable period of time established by its board, no less than 25% to be used in conjunction with housing to be constructed or rehabilitated with assistance under this act.

b. The agency shall to the extent of available funds, award assistance to affordable housing programs located in municipalities whose housing elements have received substantive certification from the council, or which have been subject to a builder's remedy or which are in furtherance of a regional contribution agreement approved by the council. During the first 12 months from the effective date of this act and for any additional period which the council may approve, the agency may assist affordable housing programs which are not located in municipalities whose housing elements have been granted substantive certification or which are not in furtherance of a regional contribution agreement; provided the affordable housing program will meet all or in part a municipal low and moderate income housing obligation.

c. Assistance provided pursuant to this section may take the form of grants or awards to municipalities, prospective home purchasers, housing sponsors as defined in P.L.1983, c.530 (C.55:14K-1 et seq.), or as contributions to the issuance of mortgage revenue bonds or multi-family housing development bonds which have the effect of achieving the goal of producing affordable housing.

d. Affordable housing programs which may be financed or assisted under this provision may include, but are not limited to:

(1) Assistance for home purchase and improvement including interest rate assistance, down payment and closing cost assistance, and direct grants for principal reduction;

(2) Rental programs including loans or grants for developments containing low and moderate income housing, moderate rehabilitation of existing rental housing, congregate care and retirement facilities;

(3) Financial assistance for the conversion of nonresidential space to residences;

(4) Other housing programs for low and moderate income housing, including infrastructure projects directly facilitating the construction of low and moderate income housing; and

(5) Grants or loans to municipalities, housing sponsors and community organizations to encourage development of innovative approaches to affordable housing, including:

(a) Such advisory, consultative, training and educational services as will assist in the planning, construction, rehabilitation and operation of housing; and

(b) Encouraging research in and demonstration projects to develop new and better techniques and methods for increasing the supply, types and financing of housing and housing projects in the State.

e. The agency shall establish procedures and guidelines governing the qualifications of applicants, the application procedures and the criteria for awarding grants and loans for affordable housing programs and the standards for establishing the amount, terms and conditions of each grant or loan.

f. In consultation with the council, the agency shall establish requirements and controls to insure the maintenance of housing assisted under this act as affordable to low and moderate income households for a period of not less than 20 years; provided that the agency may establish a shorter period upon a determination that the economic feasibility of the program is jeopardized by the requirement and the public purpose served by the program outweighs the shorter period. The controls may include, among others, requirements for recapture of assistance provided pursuant to this act or restrictions on return on equity in the event of failure to meet the requirements of the program. With respect to rental housing financed by the agency pursuant to this act or otherwise which promotes the provision or maintenance of low and moderate income housing, the agency may waive restrictions on return on equity required pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.) which is gained through the sale of the property or of any interest in the property or sale of any interest in the housing sponsor.

g. The agency may establish affordable housing programs through the use or establishment of subsidiary corporations or development corporations as provided in P.L.1983, c.530 (C.55:14K-1 et seq.). The subsidiary corpora-

tions or development corporations shall be eligible to receive funds provided under this act for any permitted purpose.

h. The agency shall provide assistance, through its bonding powers or in any other manner within its powers, to the grant and loan program established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320).

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

Approved September 9, 2004.

CHAPTER 141

AN ACT concerning certain decisions of the New Jersey Commerce and Economic Growth Commission and supplementing Title 52 of the Revised Statutes.

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

C.52:27C-94 Definitions relative to certain set-aside decisions of the New Jersey Commerce and Economic Growth Commission.

1. As used in this act:

"Commission" means the New Jersey Commerce and Economic Growth Commission established pursuant to P.L.1998, c.44 (C.52:27C-61 et seq.).

"Division" means the Division of Development for Small Businesses and Women's and Minority Businesses in the New Jersey Commerce and Economic Growth Commission when used in conjunction with the New Jersey small business set-aside program.

"New Jersey set-aside program" or "set-aside program" means the program established pursuant to the "Set-Aside Act for Small Businesses, Female Businesses, and Minority Businesses," P.L.1983, c.482 (C.52:32-17 et seq.).

"Small business" means a business which has its principal place of business in the State, is independently owned and operated and meets all other qualifications as may be established in accordance with P.L.1987, c.55 (C.52:27H-21.7 et seq.).

C.52:27C-95 Decisions issued in writing, required contents.

2. a. Notwithstanding the provisions of any law, rule, regulation or order to the contrary, the division shall, after the effective date of this act, issue any initial decision in written form in those cases in which the decision results

in the rejection of an application from a small business for eligibility to participate in the set-aside program.

b. The written decision required pursuant to subsection a. of this section shall specify the criteria and procedures used by the division in evaluating an application for eligibility from a small business seeking to participate in the set-aside program and the reasons for rejecting such application. The written decision shall also include, pursuant to regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a description of the procedures required to file an appeal of a decision rejecting an application for the set-aside program. The written decision shall be forwarded to the applicant for review within 14 days of issuing the decision.

3. This act shall take effect immediately.

Approved September 10, 2004.

CHAPTER 142

AN ACT concerning juveniles and supplementing Title 2A of the New Jersey Statutes.

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

C.9:23B-1 Interstate Compact for Juveniles.

1. The Interstate Compact for Juveniles is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

THE INTERSTATE COMPACT FOR JUVENILES

Article I. Purpose.

The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by

enacting the Crime Control Act, 4 U.S.C. s.112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:

a. ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;

b. ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

c. return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return;

d. make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;

e. provide for the effective tracking and supervision of juveniles;

f. equitably allocate the costs, benefits and obligations of the compacting states;

g. establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;

h. insure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;

i. establish procedures to resolve pending charges against juvenile offenders prior to transfer or release to the community under the terms of this compact;

j. establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators;

k. monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;

l. coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and

m. coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision and other compacts affecting juveniles

particularly in those cases where concurrent or overlapping supervision issues arise.

It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

C.9:23B-2 Definitions.

2. Article II. Definitions.

As used in this compact, unless the context clearly requires a different construction:

a. "By–laws" means those by-laws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

b. "Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

c. "Compacting state" means any state which has enacted the enabling legislation for this compact.

d. "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

e. "Court" means any court having jurisdiction over delinquent, neglected, or dependent children.

f. "Deputy Compact Administrator" means the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

g. "Interstate Commission" means the Interstate Commission for Juveniles created by Article III of this compact.

h. "Juvenile" means any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

(1) Accused Delinquent – a person charged with an offense that, if committed by an adult, would be a criminal offense;

(2) Adjudicated Delinquent – a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

(3) Accused Status Offender – a person charged with an offense that would not be a criminal offense if committed by an adult;

(4) Adjudicated Status Offender - a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

(5) Non-Offender – a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

i. "Non-Compacting state" means any state which has not enacted the enabling legislation for this compact.

j. "Probation or Parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

k. "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

l. "State" means a state of the United States, the District of Columbia or its designee, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

C.9:23B-3 Interstate Commission for Juveniles.

3. Article III. Interstate Commission for Juveniles.

a. The compacting states hereby create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

b. The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder. The commissioner shall be the compact administrator, deputy compact administrator or designee from that state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.

c. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners, but who are members of interested organizations. Such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general,

Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All non-commissioner members of the Interstate Commission shall be ex-officio, non-voting members. The Interstate Commission may provide in its by-laws for such additional ex-officio, non-voting, members, including members of other national organizations, in such numbers as shall be determined by the commission.

d. Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the Interstate Commission.

e. The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

f. The Interstate Commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the by-laws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its by-laws and rules, and performs such other duties as directed by the Interstate Commission or set forth in the by-laws.

g. Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

h. The Interstate Commission's by-laws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

i. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the Rules or as otherwise provided in the compact. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

(1) Relate solely to the Interstate Commission's internal personnel practices and procedures;

(2) Disclose matters specifically exempted from disclosure by statute;

(3) Disclose trade secrets or commercial or financial information which is privileged or confidential;

(4) Involve accusing any person of a crime, or formally censuring any person;

(5) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) Disclose investigative records compiled for law enforcement purposes;

(7) Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;

(8) Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or

(9) Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

j. For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote reflected in the vote of each member on the question. All documents considered in connection with any action shall be identified in such minutes.

k. The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

C.9:23B-4 Powers and duties of the interstate commission.

4. Article IV. Powers and Duties of the Interstate Commission. The commission shall have the following powers and duties:

a. To provide for dispute resolution among compacting states.

b. To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

c. To oversee, supervise and coordinate the interstate movement of juveniles subject to the terms of this compact and any by-laws adopted and rules promulgated by the Interstate Commission.

d. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the by-laws, using all necessary and proper means, including but not limited to the use of judicial process.

e. To establish and maintain offices which shall be located within one or more of the compacting states.

f. To purchase and maintain insurance and bonds.

g. To borrow, accept, hire or contract for services of personnel.

h. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

i. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, inter alia,
conflicts of interest, rates of compensation, and qualifications of personnel.

j. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

k. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

l. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

m. To establish a budget and make expenditures and levy dues as provided in Article VIII of this compact.

n. To sue and be sued.

o. To adopt a seal and by-laws governing the management and operation of the Interstate Commission.

p. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

q. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

r. To coordinate education, training and public awareness regarding the interstate movement of juveniles for officials involved in such activity.

s. To establish uniform standards of the reporting, collecting and exchanging of data.

t. The Interstate Commission shall maintain its corporate books and records in accordance with the by-laws.

C.9:23B-5 Organization and operation of the interstate commission.

5. Article V. Organization and Operation of the Interstate Commission.

a. By-laws. The Interstate Commission shall, by a majority of the members present and voting, within twelve months after the first Interstate Commission meeting, adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(1) Establishing the fiscal year of the Interstate Commission;

(2) Establishing an executive committee and such other committees as may be necessary;

(3) Provide for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission;

(4) Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

(5) Establishing the titles and responsibilities of the officers of the Interstate Commission;

(6) Providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the compact after the payment and/or reserving of all of its debts and obligations;

(7) Providing "start-up" rules for initial administration of the compact; and

(8) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

b. Officers and Staff.

The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice-chairperson, each of whom shall have such authority and duties as may be specified in the by-laws. The chairperson or, in the chairperson's absence or disability, the

vice-chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

c. Qualified Immunity, Defense and Indemnification.

The Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the Attorney General of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

C.9:23B-6 Rulemaking functions of the interstate commission.

6. Article VI. Rulemaking Functions of the Interstate Commission.

a. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

b. Rulemaking shall occur pursuant to the criteria set forth in this article and the by-laws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the U.S. Constitution as now or hereafter interpreted by the U. S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Commission.

c. When promulgating a rule, the Interstate Commission shall, at a minimum:

(1) publish the proposed rule's entire text stating the reason for that proposed rule;

(2) allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available;

(3) provide an opportunity for an informal hearing if petitioned by 10 or more persons; and

(4) promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

d. Allow, not later than sixty days after a rule is promulgated, any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule

unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

e. If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any compacting state.

f. The existing rules governing the operation of the Interstate Compact on Juveniles superseded by this act shall be null and void 12 months after the first meeting of the Interstate Commission created hereunder.

g. Upon determination by the Interstate Commission that a state-of-emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

C.9:23B-7 Oversight, enforcement and dispute resolution by the interstate commission.

7. Article VII. Oversight, Enforcement and Dispute Resolution by the Interstate Commission.

a. Oversight.

The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in non-compacting states which may significantly affect compacting states.

The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

b. Dispute Resolution.

The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its by-laws and rules.

The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and non-compacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.

C.9:23B-8 Finance.

8. Article VIII. Finance.

a. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

b. The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

c. The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

d. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its by-laws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

e. (1) The Interstate Compact for Juvenile Supervision Fund is established as a special fund in the State Treasury. The fund consists of moneys appropriated for the purposes of meeting financial obligations imposed on the State of New Jersey as a result of the State's participation in this compact.

(2) An assessment levied or any other financial obligation imposed under this compact is effective against the State of New Jersey only to the

extent that moneys to pay the assessment or meet the financial obligation have been appropriated and deposited in the fund established pursuant to paragraph (1) of this subsection.

C.9:23B-9 The state council.

9. Article IX. The State Council.

Each member state shall create a State Council for Interstate Juvenile Supervision. While each state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council will advise and may exercise oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

C.9:23B-10 Compacting states, effective date and amendment.

10. Article X. Compacting States, Effective Date and Amendment.

a. Any state, the District of Columbia or its designee, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Article II of this compact is eligible to become a compacting state.

b. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2004 or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

c. The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

C.9:23B-11 Withdrawal, default, termination and judicial enforcement.

11. Article XI. Withdrawal, Default, Termination and Judicial Enforcement.

a. Withdrawal. Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

The effective date of withdrawal is the effective date of the repeal.

The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

b. Technical Assistance, Fines, Suspension, Termination and Default.

If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the by-laws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

(1) Remedial training and technical assistance as directed by the Interstate Commission;

(2) Alternative Dispute Resolution;

(3) Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission; and

(4) Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted and the Interstate Commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or the Chief Judicial Officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the by-laws, or duly promulgated rules and any other grounds designated in commission by-laws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the default-

ing state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination.

Within sixty days of the effective date of termination of a defaulting state, the Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer, the Majority and Minority Leaders of the defaulting state's legislature, and the state council of such termination.

The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

c. Judicial Enforcement. The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and by-laws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

d. Dissolution of Compact.

The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state.

Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the by-laws.

C.9:23B-12 Severability and construction.

12. Article XII. Severability and Construction.

The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

The provisions of this compact shall be liberally construed to effectuate its purposes.

C.9:23B-13 Binding effect of compact and other laws.

13. Article XIII. Binding Effect of Compact and Other Laws.

a. Other Laws.

Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

All compacting states' laws other than state constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

b. Binding Effect of the Compact.

All lawful actions of the Interstate Commission, including all rules and by-laws promulgated by the Interstate Commission, are binding upon the compacting states.

All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

14. This act shall take effect immediately.

Approved September 10, 2004.

CHAPTER 143

AN ACT concerning civil rights and supplementing Title 10 of the Revised Statutes.

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

C.10:6-1 Short title.

1. This act shall be known and may be cited as the "New Jersey Civil Rights Act."

C.10:6-2 Actions permitted under the "New Jersey Civil Rights Act."

2. a. If a person, whether or not acting under color of law, subjects or causes to be subjected any other person to the deprivation of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State, the Attorney General may bring a civil action for damages and for injunctive or other appropriate relief. The civil action shall be brought in the name of the State and may be brought on behalf of the injured party. If the Attorney General proceeds with and prevails in an action brought pursuant to this subsection, the court shall order the distribution of any award of damages to the injured party and shall award reasonable attorney's fees and costs to the Attorney General. The penalty provided in subsection e. of this section shall be applicable to a violation of this subsection.

b. If a person, whether or not acting under color of law, interferes or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any other person of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State, the Attorney General may bring a civil action for damages and for injunctive or other appropriate relief. The civil action shall be brought in the name of the State and may be brought on behalf of the injured party. If the Attorney General proceeds with and prevails in an action brought pursuant to this subsection, the court shall order the distribution of any award of damages to the injured party and shall award reasonable attorney's fees and costs to the Attorney General. The penalty provided in subsection e. of this section shall be applicable to a violation of this subsection.

c. Any person who has been deprived of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State, or whose exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with or attempted to be interfered with, by threats, intimidation or coercion by a person acting under color of law, may bring a civil action for damages and for injunctive or other appropriate relief. The penalty provided in subsection e. of this section shall be applicable to a violation of this subsection.

d. An action brought pursuant to this act may be filed in Superior Court. Upon application of any party, a jury trial shall be directed.

e. Any person who deprives, interferes or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any other person of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State is liable for a civil penalty for each violation. The court or jury, as the case may be, shall determine the appropriate amount of the penalty. Any money collected by the court in payment of a civil penalty shall be conveyed to the State Treasurer for deposit into the State General Fund.

f. In addition to any damages, civil penalty, injunction or other appropriate relief awarded in an action brought pursuant to subsection c. of this section, the court may award the prevailing party reasonable attorney's fees and costs.

3. This act shall take effect immediately .

Approved September 10, 2004.

CHAPTER 144

AN ACT concerning motion picture piracy and amending P.L.1991, c.125.

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

1. Section 1 of P.L.1991, c.125 (C.2C:21-21) is amended to read as follows:

C.2C:21-21 Short title; definitions; offenses; penalties.

1. a. This act shall be known and may be cited as the "New Jersey Anti-Piracy Act."

b. As used in this act:

(1) "Sound recording" means any phonograph record, disc, tape, film, wire, cartridge, cassette, player piano roll or similar material object from which sounds can be reproduced either directly or with the aid of a machine.

(2) "Owner" means (a) the person who owns the sounds fixed in any master sound recording on which the original sounds were fixed and from which transferred recorded sounds are directly or indirectly derived; or (b)

the person who owns the rights to record or authorize the recording of a live performance.

(3) "Audiovisual work" means any work that consists of a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material object, such as film or tape, in which the work is embodied. "Audiovisual work" includes but is not limited to a motion picture.

(4) "Audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part thereof by means of any technology.

(5) "Facility" means any theater, screening room, indoor or outdoor screening venue, auditorium, ballroom or other premises where motion pictures are publicly exhibited but does not include a library or retail establishment.

c. A person commits an offense who:

(1) Knowingly transfers, without the consent of the owner, any sounds recorded on a sound recording with intent to sell the sound recording onto which the sounds are transferred or to use the sound recording to promote the sale of any product, provided, however, that this paragraph shall only apply to sound recordings initially fixed prior to February 15, 1972.

(2) Knowingly transports, advertises, sells, resells, rents, or offers for rental, sale or resale, any sound recording or audiovisual work that the person knows has been produced in violation of this act.

(3) Knowingly manufactures or transfers, directly or indirectly by any means, or records or fixes a sound recording or audiovisual work, with the intent to sell or distribute for commercial advantage or private financial gain, a live performance with the knowledge that the live performance has been recorded or fixed without the consent of the owner of the live performance.

(4) For commercial advantage or private financial gain, knowingly advertises or offers for sale, resale or rental, or sells, resells, rents or transports, a sound recording or audiovisual work or possesses with intent to advertise, sell, resell, rent or transport any sound recording or audiovisual work, the label, cover, box or jacket of which does not clearly and conspicuously disclose the true name and address of the manufacturer, and, in the case of a sound recording, the name of the actual performer or group.

(5) Knowingly operates an audiovisual recording function of a device in a facility while a motion picture is being exhibited, for the purpose of recording the motion picture, without the consent of both the licensor of the motion picture and the owner or lessee of the facility.

d. Notwithstanding the provisions of subsection b. of N.J.S.2C:43-3:

(1) Any offense set forth in this act which involves at least 1,000 unlawful sound recordings or at least 65 audiovisual works within any 180-day period shall be punishable as a crime of the third degree and a fine of up to $250,000 may be imposed.

(2) Any offense which involves more than 100 but less than 1,000 unlawful sound recordings or more than 7 but less than 65 unlawful audiovisual works within any 180-day period shall be punishable as a crime of the third degree and a fine of up to $150,000 may be imposed.

(3) Any offense punishable under the provisions of this act not described in paragraph (1) or (2) of this subsection shall be punishable for the first offense as a crime of the fourth degree and a fine of up to $25,000 may be imposed. For a second and subsequent offense pursuant to this paragraph, a person shall be guilty of a crime of the third degree. A fine of up to $50,000 may be imposed for a second offense pursuant to this paragraph and a fine of up to $100,000 for a third and subsequent offense may be imposed.

e. All unlawful sound recordings and audiovisual works and any equipment or components used in violation of the provisions of this act shall be subject to forfeiture in accordance with the procedures set forth in chapter 64 of Title 2C of the New Jersey Statutes.

f. The provisions of this act shall not apply to:

(1) Any broadcaster who, in connection with or as part of a radio or television broadcast transmission, or for the purposes of archival preservation, transfers any sounds or images recorded on a sound recording or audiovisual work.

(2) Any person who, in his own home, for his own personal use, and without deriving any profit, transfers any sounds or images recorded on a sound recording or audiovisual work.

(3) Any law enforcement officer who, while engaged in the official performance of his duties, transfers any sounds or images recorded on a sound recording or audiovisual work.

g. A law enforcement officer, an owner or lessee of a facility where a motion picture or a live performance is being exhibited, the authorized agent or employee of the owner or lessee, the licensor of the motion picture or the live performance or the authorized agent or employee of the licensor, who has probable cause for believing that a person has operated an audiovisual recording function of a device in violation of this section and that he can recover the recording by taking the person into custody, may, for the purpose of attempting to effect recovery thereof, take the person into custody and detain him in a reasonable manner for not more than a reasonable time, and the taking into custody by a law enforcement officer, owner, lessee, licensor, authorized agent or employee shall not render such person criminally or civilly liable in any manner or to any extent whatsoever.

Any law enforcement officer may arrest without warrant any person he has probable cause for believing has operated an audiovisual recording function of a device in violation of this section.

An owner or lessee of a facility, the authorized agent or employee of the owner or lessee, the licensor of the motion picture or the live performance or the authorized agent or employee of the licensor who causes the arrest of a person for operating an audiovisual recording function of a device in violation of this section, shall not be criminally or civilly liable in any manner or to any extent whatsoever where the owner, lessee, licensor, authorized agent or employee has probable cause for believing that the person arrested committed the offense.

2. This act shall take effect immediately.

Approved September 10, 2004.

CHAPTER 145

AN ACT designating New Jersey Route No. 83 as "Trooper Bertram T. Zimmerman III Memorial Highway," and making an appropriation.

WHEREAS, Bertram T. Zimmerman III dedicated his life to serving the citizens of this State as a member of the New Jersey State Police; and

WHEREAS, While responding to the scene of an armed robbery in the early morning of February 5, 2004, Trooper Zimmerman died at the age of 32 in a tragic accident on an icy stretch of State Highway 83 in Cape May County; and

WHEREAS, Trooper Zimmerman, who was a graduate of Rutgers University and a skilled carpenter, put himself through the Gloucester County Police Academy and was hired as a patrol officer in Evesham Township before joining the State Police; and

WHEREAS, Trooper Zimmerman ascended rapidly through the ranks of the State Police, becoming a member of the elite Tactical Patrol Unit before his untimely death, an accomplishment that was attributed by his colleagues to his fearless devotion to the job he loved, his tenacious work-ethic, and his high-energy and contagious personality; and

WHEREAS, It is altogether fitting and proper that the State of New Jersey take action to honor the memory of this dedicated public servant by designating New Jersey Route No. 83 the "Trooper Bertram T. Zimmerman III Memorial Highway;" now, therefore,

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

1. The Commissioner of Transportation shall designate the entire length of New Jersey Route No. 83 as "Trooper Bertram T. Zimmerman III Memorial Highway" and erect appropriate signs bearing this designation and dedication.

2. There is appropriated $2,500 from the General Fund to the Department of Transportation for the costs of erecting appropriate signs in accordance with section 1 of this act.

3. This act shall take effect immediately.

Approved September 10, 2004.

CHAPTER 146

AN ACT permitting certain non-profit housing entities to join together with housing authorities or with other non-profit housing entities for certain insurance purposes, and supplementing P.L.1983, c.372 (C.40A:10-36 et seq).

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

C.40A:10-36.3 Definitions relative to non-profit housing entities and joint insurance funds.

1. a. For the purposes of P.L.2004, c.146 (C.40A:10-36.3) a "non-profit housing entity" means an organization that provides housing meeting the low and moderate income limits established by the United States Department of Housing and Urban Development, if that organization is organized as a not-for-profit entity or as a limited partnership, in a low or moderate income housing project that has as its general partner a not-for-profit entity that has as its primary purpose the construction, rehabilitation or management of housing projects for occupancy by persons of low and moderate income.

b. A non-profit housing entity shall be deemed a local unit for the purposes of P.L.1983, c.372 (C.40A:10-36 et seq.) if it chooses to establish or join a joint insurance fund, pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), that is comprised of either non-profit housing entities or housing authorities or a combination thereof. Such joint insurance funds shall not have as its members local units that are municipalities, counties, boards of education, or fire districts.

c. Notwithstanding any provision of law to the contrary, a joint insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.) that includes non-profit housing entities as members shall not join together with other local units, as otherwise provided in section 1 of P.L.1983, c.372 (C.40A:10-36), for the purpose of providing contributory or non-contributory group health insurance or group term life insurance, or both, to employees or their dependents or both.

d. Notwithstanding any provision of law to the contrary, a joint insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.) that includes non-profit housing entities as members may participate in joint insurance funds:

(1) where the membership is exclusively comprised of other joint insurance funds and whose purpose is to provide excess levels of coverage;

(2) where the membership is exclusively comprised of other joint insurance funds and whose purpose is to accept the transfer of residual claims liabilities; or

(3) whose purpose is to provide environmental impairment liability insurance.

e. A joint insurance fund that has as its members non-profit housing entities shall operate pursuant to the provisions of P.L.1983, c.372 (C.40A:10-36 et seq.).

2. This act shall take effect immediately.

Approved September 14, 2004.

CHAPTER 147

AN ACT creating the "Uniform Child Custody Jurisdiction and Enforcement Act" and revising 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.2A:34-53 Short title.

1. Short Title.

This act shall be known and may be cited as the "Uniform Child Custody Jurisdiction and Enforcement Act."

C.2A:34-54 Definitions.

2. Definitions.

As used in this act:

"Abandoned" means left without provision for reasonable and necessary care or supervision.

"Child" means an individual who has not attained 18 years of age.

"Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody or visitation with respect to a child. The term includes a permanent, temporary, initial and modification order. The term does not include a provision relating to child support or other monetary obligation of an individual.

"Child custody proceeding" means a proceeding in which legal custody, physical custody or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation or enforcement under article 3 of this act.

"Commencement" means the filing of the first pleading in a proceeding.

"Court" means an entity authorized under the law of a state to establish, enforce or modify a child custody determination.

"Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

"Initial determination" means the first child custody determination concerning a particular child.

"Issuing court" means the court that makes a child custody determination for which enforcement is sought under this act.

"Issuing state" means the state in which a child custody determination is made.

"Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation or any other legal or commercial entity.

"Person acting as a parent" means a person, other than a parent, who:

a. has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding; and

b. has been awarded legal custody by a court or claims a right to legal custody under the laws of this State.

"Physical custody" means the physical care and supervision of a child.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

"Tribe" means an Indian tribe or band, or Alaskan Native village, which is recognized by federal law or formally acknowledged by a state.

"Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

C.2A:34-55 Proceedings governed by other law.

3. Proceedings Governed by Other Law.

This act does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

C.2A:34-56 Application to Indian tribes.

4. Application to Indian Tribes.

a. A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C.1901 et seq., is not subject to this act to the extent that it is governed by the Indian Child Welfare Act.

b. A court of this State shall treat a tribe as if it were a state of the United States for purposes of articles 1 and 2 of this act.

c. A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this act shall be recognized and enforced under the provisions of article 3 of this act.

C.2A:34-57 International application of act.

5. International Application of Act.

a. A court of this State shall treat a foreign country as if it were a state of the United States for the purpose of applying articles 1 and 2 of this act if the foreign court gives notice and an opportunity to be heard to all parties before making child custody determinations.

b. A child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this act shall be recognized and enforced under article 3 of this act.

c. A court of this State need not apply this act if the child custody law of a foreign country violates fundamental principles of human rights or does not base custody decisions on evaluation of the best interests of the child.

C.2A:34-58 Effect of custody determination.

6. Effect of Custody Determination.

A child custody determination made by a court of this State that had jurisdiction under this act binds all persons who have been served in accordance with the laws of this State or notified in accordance with section 8 of this act or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

C.2A:34-59 Priority.

7. Priority.

If a question of existence or exercise of jurisdiction under this act is raised in a child custody proceeding, the question, upon request of a party, shall be given priority on the calendar and handled expeditiously.

C.2A:34-60 Notice of persons outside state.

8. Notice of Persons Outside State.

a. Notice required for the exercise of jurisdiction when a person is outside this State may be given in a manner prescribed by the law of this State for the service of process or by the law of the state in which the service is made. Notice shall be given in a manner reasonably calculated to give actual notice, but may be by publication if other means are not effective.

b. Proof of service may be made in the manner prescribed by the law of this State or by the law of the state in which the service is made.

c. Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

C.2A:34-61 Appearance and limited immunity.

9. Appearance and Limited Immunity.

a. A party to a child custody proceeding, including a modification proceeding, or a petitioner or a respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in this State for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating in the proceeding.

b. A party who is subject to personal jurisdiction in this State on a basis other than physical presence is not immune from service of process in this State. A party present in this State who is subject to the jurisdiction of

another state is not immune from service of process allowable under the laws of that state.

c. The immunity granted by subsection a. of this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this act committed by an individual while present in this State.

C.2A:34-62 Communication between courts.

10. Communication Between Courts.

a. A court of this State may communicate with a court in another state concerning a proceeding arising under this act.

b. The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, the parties shall be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

c. Communication between courts on schedules, calendars, court records and similar matters may occur without informing the parties. A record need not be made of that communication.

d. Except as provided in subsection c. of this section, a record shall be made of a communication under this section. The parties shall be informed promptly of the communication and granted access to the record.

e. For the purposes of this section, "record" means information that is inscribed on a tangible medium or that which is stored in an electronic or other medium and is retrievable in perceivable form.

C.2A:34-63 Taking testimony in another state.

11. Taking Testimony in Another State.

a. In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this State for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

b. A court of this State may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means or other electronic means before a designated court or at another location in that state. A court of this State shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

c. Documentary evidence transmitted from another state to a court of this State by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

C.2A:34-64 Cooperation between courts; preservation of records.

12. Cooperation Between Courts; Preservation of Records.

a. A court of this State may request the appropriate court of another state to:

(1) hold an evidentiary hearing;

(2) order a person to produce or give evidence under procedures of that state;

(3) order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;

(4) forward to the court of this State a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and

(5) order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

b. Upon request of a court of another state, a court of this State may hold a hearing or enter an order described in subsection a. of this section.

c. Travel and other necessary and reasonable expenses incurred under subsections a. and b. of this section may be assessed against the parties according to the laws of this State.

d. A court of this State shall preserve the pleadings, orders, decrees, records of hearings, evaluations and other pertinent records with respect to a child custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of these records.

ARTICLE 2
JURISDICTION

C.2A:34-65 Initial child custody jurisdiction.

13. Initial Child Custody Jurisdiction.

a. Except as otherwise provided in section 16 of this act, a court of this State has jurisdiction to make an initial child custody determination only if:

(1) this State is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this State but a parent or person acting as a parent continues to live in this State;

(2) a court of another state does not have jurisdiction under paragraph (1) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this State is the more appropriate forum under section 19 or 20 of this act and:

(a) the child and the child's parents, or the child and at least one parent or a person acting as a parent have a significant connection with this State other than mere physical presence; and

(b) substantial evidence is available in this State concerning the child's care, protection, training and personal relationships;

(3) all courts having jurisdiction under paragraph (1) or (2) of this subsection have declined to exercise jurisdiction on the ground that a court of this State is the more appropriate forum to determine the custody of the child under section 19 or 20 of this act; or

(4) no state would have jurisdiction under paragraph (1), (2) or (3) of this subsection.

b. Subsection a. of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this State.

c. Physical presence of, or personal jurisdiction over, a party or a child is neither necessary nor sufficient to make a child custody determination.

d. A court of this State may assume temporary emergency jurisdiction in accordance with section 16 of this act.

C.2A:34-66 Exclusive, continuing jurisdiction.

14. Exclusive, Continuing Jurisdiction.

a. Except as otherwise provided in section 16 of this act, a court of this State that has made a child custody determination consistent with section 13 or 15 of this act has exclusive, continuing jurisdiction over the determination until:

(1) a court of this State determines that neither the child, the child and one parent, nor the child and a person acting as a parent have a significant connection with this State and that substantial evidence is no longer available in this State concerning the child's care, protection, training, and personal relationships; or

(2) a court of this State or a court of another state determines that neither the child, nor a parent, nor any person acting as a parent presently resides in this State.

b. A court of this State which has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under section 13 of this act.

C.2A:34-67 Jurisdiction to modify determination.

15. Jurisdiction to Modify Determination.

Except as otherwise provided in section 16 of this act, a court of this State may not modify a child custody determination made by a court of another state unless a court of this State has jurisdiction to make an initial

determination under paragraph (1) or (2) of subsection a. of section 13 of this act and:

a. the court of the other state determines it no longer has exclusive, continuing jurisdiction under section 14 of this act or that a court of this State would be a more convenient forum under section 19 of this act; or

b. a court of this State or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

C.2A:34-68 Temporary emergency jurisdiction.

16. Temporary Emergency Jurisdiction.

a. A court of this State has temporary emergency jurisdiction if the child is present in this State and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

b. If there is no previous child custody determination that is entitled to be enforced under this act, and if no child custody proceeding has been commenced in a court of a state having jurisdiction under sections 13 through 15 of this act, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 13 through 15 of this act. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 13 through 15 of this act, a child custody determination made under this section becomes a final determination if:

(1) it so provides; and

(2) this State becomes the home state of the child.

c. If there is a previous child custody determination that is entitled to be enforced under this act, or a child custody proceeding has been commenced in a court of a state having jurisdiction under sections 13 through 15 of this act, any order issued by a court of this State under this section must specify in the order a period of time which the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 13 through 15 of this act. The order issued in this State remains in effect until an order is obtained from the other state within the period specified or the period expires.

d. A court of this State which has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made, by a court of a state having jurisdiction under sections 13 through 15 of this act, shall immediately communicate with the other court. A court of this State which is exercising jurisdiction pursuant to sections 13 through 15 of this act, upon being informed that a child custody proceeding

has been commenced in, or a child custody determination has been made by, a court of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

C.2A:34-69 Notice; opportunity to be heard; joinder.

17. Notice; Opportunity to be Heard; Joinder.

a. Before a child custody determination is made under this act, notice and an opportunity to be heard in accordance with the standards of section 8 of this act shall be given to all persons entitled to notice under the law of this State as in child custody proceedings between residents of this State, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

b. This act does not govern the enforceability of a child custody determination made without notice and an opportunity to be heard.

c. The obligation to join a party and the right to intervene as a party in a child custody proceeding under this act are governed by the law of this State as in child custody proceedings between residents of this State.

C.2A:34-70 Simultaneous proceedings.

18. Simultaneous Proceedings.

a. Except as otherwise provided in section 16 of this act, a court of this State may not exercise its jurisdiction under this article if at the time of the commencement of the proceeding a proceeding concerning the custody of the child had been commenced in a court of another state having jurisdiction substantially in conformity with this act, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this State is a more convenient forum under section 19 of this act.

b. Except as otherwise provided in section 16 of this act, a court of this State, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to section 21 of this act. If the court determines that a child custody proceeding was previously commenced in a court in another state having jurisdiction substantially in accordance with this act, the court of this State shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this act does not determine that the court of this State is a more appropriate forum, the court of this State shall dismiss the proceeding.

c. In a proceeding to modify a child custody determination, a court of this State shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

(1) stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying or dismissing the proceeding for enforcement;

(2) enjoin the parties from continuing with the proceeding for enforcement; or

(3) proceed with the modification under conditions it considers appropriate.

C.2A:34-71 Inconvenient forum.

19. a. Inconvenient Forum.

A court of this State that has jurisdiction under this act to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon the court's own motion, request of another court or motion of a party.

b. Before determining whether it is an inconvenient forum, a court of this State shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

(1) whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

(2) the length of time the child has resided outside this State;

(3) the distance between the court in this State and the court in the state that would assume jurisdiction;

(4) the relative financial circumstances of the parties;

(5) any agreement of the parties as to which state should assume jurisdiction;

(6) the nature and location of the evidence required to resolve the pending litigation, including the testimony of the child;

(7) the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

(8) the familiarity of the court of each state with the facts and issues of the pending litigation.

c. If a court of this State determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

d. A court of this State may decline to exercise its jurisdiction under this act if a child custody determination is incidental to an action for divorce

or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

C.2A:34-72 Jurisdiction declined by reason of conduct.

20. Jurisdiction Declined by Reason of Conduct.

a. Except as otherwise provided in section 16 of this act or by other law of this State, if a court of this State has jurisdiction under this act because a person invoking the jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(1) the parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(2) a court of the state otherwise having jurisdiction under sections 13 through 15 of this act determines that this State is a more appropriate forum under section 19 of this act; or

(3) no other State would have jurisdiction under sections 13 through 15 of this act.

b. If a court of this State declines to exercise its jurisdiction pursuant to subsection a. of this section, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the wrongful conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under sections 13 through 15 of this act.

c. If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection a. of this section, it shall charge the party invoking the jurisdiction of the court with necessary and reasonable expenses including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the award would be inappropriate. The court may not assess fees, costs, or expenses against this State except as otherwise provided by law other than this act. No fees, costs or expenses shall be assessed against a party who is fleeing an incident or pattern of domestic violence or mistreatment or abuse of a child or sibling, unless the court is convinced by a preponderance of evidence that such assessment would be clearly appropriate.

d. In making a determination under this section, a court shall not consider as a factor weighing against the petitioner any taking of the child or retention of the child from the person who has rights of legal custody, physical custody or visitation, if there is evidence that the taking or retention of the child was to protect the petitioner from domestic violence or to protect the child or sibling from mistreatment or abuse.

C.2A:34-73 Information to be submitted to court.

21. Information to be Submitted to Court.

a. Unless a party seeks an exception to disclosure of information as provided by subsection e. of this section, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit shall state whether the party:

(1) has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number of the proceeding, and the date of the child custody determination, if any;

(2) knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights and adoptions and, if so, identify the court and the case number and the nature of the proceeding; and

(3) knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.

b. If the information required by subsection a. of this section is not furnished, the court, upon its own motion or that of a party, may stay the proceeding until the information is furnished.

c. If the declaration as to any of the items described in subsection a. of this section is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

d. Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

e. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be put at risk by the disclosure of identifying information, that information shall be sealed and not disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.

C.2A:34-74 Appearance of parties and child.

22. Appearance of Parties and Child.

a. In a child custody proceeding in this State, the court may order a party to a child custody proceeding who is in this State to appear before the court in person with or without the child. The court may order any person who is in this State and who has physical custody or control of the child to appear physically with the child.

b. If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to section 8 of this act include a statement directing the party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to the party.

c. The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

d. If a party to a child custody proceeding who is outside this state is directed to appear under subsection b. of this section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

ARTICLE 3
ENFORCEMENT

C.2A:34-75 Definitions.

23. Definitions.

As used in this article:

"Petitioner" means a person who seeks enforcement of a child custody determination or enforcement of an order for the return of the child under the Hague Convention on the Civil Aspects of International Child Abduction.

"Respondent" means a person against whom a proceeding has been commenced for enforcement of a child custody determination or enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction.

C.2A:34-76 Enforcement under Hague Convention.

24. Enforcement Under Hague Convention.

Under this article, a court of this State may enforce an order for the return of a child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

C.2A:34-77 Duty to enforce.

25. Duty to Enforce.

a. A court of this State shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdic-

tion in substantial conformity with this act or the determination was made under factual circumstances meeting the jurisdictional standards of this act and the determination has not been modified in accordance with this act.

b. A court of this State may utilize any remedy available under other law of this State to enforce a child custody determination made by a court of another state. The remedies provided in this article are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

C.2A:34-78 Temporary visitation.

26. Temporary Visitation.

a. A court of this State which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(1) a visitation schedule made by a court of another state; or

(2) the visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

b. If a court of this State makes an order under paragraph (2) of subsection a. of this section, it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in article 2 of this act. The order remains in effect until an order is obtained from the other court or the period expires.

C.2A:34-79 Registration of child custody determination.

27. Registration of Child Custody Determination.

a. A child custody determination issued by a court of another state may be registered in this State, with or without a simultaneous request for enforcement, by sending to the Superior Court in this State:

(1) a letter or other document requesting registration;

(2) two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

(3) except as otherwise provided in section 21 of this act, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

b. On receipt of the documents required by subsection a. of this section, the registering court shall:

(1) cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

(2) serve notice upon the persons named pursuant to paragraph (3) of subsection a. of this section and provide them with an opportunity to contest the registration in accordance with this section.

c. The notice required by paragraph (2) of subsection b. of this section shall state that:

(1) a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this State;

(2) a hearing to contest the validity of the registered determination shall be requested within 20 days after service of notice; and

(3) failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

d. A person seeking to contest the validity of a registered order shall request a hearing within 20 days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(1) the issuing court did not have jurisdiction under article 2 of this act;

(2) the child custody determination sought to be registered has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article 2 of this act; or

(3) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of section 8 of this act in the proceedings before the court that issued the order for which registration is sought.

e. If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

f. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter which could have been asserted at the time of registration.

C.2A:34-80 Enforcement of registered determination.

28. Enforcement of Registered Determination.

a. A court of this State may grant any relief normally available under the law of this State to enforce a registered child custody determination made by a court of another state.

b. A court of this State shall recognize and enforce, but may not modify, except in accordance with article 2 of this act, a registered child custody determination of another state.

C.2A:34-81 Simultaneous proceedings.

29. Simultaneous Proceedings.

If a proceeding for enforcement under this article has been or is commenced in a court of this State and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under article 2 of this act, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

C.2A:34-82 Expedited enforcement of child custody determination.

30. Expedited Enforcement of Child Custody Determination.

a. A petition under this article shall be verified. Certified copies of all orders sought to be enforced and of the order confirming registration, if any, shall be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

b. A petition for enforcement of a child custody determination shall state:

(1) whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(2) whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this act and, if so, identify the court, the case number, and the nature of the proceeding;

(3) whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court and the case number and the nature of the proceeding;

(4) the present physical address of the child and the respondent, if known; and

(5) whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought: and

(6) if the child custody determination has been registered and confirmed under section 27 of this act, the date and place of registration.

c. Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any orders necessary to ensure the safety of the parties and the child. The hearing shall be held on the next judicial day following service of process unless that date is impossible. In that event, the court shall hold the hearing on the first day possible. The court may extend the date of hearing at the request of the petitioner.

d. An order issued under subsection c. of this section shall state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under section 34 of this act, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(1) the child custody determination has not been registered and confirmed under section 27 of this act, and that

(a) the issuing court did not have jurisdiction under article 2 of this act;

(b) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article 2 of this act; or

(c) the respondent was entitled to notice, but notice was not given in accordance with the standards of section 8 in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under section 27 of this act, but has been vacated, stayed or modified by a court of a state having jurisdiction to do so under article 2 of this act or federal law.

C.2A:34-83 Service of petition and order.

31. Service of Petition and Order.

Except as otherwise provided in section 33 of this act, the petition and order shall be served, by any method authorized by the law of this State, upon the respondent and any person who has physical custody of the child.

C.2A:34-84 Hearing and order.

32. Hearing and Order.

a. Unless the court enters a temporary emergency order pursuant to section 16 of this act, upon a finding that a petitioner is entitled to the physical custody of the child immediately, the court shall order the child delivered to the petitioner unless the respondent establishes that:

(1) the child custody determination has not been registered and confirmed under section 27 of this act, and that

(a) the issuing court did not have jurisdiction under article 2 of this act;

(b) the child custody determination for which enforcement is sought has been vacated, stayed or modified by a court of a state having jurisdiction to do so under article 2 of this act or federal law; or

(c) the respondent was entitled to notice, but notice was not given in accordance with the standards of section 8 of this act in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under section 27 of this act, but has been vacated.

stayed or modified by a court of a state having jurisdiction to do so under article 2 of this act or federal law.

b. The court shall award the fees, costs, and expenses authorized under section 34 of this act and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

c. If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

d. A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this article.

C.2A:34-85 Warrant to take physical custody of child.

33. Warrant to Take Physical Custody of Child.

a. Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is likely to suffer serious imminent physical harm or removal from this State.

b. If the court, upon the testimony of the petitioner or other witness, finds that the child is likely to suffer serious imminent physical harm or be imminently removed from this State, it may issue a warrant to take physical custody of the child. The petition shall be heard on the next judicial day after the warrant is executed. The warrant shall include the statements required by subsection b. of section 30 of this act.

c. A warrant to take physical custody of a child shall:

(1) recite the facts upon which a conclusion of serious imminent physical harm or removal from the jurisdiction is based;

(2) direct law enforcement officers to take physical custody of the child immediately;

(3) provide for the placement of the child pending final relief.

d. The respondent shall be served with the petition, warrant and order immediately after the child is taken into physical custody.

e. A warrant to take physical custody of a child is enforceable throughout this State. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by the exigency of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

f. The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian. After the issuance of any temporary or permanent order determining custody or

visitation of a minor child, a law enforcement officer having reasonable cause to believe that a person is likely to flee the State with the child or otherwise by flight or concealment evade the jurisdiction of the courts of this State may take a child into protective custody and return the child to the parent having lawful custody, or to a court in which a custody hearing concerning the child is pending.

g. After the issuance of any temporary or permanent order determining custody or visitation of a minor child, a law enforcement officer having reasonable cause to believe that a person is likely to flee the State with the child or otherwise by flight or concealment evade the jurisdiction of the courts of this State may take a child into protective custody and deliver the child to a court in which a custody hearing concerning the child is pending.

C.2A:34-86 Costs, fees and expenses.

34. Costs, Fees and Expenses.

a. The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

b. The court may not assess fees, costs, or expenses against a state except as otherwise provided by law other than this act.

C.2A:34-87 Recognition and enforcement.

35. Recognition and enforcement.

A court of this State shall accord full faith and credit to an order made consistently with this act which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court authorized to do so under article 2 of this act.

C.2A:34-88 Appeals.

36. Appeals.

An appeal may be taken from a final order in a proceeding under this article in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under section 16 of this act, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

C.2A:34-89 Role of prosecutor or other appropriate public official.

37. Role of Prosecutor or Other Appropriate Public Official.

a. In a case arising under this act or involving the Hague Convention on the Civil Aspects of International Child Abduction, the prosecutor or other appropriate public official may take any lawful action, including resort

to a proceeding under this article or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

(1) an existing child custody determination;

(2) a request from a court in a pending child custody case;

(3) a reasonable belief that a criminal statute has been violated; or

(4) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

b. A prosecutor or other appropriate public official acts on behalf of the court and may not represent any party to a child custody determination.

C.2A:34-90 Role of law enforcement.

38. Role of Law Enforcement.

At the request of a prosecutor or other appropriate public official acting under section 37 of this act, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist a prosecutor or other appropriate public official with responsibilities under section 37 of this act.

C.2A:34-91 Costs and expenses.

39. Costs and Expenses.

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or other appropriate public official and law enforcement officers under section 37 or 38 of this act.

ARTICLE 4
MISCELLANEOUS PROVISIONS

C.2A:34-92 Application and construction.

40. Application and Construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

C.2A:34-93 Severability.

41. Severability.

If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

C.2A:34-94 Transitional provision.

42. Transitional Provision.

A motion or other request for relief made in a child custody or enforcement proceeding which was commenced before the effective date of this act is governed by the law in effect at the time the motion or other request was made.

C.2A:34-95 Notice of penalties for order violation.

43. Notice of Penalties for Order Violation.

Every order of a court involving custody or visitation shall include a written notice, in both English and Spanish, advising the persons affected as to the penalties provided in N.J.S.2C:13-4 for violating that order.

Repealer.

44. Repealer.

The following are repealed:

The "Uniform Child Custody Jurisdiction Act," P.L.1979, c.124 (C.2A:34-28 et seq.); and sections 2 and 3 of P.L.1990, c.104 (C.2A:34-31.1 and 2A:34-31.2.)

45. Effective Date.

This act shall take effect on the 90th day after enactment.

Approved September 14, 2004.

CHAPTER 148

AN ACT concerning notices to certain employees and amending P.L.1986, c.105.

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

1. Section 7 of P.L.1986, c.105 (C.34:19-7) is amended to read as follows:

C.34:19-7 Posting of notices.

7. An employer shall conspicuously display, and annually distribute to all employees, written or electronic notices of its employees' protections, obligations, rights and procedures under this act, and use other appropriate means to keep its employees so informed. Each notice posted or distributed pursuant to this section shall be in English, Spanish and at the employer's discretion, any other language spoken by the majority of the employer's

employees. The notice shall include the name of the person or persons the employer has designated to receive written notifications pursuant to section 4 of this act. The Commissioner of Labor and Workforce Development shall make available to employers a text of a notice fulfilling the requirements of this section and provide copies of the notice suitable for display and distribution to any employers who request the copies, charging them as much as is needed to pay the costs of the department. The commissioner shall also provide notices printed in a language other than English and Spanish, at the request of the employer.

The requirement that an employer annually distribute to all employees written notices of the protections, obligations, rights and procedures provided to the employees by the provisions of P.L.1986, c.105 (C.34:19-1 et seq.) shall not apply to any employer who has less than 10 employees.

2. This act shall take effect immediately.

Approved September 14, 2004.

CHAPTER 149

AN ACT concerning uncompensated deputy sheriffs and amending P.L.1975, c.272.

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

1. Section 1 of P.L.1975, c.272 (C.40A:9-117.2) is amended to read as follows:

C.40A:9-117.2 Appointment of unpaid deputy sheriffs.

1. In addition to the deputies authorized to be appointed pursuant to N.J.S.40A:9-117, the sheriff of any county may designate and appoint deputy sheriffs to serve at the pleasure of the sheriff without compensation. The sheriff may appoint the lesser of either 85 deputy sheriffs or one deputy sheriff for every 10,000 inhabitants of the county, according to the latest federal decennial census. At the time of or prior to their appointment, all deputy sheriffs shall have completed an appropriate course of training approved by the Police Training Commission. As an auxiliary force of the sheriff's office, they shall assist in providing for the health, safety and welfare of the people of the State of New Jersey and aid in the prevention of damage

to and the destruction of property during any emergency and such other duties as may be prescribed and directed by the sheriff.

No sheriff shall appoint or continue the designation of any deputy sheriff pursuant to this section unless the governing body of the county shall appropriate moneys for the entire cost of effecting and maintaining insurance with any insurance company authorized to do business in this State for acts or omissions committed by such deputy sheriffs in the course of their official duties.

2. This act shall take effect immediately.

Approved September 14, 2004.

CHAPTER 150

AN ACT concerning the enforcement of trademark violations and the forfeiture of counterfeit goods and other contraband, and amending and supplementing P.L.1987, c.454 and amending N.J.S.2C:64-1.

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

C.56:3-13.22 Additional enforcement action for certain trademark violations.

1. a. In addition to any civil action brought pursuant to subsection a. of section 2 of P.L.1987, c.454 (C.56:3-13.16) or any criminal prosecution brought for violation of N.J.S.2C:21-21, N.J.S.2C:21-32 or any other criminal law, or any forfeiture proceeding brought pursuant to N.J.S.2C:64-1 et seq., if the Attorney General determines that the sale or other distribution of goods or services related to the conduct specified in paragraph (1) or (2) of subsection a. of section 2 of P.L.1987, c.454 (C.56:3-13.16) poses a threat to the health, safety or welfare of any member of the public, the Attorney General may institute a civil action to enforce any or all of the remedies provided in subsection d. or e. of this section against any person who engages in the conduct specified in paragraphs (1) and (2) of subsection a. of section 2 of P.L.1987, c.454 (C.56:3-13.16).

b. (1) The action shall be brought in the Superior Court of the county in which the defendant resides, is found, has an agent, transacts business, or in which the reproduction, counterfeit, copy or imitation of the mark is found.

(2) The Attorney General may institute an action under subsection a. of this section without regard to whether the owner or the designee of the owner

of the mark has brought a civil action pursuant to subsection a. of section 2 of P.L.1987, c.454 (C.56:3-13.16); however, a civil action brought by an owner or designee of an owner of the mark pursuant to subsection a. of section 2 of P.L.1987, c.454 (C.56:3-13.16) may be joined with an action brought by the Attorney General pursuant to subsection a. of this section, and the Attorney General also may seek to enforce the remedies provided in subsection d. or e. of this section by intervening in a pending civil action brought by an owner or designee of an owner of the mark pursuant to subsection a. of section 2 of P.L.1987, c.454 (C.56:3-13.16).

c. The Attorney General shall establish violation of subsection a. of this section by a preponderance of the evidence. A jury trial shall be available at the request of either party.

d. (1) In an action brought pursuant to subsection a. of this section, the court may grant temporary restraining orders and injunctions, as may be deemed just and reasonable by the court, to prevent any conduct specified in paragraphs (1) and (2) of subsection a. of section 2 of P.L.1987, c.454 (C.56:3-13.16).

(2) Upon proof, by a preponderance of the evidence, of a defendant's violation of subsection a. of this section, the court shall order that any reproduction, counterfeit, copy or imitation in the possession or under the control of any defendant in the case be disposed of or destroyed in accordance with the provisions of section 3 of P.L.1987, c.454 (C.56:3-13.17), and the defendant shall also be liable to the State for the costs of the suit, including reasonable attorney's fees, costs of investigation and litigation.

e. In any civil proceeding brought by the Attorney General under this section relating to the manufacture, use, display or sale of a counterfeit mark, in addition to the remedies in subsection d. of this section, the court shall have jurisdiction to prevent and restrain the manufacture, use, display or sale of a counterfeit mark by issuing appropriate orders, including, in appropriate circumstances, an ex parte temporary restraining order without a seizure, or an ex parte order without notice for the seizure of counterfeit goods and the following materials:

(1) Spurious marks;

(2) The means of making the spurious marks;

(3) Articles in the defendant's possession bearing the spurious marks, or on or in connection with which the spurious marks are intended to be used;

(4) Business records documenting the manufacture, purchase or sale of counterfeit marks.

Any business records seized through an ex parte seizure order under this subsection shall be taken into the custody of the court. The applicant or its representatives shall not be permitted to see these records during the course

of the search or thereafter, except under an appropriate protective order, issued on notice to the person from whom the business records were seized, with respect to confidential business information.

f. Ex parte seizure orders under subsection e. of this section shall not be issued unless the Attorney General provides an affidavit clearly setting forth specific facts in support of the need for the seizure order.

(1) The court shall place under seal any order for an ex parte seizure under subsection e. of this section, together with the papers upon which the order was granted, until the party in possession of the goods or materials has been given an opportunity to contest the order.

(2) No order for an ex parte seizure under subsection e. of this section shall be issued unless the court finds that a temporary restraining order on notice to the defendant or an ex parte temporary restraining order would be inadequate to protect the health, safety or welfare of any member of the public.

(3) An order for a seizure under subsection e. of this section shall particularly describe the goods or materials to be seized and the place from which they are to be seized.

(4) The court shall set a hearing date not more than 10 court days after the last date on which seizure is ordered at which any person from whom goods are seized may appear and seek release of the seized goods.

(5) Where an order for seizure is made, the court shall authorize the Attorney General to make the seizure.

g. Nothing in this section shall be deemed to limit the authority of the Attorney General to investigate and prosecute violations of the criminal code, and the forfeiture procedures provided in this subsection are intended to supplement the forfeiture procedures set forth in chapter 64 of Title 2C of the New Jersey Statutes.

2. Section 2 of P.L.1987, c.454 (C.56:3-13.16) is amended to read as follows:

C.56:3-13.16 Action for trafficking in counterfeit marks; remedies.

2. a. Subject to the provisions of section 13 of P.L.1966, c.263 (C.56:3-13.13), and with respect to a mark registered pursuant to this act and a mark protected at common law, any person who engages in the conduct specified in paragraphs (1) and (2) of this subsection shall be liable in a civil action by the owner or the designee of the owner of the mark for any or all of the remedies provided in subsections d., e. and f. of this section, except that under paragraph (2) of this subsection, the owner or designee shall not be entitled to recover profits or damages unless the conduct has been committed with the intent to cause confusion or mistake or to deceive.

(1) The use, without consent of the owner or designee, of any reproduction, counterfeit, copy, or colorable imitation of a mark in connection with the sale, distribution, offering for sale, or advertising in this State of any goods or services on or in connection with which the use is likely to cause confusion or mistake or to deceive as to the source of origin of the goods or services; or

(2) The reproduction, counterfeiting, copying or colorable imitation of a mark and the application of a reproduction, counterfeit, copy or colorable imitation of a mark to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or in connection with the sale or other distribution in this State of the goods or services.

b. The action shall be brought in the Superior Court of the county in which the defendant resides, is found, has an agent, transacts business, or in which the reproduction, counterfeit, copy or imitation of the mark is found.

c. (1) The plaintiff in the civil action shall establish violation of subsection a. of this section by a preponderance of the evidence. A jury trial shall be available at the request of either party.

(2) If the Attorney General determines that the sale or distribution of goods or services related to the conduct specified in paragraph (1) or (2) of subsection a. of this section poses a threat to the health, safety or welfare of any member of the public, the Attorney General may intervene in a pending civil action filed by the owner or designee of the owner of a mark pursuant to subsection a. of this section in order to enforce the remedies provided in subsection d. or e. of section 1 of P.L.2004, c.150 (C.56:3-13.22).

d. In an action brought pursuant to subsection a. of this section, the court may grant temporary restraining orders and injunctions, as may be deemed just and reasonable by the court, to prevent any conduct described in paragraphs (1) and (2) of subsection a. of this section, and may require the defendants to pay to the owner or designee of the owner all profits derived from or all damages suffered by reason of such conduct, or both. The court may also order that any reproduction, counterfeit, copy or imitation in the possession or under the control of any defendant in the case be disposed of or destroyed in accordance with the provisions of section 3 of P.L.1987, c.454 (C.56:3-13.17). The court, in its discretion, may enter judgment for an amount not to exceed three times the profits or damages and may also award reasonable attorneys' fees and costs of suit to the prevailing party in cases where the court finds the other party committed the wrongful acts with knowledge or in bad faith or if the court finds the other party's conduct so egregious as to justify such an award. In assessing defendant's profits, plaintiff shall be required to prove defendant's sales only; defendant must prove all elements of cost or deduction claimed therefrom. In an action in which the Attorney General successfully intervenes in order to enforce the

remedies provided in subsection d. or e. of section 1 of P.L.2004, c.150 (C.56:3-13.22)), the defendant also shall be liable to the State for the costs of the suit, including reasonable attorney's fees, costs of investigation and litigation.

e. Upon finding a violation of subsection a. of this section, the court may, in its discretion, award prejudgment interest on the monetary recovery awarded under subsection d. of this section, at an annual interest rate established pursuant to Rule 4:42-11 of the Rules Governing the Courts of the State of New Jersey, commencing on the date of the service of the plaintiff's pleadings which set forth the claim for monetary recovery and ending on the date the judgment is awarded or for a shorter time as the court deems appropriate.

f. Any provisional or equitable remedy that would be available in a comparable civil action commenced under the federal Trademark Act of 1946, 15 U.S.C. s.1051 et seq. may, to the same extent and upon a comparable showing, be made available to a party in an action commenced under this section, subject to the conditions and requirements imposed by the Civil Practice Rules of the Rules Governing the Courts of the State of New Jersey.

g. (Deleted by amendment, P.L.1995, c.171.)

h. In any civil proceeding brought under this section relating to the manufacture, use, display or sale of a counterfeit mark, in addition to the remedies available to an owner as provided in subsections d., e. and f. of this section, the court shall have jurisdiction to prevent and restrain the manufacture, use, display or sale of a counterfeit mark by issuing appropriate orders, including, in appropriate circumstances, an ex parte temporary restraining order without a seizure, or an ex parte order without notice for the seizure of counterfeit goods and the following materials:

(1) Spurious marks;

(2) The means of making the spurious marks;

(3) Articles in the defendant's possession bearing the spurious marks, or on or in connection with which the spurious marks are intended to be used;

(4) Business records documenting the manufacture, purchase or sale of counterfeit marks.

Any business records seized through an ex parte seizure order under this subsection shall be taken into the custody of the court. The applicant or its representatives shall not be permitted to see these records during the course of the search or thereafter, except under an appropriate protective order, issued on notice to the person from whom the business records were seized, with respect to confidential business information.

i. Ex parte seizure orders under subsection h. of this section shall not be issued unless the applicant:

(1) Provides an affidavit clearly setting forth specific facts in support of the need for the seizure order, and

(2) Provides security in an amount as the court deems adequate for the payment of damages as any person may suffer as a result of a wrongful seizure or wrongful attempted seizure of his property under subsection h. of this section. These damages shall include but not be limited to lost profits, the cost of materials, and loss of good will. In any case in which it is shown that the applicant caused the seizure without adequate evidence that the goods or materials were counterfeit, damages shall include reasonable attorney's fees.

(3) The court shall place under seal any order for an ex parte seizure under subsection h. of this section, together with the papers upon which the order was granted, until the party in possession of the goods or materials has been given an opportunity to contest the order.

j. No order for an ex parte seizure under subsection h. of this section shall be issued unless the court finds that a temporary restraining order on notice to the defendant or an ex parte temporary restraining order would be inadequate to protect the applicant's interest. In particular, no court shall issue an order for an ex parte seizure under subsection h. of this section unless it clearly appears from specific facts offered under oath or affirmation that:

(1) Counterfeit goods or the materials described above are located at the place identified in the affidavit;

(2) The applicant will suffer immediate and irreparable injury, loss or damage if the goods or materials are not seized through execution of an ex parte order, in that:

(a) The person from whom the goods or materials are to be seized would not comply with an order directing him to retain the goods or materials and to make them available to the court, but would instead make the goods or materials inaccessible by destroying, hiding or transferring them; or

(b) The person from whom the goods or materials are to be seized will otherwise act to frustrate the court in a proceeding under this section; and

(3) The applicant has made no effort to publicize the requested seizure and will refrain from doing so until the party in possession of the goods and materials has been given an opportunity to contest the order.

k. An order for a seizure under subsection h. of this section shall particularly describe the goods or materials to be seized, the place from which they are to be seized, and the amount of security provided by the applicant.

l. The court shall set a hearing date not more than 10 court days after the last date on which seizure is ordered at which any person from whom goods are seized may appear and seek release of the seized goods.

m. Except where the court authorizes the Attorney General to make the seizure in a matter in which the Attorney General has intervened in accordance with paragraph (2) of subsection c. of this section, where an order for seizure is made, the court shall direct the sheriff of the county in which the property is located to make the seizure or, where the property to be seized is located in more than one county, the direction shall issue to the sheriff of each of those counties. The sheriff shall make the seizure within 72 hours of the order.

3. N.J.S.2C:64-1 is amended to read as follows:

Property subject to forfeiture.

2C:64-1. Property Subject to Forfeiture.

a. Any interest in the following shall be subject to forfeiture and no property right shall exist in them:

(1) Controlled dangerous substances, firearms which are unlawfully possessed, carried, acquired or used, illegally possessed gambling devices, untaxed cigarettes, untaxed special fuel, unlawful sound recordings and audiovisual works and items bearing a counterfeit mark. These shall be designated prima facie contraband.

(2) All property which has been, or is intended to be, utilized in furtherance of an unlawful activity, including, but not limited to, conveyances intended to facilitate the perpetration of illegal acts, or buildings or premises maintained for the purpose of committing offenses against the State.

(3) Property which has become or is intended to become an integral part of illegal activity, including, but not limited to, money which is earmarked for use as financing for an illegal gambling enterprise.

(4) Proceeds of illegal activities, including, but not limited to, property or money obtained as a result of the sale of prima facie contraband as defined by subsection a. (1), proceeds of illegal gambling, prostitution, bribery and extortion.

b. Any article subject to forfeiture under this chapter may be seized by the State or any law enforcement officer as evidence pending a criminal prosecution pursuant to section 2C:64-4 or, when no criminal proceeding is instituted, upon process issued by any court of competent jurisdiction over the property, except that seizure without such process may be made when not inconsistent with the Constitution of this State or the United States, and when

(1) The article is prima facie contraband; or

(2) The property subject to seizure poses an immediate threat to the public health, safety or welfare.

c. For the purposes of this section:

"Items bearing a counterfeit mark" means items bearing a counterfeit mark as defined in N.J.S.2C:21-32.

"Unlawful sound recordings and audiovisual works" means sound recordings and audiovisual works as those terms are defined in N.J.S.2C:21-21 which were produced in violation of N.J.S.2C:21-21.

"Untaxed special fuel" means diesel fuel, No. 2 fuel oil and kerosene on which the motor fuel tax imposed pursuant to R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or transferred in this State in a manner not authorized pursuant to R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).

4. This act shall take effect immediately.

Approved September 14, 2004.

CHAPTER 151

AN ACT concerning public access to sex offender Internet registry information about certain offenders and amending P.L.2001, c.167.

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

1. Section 2 of P.L.2001, c.167 (C.2C:7-13) is amended to read as follows:

C.2C:7-13 Development, maintenance of system on the Internet registry.

2. a. Pursuant to the provisions of this section, the Superintendent of State Police shall develop and maintain a system for making certain information in the central registry established pursuant to subsection d. of section 4 of P.L.1994, c.133 (C.2C:7-4) publicly available by means of electronic Internet technology.

b. The public may, without limitation, obtain access to the Internet registry to view an individual registration record, any part of, or the entire Internet registry concerning all offenders whose risk of re-offense is high or for whom the court has ordered notification in accordance with paragraph (3) of subsection c. of section 3 of P.L.1994, c.128 (C.2C:7-8), regardless of the age of the offender.

c. Except as provided in subsection d. of this section, the public may, without limitation, obtain access to the Internet registry to view an individual registration record, any part of, or the entire Internet registry concerning offenders whose risk of re-offense is moderate and for whom the court has ordered notification in accordance with paragraph (2) of subsection c. of section 3 of P.L.1994, c.128 (C.2C:7-8).

d. The individual registration record of an offender whose risk of re-offense has been determined to be moderate and for whom the court has ordered notification in accordance with paragraph (2) of subsection c. of section 3 of P.L.1994, c.128 (C.2C:7-8) shall not be made available to the public on the Internet registry if the sole sex offense committed by the offender which renders him subject to the requirements of P.L.1994, c.133 (C.2C:7-1 et seq.) is one of the following:

(1) An adjudication of delinquency for any sex offense as defined in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2);

(2) A conviction or acquittal by reason of insanity for a violation of N.J.S.2C:14-2 or N.J.S.2C:14-3 under circumstances in which the offender was related to the victim by blood or affinity to the third degree or was a resource family parent, a guardian, or stood in loco parentis within the household; or

(3) A conviction or acquittal by reason of insanity for a violation of N.J.S.2C:14-2 or N.J.S.2C:14-3 in any case in which the victim assented to the commission of the offense but by reason of age was not capable of giving lawful consent.

For purposes of this subsection, "sole sex offense" means a single conviction, adjudication of guilty or acquittal by reason of insanity, as the case may be, for a sex offense which involved no more than one victim, no more than one occurrence or, in the case of an offense which meets the criteria of paragraph (2) of this subsection, members of no more than a single household.

e. Notwithstanding the provisions of paragraph d. of this subsection, the individual registration record of an offender to whom an exception enumerated in paragraph (1), (2) or (3) of subsection d. of this section applies shall be made available to the public on the Internet registry if the State establishes by clear and convincing evidence that, given the particular facts and circumstances of the offense and the characteristics and propensities of the offender, the risk to the general public posed by the offender is substantially similar to that posed by offenders whose risk of re-offense is moderate and who do not qualify under the enumerated exceptions.

f. The individual registration records of offenders whose risk of re-offense is low or of offenders whose risk of re-offense is moderate but for whom the court has not ordered notification in accordance with paragraph

(2) of subsection c. of section 3 of P.L.1994, c.128 (C.2C:7-8) shall not be available to the public on the Internet registry.

g. The information concerning a registered offender to be made publicly available on the Internet shall include: the offender's name and any aliases the offender has used or under which the offender may be or may have been known; any sex offense as defined in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2) for which the offender was convicted, adjudicated delinquent or acquitted by reason of insanity, as the case may be; the date and location of disposition; a brief description of any such offense, including the victim's gender and indication of whether the victim was less than 18 years old or less than 13 years old; a general description of the offender's modus operandi, if any; the determination of whether the risk of re-offense by the offender is moderate or high; the offender's age, race, sex, date of birth, height, weight, hair, eye color and any distinguishing scars or tattoos; a photograph of the offender and the date on which the photograph was entered into the registry; the make, model, color, year and license plate number of any vehicle operated by the offender; and the street address, zip code, municipality and county in which the offender resides.

2. This act shall take effect immediately.

Approved September 14, 2004.

CHAPTER 152

AN ACT concerning striped bass and amending P.L.1987, c.83.

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

1. Section 1 of P.L.1987, c.83 (C.23:5-45.1) is amended to read as follows:

C.23:5-45.1 Daily limit for taking striped bass.

1. a. Except as permitted pursuant to subsection c. of this section, a person shall not take from the marine waters or other waters of the State in any one day, or have in his possession at any time, more than two striped bass. One of the striped bass taken in accordance with this subsection shall be at least 24 inches but less than 28 inches in length and the other shall be at least 34 inches in length.

b. The possession of any striped bass or parts of a striped bass from which the head or tail has been removed other than immediately prior to preparation or being served as food, which is less than the minimum size

limits specified in subsections a. and c. of this section shall be presumed to be a violation of this section, except this subsection shall not apply to striped bass that have been filleted under authority of, and in accordance with, a special permit therefor which may be issued by the Commissioner of Environmental Protection to an inspected vessel licensed to accommodate 15 or more passengers.

c. The Commissioner of Environmental Protection, by public notice placed in the New Jersey Register, shall establish management measures for striped bass in and upon the marine waters and other waters of the State, which management measures shall be consistent with the Striped Bass Management Plan of the Atlantic States Marine Fisheries Commission. Upon the approval of the Atlantic States Marine Fisheries Commission, these management measures shall provide for the taking in one day, or the possession at any time, of striped bass in addition to the two striped bass permitted pursuant to subsection a. of this section and shall include the size and quantity limits and the areas and the seasons for the taking of such additional striped bass.

The department shall monitor the catch provided for in this subsection and provide for its discontinuance as necessary to keep the State in compliance with the allowances of the commission.

2. This act shall take effect immediately.

Approved September 27, 2004.

CHAPTER 153

AN ACT concerning influenza vaccine distribution.

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

1. a. To protect the public health during the 2004-2005 influenza vaccine shortage, the Commissioner of Health and Senior Services shall issue an order to implement an influenza vaccine reallocation plan in accordance with the provisions of this act.

The order shall require all physicians, nurses, health care facilities, pharmacies and others that dispense vaccines to provide such information as is requested by the commissioner, and to comply with the elements of the plan, including any reallocation of influenza vaccine supplies.

b. The commissioner is authorized to:

(1) determine the current and anticipated supply of influenza vaccine in this State;

(2) identify the groups of persons considered to be high priority for allocation of the influenza vaccine, which groups include persons at high-risk and those who provide care or services to high-risk persons;

(3) mobilize public and private health resources to assist in influenza vaccine distribution and administration; and

(4) reallocate current and anticipated supplies of influenza vaccine to most effectively meet the needs of the State's high-risk and high priority groups, if necessary; except that the commissioner shall not reallocate any vaccine held by a county health department.

c. As used in this act, "vaccine" includes influenza vaccine and influenza antiviral medications.

d. A person who willfully or knowingly violates the provisions of the order established pursuant to this act shall be liable for a civil penalty of $500 for each violation. The penalty shall be sued for and collected by the commissioner in a summary proceeding before the Superior Court pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

2. This act shall take effect immediately and shall expire on May 31, 2005.

Approved October 27, 2004.

CHAPTER 154

AN ACT concerning certain facilities of public utilities and amending P.L.1991, c.366.

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

1. Section 1 of P.L.1991, c.366 (C.48:3-17a) is amended to read as follows:

C.48:3-17a Public utility pole or underground facility placement; municipal consent required; procedures, enforcement.

1. a. After the effective date of P.L.1991, c.366 (C.48:3-17a), before a public utility places a pole, used for the supplying and distributing of electricity for light, heat or power, or for the furnishing of telegraph, telephone or other telecommunications service, on a public right of way on which the predominant method of lighting is gas lighting, a public utility shall, in

addition to any other requirements of law, first acquire the consent of the governing body of the municipality in which the public right of way is located.

b. After the effective date of P.L.2004, c.154, before a public utility places, replaces or removes a pole or an underground facility located in a single municipality within a 24-hour period, which pole or underground facility is used for the supplying and distribution of electricity for light, heat or power, or for the furnishing of water service or telephone or other telecommunications service on or below a public right of way in that municipality, the public utility shall, in addition to any other requirements of law, notify an appropriately licensed municipal code official of the municipality at least 24 hours before undertaking any construction or excavation related to the placement, replacement or removal of such pole or underground facility. The provisions of this subsection shall apply only to a municipality where the governing body of that municipality has first adopted an ordinance requiring the notification of a public utility that provides service in that municipality of the application of the provisions of this subsection in the municipality. For the purposes of this section, "underground facility" means one or more underground pipes, cables, wires, lines or other structures used for the supplying and distribution of electricity for light, heat or power or for the providing of water service, or for the furnishing of telephone or other telecommunications service.

c. After completing the placement, replacement or removal of a pole or an underground facility pursuant to this section, the public utility shall remove from such right of way any pole or underground facility no longer in use as well as any other debris created from such placement, replacement or removal and restore the property including, but not limited to, the installation of a hot patch as needed to restore the property within the right of way to its previous condition as much as possible. As used in this section, "hot patch" means the installation of a mixture of asphalt to restore property within the right of way to its previous condition subsequent to the construction or excavation of a site required for the placement, replacement of a pole or an underground facility pursuant to this section.

d. For the purposes of this section, "pole" means, in addition to its commonly accepted meaning, any wires or cable connected thereto, and any replacements therefor which are similar in construction and use.

e. In the event a public utility does not meet the requirements of subsection c. of this section concerning the removal of debris and the restoring of property including, but not limited to, the installation of a hot patch, within a right of way to its previous condition within 90 days of placement, replacement or removal of a pole or an underground facility, the municipality shall be authorized to impose a fine up to an amount not to exceed $100 each day

until the requirements of subsection c. are met, except that if the public utility is unable to complete the installation of a hot patch due to the unavailability of asphalt material during the period of time from November through April, the public utility shall not be required to complete the hot patch installation until 60 days immediately following the end of the November through April period. At least five business days prior to the end of the 90-day period established by this subsection, the municipality shall notify the public utility that the penalties authorized by this subsection shall begin to be assessed against the utility after the end of the 90-day period unless the utility complies with the requirements of subsection c. of this section. Any penalty imposed shall be collected or enforced in a summary manner, without a jury, in any court of competent jurisdiction according to the procedure provided by "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and municipal court shall have jurisdiction to enforce the provisions of this section. In the case of removal or replacement of a pole or an underground facility utilized by two or more public utilities, the public utility last removing its pipes, cables, wires, lines or other structures shall be liable for the removal and restoration required under subsection c. of this section, unless a written agreement between the public utilities provides otherwise.

f. Under emergency conditions which significantly impact the placement of a pole or underground facility resulting from natural forces or human activities beyond the control of the public utility, or which pose an imminent or existing threat of loss of electrical, water, power, telephone, or other telecommunication service, or which pose an imminent or existing threat to the safety and security of persons or property, or both, or which require immediate action by a public utility to prevent bodily harm or substantial property damage from occurring, the provisions of subsection b. of this section shall not apply when a public utility undertakes any construction or excavation related to the placement, replacement or removal of a pole or an underground facility in response to such an emergency, provided that the public utility undertaking such construction or excavation notifies the appropriately licensed municipal code official of the municipality in which such construction or excavation occurs at the earliest reasonable opportunity and that all reasonable efforts are taken by the public utility to comply with the removal and restoration requirements of subsection c. of this section after responding to the emergency.

2. This act shall take effect immediately.

Approved November 8, 2004.

CHAPTER 155

AN ACT concerning contractors engaged in home improvements and amending P.L.2004, c.16.

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

1. Section 3 of P.L.2004, c.16 (C.56:8-138) is amended to read as follows:

C.56:8-138 Registration for contractors; application, fee.

3. a. On or after December 31, 2005, no person shall offer to perform, or engage, or attempt to engage in the business of making or selling home improvements unless registered with the Division of Consumer Affairs in accordance with the provisions of this act.

b. Every contractor shall annually register with the director. Application for registration shall be on a form provided by the division and shall be accompanied by a reasonable fee, set by the director in an amount sufficient to defray the division's expenses incurred in administering and enforcing this act.

c. Every contractor required to register under this act shall file an amended registration within 20 days after any change in the information required to be included thereon. No fee shall be required for the filing of an amendment.

2. Section 4 of P.L.2004, c.16 (C.56:8-139) is amended to read as follows:

C.56:8-139 Act applicable to contractors who publicly advertise.

4. Except for persons exempted pursuant to section 5 of this act, any person who advertises in print or puts out any sign or card or other device on or after December 31, 2005, which would indicate to the public that he is a contractor in New Jersey, or who causes his name or business name to be included in a classified advertisement or directory in New Jersey on or after December 31, 2005, under a classification for home improvements covered by this act, is subject to the provisions of this act. This section shall not be construed to apply to simple residential alphabetical listings in standard telephone directories.

3. Section 7 of P.L.2004, c.16 (C.56:8-142) is amended to read as follows:

C.56:8-142 Proof of commercial general liability insurance; requirements.

7. a. On or after December 31, 2005, every registered contractor who is engaged in home improvements shall secure, maintain and file with the director proof of a certificate of commercial general liability insurance in a minimum amount of $500,000 per occurrence.

b. Every registered contractor engaged in home improvements whose commercial general liability insurance policy is cancelled or nonrenewed shall submit to the director a copy of the certificate of commercial general liability insurance for a new or replacement policy which meets the requirements of subsection a. of this section before the former policy is no longer effective.

4. Section 16 of P.L.2004, c.16 (C.56:8-151) is amended to read as follows:

C.56:8-151 Contracts, certain, required to be in writing; contents.

16. a. On or after December 31, 2005, every home improvement contract for a purchase price in excess of $500, and all changes in the terms and conditions of the contract, shall be in writing. The contract shall be signed by all parties thereto, and shall clearly and accurately set forth in legible form and in understandable language all terms and conditions of the contract, including but not limited to:

(1) The legal name, business address, and registration number of the contractor;

(2) A copy of the certificate of commercial general liability insurance required of a contractor pursuant to section 7 of this act and the telephone number of the insurance company issuing the certificate; and

(3) The total price or other consideration to be paid by the owner, including the finance charges.

b. On or after December 31, 2005, a home improvement contract may be cancelled by a consumer for any reason at any time before midnight of the third business day after the consumer receives a copy of it. In order to cancel a contract the consumer shall notify the contractor of the cancellation in writing, by registered or certified mail, return receipt requested, or by personal delivery, to the address specified in the contract. All moneys paid pursuant to the cancelled contract shall be fully refunded within 30 days of receipt of the notice of cancellation. If the consumer has executed any credit or loan agreement through the contractor to pay all or part of the contract, the agreement or note shall be cancelled without penalty to the consumer and written notice of that cancellation shall be mailed to the consumer within 30 days of receipt of the notice of cancellation. The contract shall contain a conspicuous notice printed in at least 10-point bold-faced type as follows:

"NOTICE TO CONSUMER

YOU MAY CANCEL THIS CONTRACT AT ANY TIME BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO CANCEL THIS CONTRACT, YOU MUST EITHER:

1. SEND A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OR

2. PERSONALLY DELIVER A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION TO:

(Name of Contractor)
(Address of Contractor)
(Phone Number of Contractor)

If you cancel this contract within the three-day period, you are entitled to a full refund of your money. Refunds must be made within 30 days of the contractor's receipt of the cancellation notice."

5. Section 18 of P.L.2004, c.16 is amended to read as follows:

18. This act shall take effect on December 31, 2005.

6. This act shall take effect immediately and if enacted after November 9, 2004, shall be retroactive to November 9, 2004.

Approved November 8, 2004.

CHAPTER 156

AN ACT designating the bridge over the Raritan River carrying southbound United States Highway Route No. 1 between Edison Township and New Brunswick City as the "Donald Goodkind Bridge," and making an appropriation.

WHEREAS, Donald Goodkind has had a life-long involvement in the planning and development of New Jersey's transportation system, helping New Jersey gain recognition as having built its projects to the highest engineering standards; and

WHEREAS, Donald Goodkind is a native of New Brunswick and has been active in public service to the people of New Jersey, including serving as Assistant Commissioner for Highways of the New Jersey Department of Transportation; and

WHEREAS, Donald Goodkind played a major role in developing New Jersey's transportation systems, including highways, bridges and mass transit, from hands-on engineering and design of major roadways such as the New Jersey Turnpike, the Garden State Parkway and many of our interstate highways, as well as the PATCO high speed rail line, to supervising operators of the Department of Transportation; and

WHEREAS, Donald Goodkind followed in the footsteps of his father, Morris, who served the State for over 30 years as the State's Chief Bridge Engineer and who was responsible for the building of structures such as the Pulaski Skyway and the former College Bridge over the Raritan River; and

WHEREAS, The College Bridge, which carries United States Highway Route No. 1 northbound over the Raritan River between New Brunswick City and Edison Township, is a renowned engineering structure, and was renamed the "Morris Goodkind Bridge" in 1969; and

WHEREAS, Donald Goodkind designed the unnamed newer adjacent span which carries southbound traffic and preserves the views and sight lines of the Morris Goodkind Bridge; and

WHEREAS, Donald Goodkind is a highly respected member of the engineering profession, and among other things was nominated for "Construction Man of the Year" in Engineering News Record, was the co-founder and former President of the New Jersey Consulting Engineers Council, is a Fellow of the American Society of Civil Engineers, and is a former trustee of the New Jersey Institute of Technology; and

WHEREAS, In tribute to Donald Goodkind and to perpetuate his and his father's traditions of service to the engineering profession and to the State of New Jersey, it is fitting and proper that the bridge over the Raritan River carrying southbound United States Highway Route No. 1 between Edison Township and New Brunswick City, which is presently unnamed, be designated as the "Donald Goodkind Bridge;" now, therefore,

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

1. The Commissioner of the Department of Transportation shall designate the bridge over the Raritan River carrying southbound United States Highway Route No. 1 between Edison Township and New Brunswick City as the "Donald Goodkind Bridge."

2. There is appropriated from the General Fund, for the purposes of implementing section 1 of this act, $2,500 to the Department of Transportation for the costs of appropriate signs in accordance with section 1 of this act.

3. This act shall take effect immediately.

Approved November 15, 2004.

CHAPTER 157

AN ACT creating the "Uniform Mediation Act" and supplementing Title 2A of the New Jersey Statutes.

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

C.2A:23C-1 Short title.

1. This Act shall be known and may be cited as the "Uniform Mediation Act."

C.2A:23C-2 Definitions.

2. Definitions. As used in this act:

"Mediation" means a process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute.

"Mediation communication" means a statement, whether verbal or nonverbal or in a record, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator. A mediation communication shall not be deemed to be a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented by P.L.2001, c.404 (C.47:1A-5 et seq.).

"Mediator" means an individual who conducts a mediation.

"Nonparty participant" means a person, other than a party or mediator, who participates in a mediation.

"Mediation party" means a person who participates in a mediation and whose agreement is necessary to resolve the dispute.

"Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

"Proceeding" means a judicial, administrative, arbitral, or other adjudicative process, including related pre-hearing and post-hearing motions, conferences, and discovery; or a legislative hearing or similar process.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Sign" means to execute or adopt a tangible symbol with the present intent to authenticate a record, or to attach or logically associate an electronic symbol, sound, or process to or with a record with the present intent to authenticate a record.

C.2A:23C-3 Scope.

3. Scope.

a. Except as otherwise provided in subsection b. or c., this act shall apply to a mediation in which:

(1) the mediation parties are required to mediate by statute, court rule or administrative agency rule, or are referred to mediation by a court, administrative agency, or arbitrator;

(2) the mediation parties and the mediator agree to mediate in a record that demonstrates an expectation that mediation communications will be privileged against disclosure; or

(3) the mediation parties use as a mediator an individual who holds himself out as a mediator, or the mediation is provided by a person who holds itself out as providing mediation.

b. The act shall not apply to a mediation:

(1) relating to the establishment, negotiation, administration, or termination of a collective bargaining relationship or to any mediation conducted by the Public Employment Relations Commission or the State Board of Mediation;

(2) relating to a dispute that is pending under or is part of the processes established by a collective bargaining agreement, except that the act applies to a mediation arising out of a dispute that has been filed with a court or an administrative agency other than the Public Employment Relations Commission or the State Board of Mediation;

(3) conducted by a judge who may make a ruling on the case; or

(4) conducted under the auspices of:

(a) a primary or secondary school if all the parties are students; or

(b) a juvenile detention facility or shelter if all the parties are residents of that facility or shelter.

c. If the parties agree in advance in a signed record, or a record of proceeding so reflects, that all or part of a mediation is not privileged, the privileges under sections 4 through 6 of P.L.2004, c.157 (C.2A:23C-4

through C.2A:23C-6) shall not apply to the mediation or part agreed upon. Sections 4 through 6 of P.L.2004, c.157 (C.2A:23C-4 through C.2A:23C-6) shall apply to a mediation communication made by a person who has not received actual notice of the agreement before the communication is made.

C.2A:23C-4 Privilege against disclosure; admissibility; discovery.

4. Privilege against Disclosure; Admissibility; Discovery.

a. Except as otherwise provided in section 6 of P.L.2004, c.157 (C.2A:23C-6), a mediation communication is privileged as provided in subsection b. of this section and shall not be subject to discovery or admissible in evidence in a proceeding unless waived or precluded as provided by section 5 of P.L.2004, c.157 (C.2A:23C-5).

b. In a proceeding, the following privileges shall apply:

(1) a mediation party may refuse to disclose, and may prevent any other person from disclosing, a mediation communication.

(2) a mediator may refuse to disclose a mediation communication, and may prevent any other person from disclosing a mediation communication of the mediator.

(3) a nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a mediation communication of the nonparty participant.

c. Evidence or information that is otherwise admissible or subject to discovery shall not become inadmissible or protected from discovery solely by reason of its disclosure or use in a mediation.

C.2A:23C-5 Waiver and preclusion of privilege.

5. Waiver and Preclusion of Privilege.

a. A privilege under section 4 of P.L.2004, c.157 (C.2A:23C-4) may be waived in a record or orally during a proceeding if it is expressly waived by all parties to the mediation and:

(1) in the case of the privilege of a mediator, it is expressly waived by the mediator; and

(2) in the case of the privilege of a nonparty participant, it is expressly waived by the nonparty participant.

b. A person who discloses or makes a representation about a mediation communication that prejudices another person in a proceeding is precluded from asserting a privilege under section 4 of P.L.2004, c.157 (C.2A:23C-4), but only to the extent necessary for the person prejudiced to respond to the representation or disclosure.

c. A person who intentionally uses a mediation to plan, attempt to commit or commit a crime, or to conceal an ongoing crime or ongoing criminal activity is precluded from asserting a privilege under section 4 of P.L.2004, c.157 (C.2A:23C-4).

C.2A:23C-6 Exceptions to privilege.

6. Exceptions to Privilege.

a. There is no privilege under section 4 of P.L.2004, c.157 (C.2A:23C-4) for a mediation communication that is:

(1) in an agreement evidenced by a record signed by all parties to the agreement;

(2) made during a session of a mediation that is open, or is required by law to be open, to the public;

(3) a threat or statement of a plan to inflict bodily injury or commit a crime;

(4) intentionally used to plan a crime, attempt to commit a crime, or to conceal an ongoing crime or ongoing criminal activity;

(5) sought or offered to prove or disprove a claim or complaint filed against a mediator arising out of a mediation;

(6) except as otherwise provided in subsection c., sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediation party, nonparty participant, or representative of a party based on conduct occurring during a mediation; or

(7) sought or offered to prove or disprove child abuse or neglect in a proceeding in which the Division of Youth and Family Services in the Department of Human Services is a party, unless the Division of Youth and Family Services participates in the mediation.

b. There is no privilege under section 4 of P.L.2004, c.157 (C.2A:23C-4) if a court, administrative agency, or arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, that there is a need for the evidence that substantially outweighs the interest in protecting confidentiality, and that the mediation communication is sought or offered in:

(1) a court proceeding involving a crime as defined in the "New Jersey Code of Criminal Justice," N.J.S.2C:1-1 et seq.; or

(2) except as otherwise provided in subsection c., a proceeding to prove a claim to rescind or reform or a defense to avoid liability on a contract arising out of the mediation.

c. A mediator may not be compelled to provide evidence of a mediation communication referred to in paragraph (6) of subsection a. or paragraph (2) of subsection b.

d. If a mediation communication is not privileged under subsection a. or b., only the portion of the communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under subsection a. or b. does not render the evidence, or any other mediation communication, discoverable or admissible for any other purpose.

C.2A:23C-7 Prohibited mediator reports.

7. Prohibited mediator reports.

a. Except as required in subsection b., a mediator may not make a report, assessment, evaluation, recommendation, finding, or other oral or written communication regarding a mediation to a court, administrative agency, or other authority that may make a ruling on the dispute that is the subject of the mediation.

b. A mediator may disclose:

(1) whether the mediation occurred or has terminated, whether a settlement was reached, and attendance; or

(2) a mediation communication as permitted under section 6 of P.L.2004, c.157 (C.2A:23C-6);

c. A communication made in violation of subsection a. may not be considered by a court, administrative agency, or arbitrator.

C.2A:23C-8 Confidentiality.

8. Confidentiality.

Unless made during a session of a mediation which is open, or is required by law to be open, to the public, mediation communications are confidential to the extent agreed by the parties or provided by other law or rule of this State.

C.2A:23C-9 Mediator's Disclosure of Conflicts of Interest; Background.

9. Mediator's Disclosure of Conflicts of Interest; Background.

a. Before accepting a mediation, an individual who is requested to serve as a mediator shall:

(1) make an inquiry that is reasonable under the circumstances to determine whether there are any known facts that a reasonable individual would consider likely to affect the impartiality of the mediator, including a financial or personal interest in the outcome of the mediation and an existing or past relationship with a mediation party or foreseeable participant in the mediation; and

(2) disclose any such known fact to the mediation parties as soon as is practicable before accepting a mediation.

b. If a mediator learns any fact described in paragraph (1) of subsection a. after accepting a mediation, the mediator shall disclose it as soon as is practicable.

c. At the request of a mediation party, an individual who is requested to serve as a mediator shall disclose the mediator's qualifications to mediate a dispute.

d. A person who violates subsection a., b., or g. shall be precluded by the violation from asserting a privilege under section 4 of P.L.2004, c.157 (C.2A:23C-4), but only to the extent necessary to prove the violation.

e. Subsections a, b., c., and g. do not apply to a judge of any court of this State acting as a mediator.

f. This act does not require that a mediator have a special qualification by background or profession.

g. A mediator shall be impartial, notwithstanding disclosure of the facts required in subsections a. and b.

C.2A:23C-10 Participation in mediation.

10. Participation in Mediation.

An attorney or other individual designated by a party may accompany the party to and participate in a mediation. A waiver of representation or participation given before the mediation may be rescinded.

C.2A:23C-11 Relation to Electronic Signatures in Global and National Commerce Act.

11. Relation to Electronic Signatures in Global and National Commerce Act.

This act modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. s.7001 et seq., but this act does not modify, limit, or supersede s.101(c) of that act or authorize electronic delivery of any of the notices described in s.103(b) of that act.

C.2A:23C-12 Uniformity of application and construction.

12. Uniformity of application and construction.

In applying and construing this act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

C.2A:23C-13 Severability clause.

13. Severability clause.

If any provision of P.L.2004, c.157 (C.2A:23C-1 et seq.) or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

14. This act shall take effect immediately and shall apply to any agreements to mediate made on or after the effective date of this act.

Approved November 22, 2004.

CHAPTER 158

AN ACT concerning the membership of the Public Health Council and amending P.L.1947, c.177.

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

1. Section 4 of P.L.1947, c.177 (C.26:1A-4) is amended to read as follows:

C.26:1A-4 Public Health Council.

4. There shall be in the department a Public Health Council which shall consist of 10 members, each of whom shall be chosen with due regard to his knowledge of and interest in public health and each of whom shall be a citizen of this State. Two of such members shall be duly licensed physicians, one member shall be a dentist licensed to practice in the State of New Jersey, one member shall be a person knowledgeable by education or professional experience in health-related aspects of terrorism agents that may be used in acts of terrorism, and one member shall be a public health professional. Each member shall be appointed by the Governor, by and with the advice and consent of the Senate, for a term of 7 years and until his successor is appointed and qualified; provided, however, that the first appointments hereunder shall be for terms which shall commence on July 1, 1947, and shall continue 1 for 1 year, 1 for 2 years, 1 for 3 years, 1 for 4 years, 1 for 5 years, 1 for 6 years, and 1 for 7 years; and provided further, that the term of the dentist member first appointed shall commence on July 1, 1954.

Any member of the Public Health Council may be removed from office by the Governor, for cause.

Any vacancy occurring in the membership of the council for any cause shall be filled in the same manner as the original appointment but for the unexpired term only.

The members of the council shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties.

2. This act shall take effect immediately.

Approved November 22, 2004.

CHAPTER 159

AN ACT prohibiting the delivery of unsolicited credit cards 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.56:8-153 Definitions relative to unsolicited credit cards, checks.

1. As used in this act:

"Check" means a demand draft drawn on or payable through an office of a depository institution located in the United States that has imprinted on it the account holder's name and the depository institution's name, location and routing number.

"Credit card" means any card, plate, coupon book, or other single credit device that may be used from time to time to obtain credit.

"Unsolicited check" means any check mailed or otherwise delivered to a person for the purpose of drawing on an existing account that is an extension of credit or activating an account to obtain credit other than:

(1) in response to a request or application for a check or account; or

(2) as a substitute for a check or account previously issued to the person to whom the check is mailed or otherwise delivered.

"Unsolicited credit card" means any credit card mailed or otherwise delivered to a person other than:

(1) in response to a request or application for a credit card; or

(2) as a renewal or substitute for a credit card previously issued to the person to whom the credit card is mailed or otherwise delivered.

C.56:8-154 Delivery of unsolicited credit card, unlawful practice.

2. It shall be an unlawful practice for any person to mail or otherwise deliver an unsolicited credit card to a person in this State.

C.56:8-155 Unsolicited credit card, unaccepted, immunity from liability for use.

3. No person in whose name an unsolicited credit card is issued shall be liable for any amount resulting from use of that card, from which that person or a member of that person's family or household derives no benefit, unless the person has accepted the card by activating the card or using the card, or by authorizing use of the card by another person. Failure to destroy or return an unsolicited credit card shall not constitute acceptance of the card.

C.56:8-156 Unsolicited check, unaccepted, immunity from liability for use.

4. No person in whose name an unsolicited check is issued shall be liable for any amount resulting from use of that check or account, unless the person who is the holder of the account upon which the check is to be drawn,

or who is the payee on the check, as the case may be, has accepted the check or account by using the check or account. Failure to destroy or return an unsolicited check shall not constitute acceptance of the check or account.

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

Approved November 22, 2004.

CHAPTER 160

AN ACT requiring a study of the viability of Personal Rapid Transit applications as a supplement to transportation system options and making an appropriation.

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

1. The Legislature finds and declares that:

a. New Jersey's transportation needs are broad and diverse. It is in the State's interest to actively improve and diversify the system that has proven fundamental to its long-term economic success; which has as its hallmarks the ability to move large volumes of people and goods through an extensive intermodal network of roads, rail, seaports and airports.

b. As new technologies have been made viable, the State has benefited from being an early-adopter, implementing a combination of public and user-fee funded roads, heavy and light rail networks, an extensive public bus system, and most critically, integrating these parts through intermodal transfer stations. This system has proven to be a bedrock of economic growth for the State, enabling it to diversify its economy over the years, by being a leader in shipping transfer through its ports and heavy-rail systems, and more recently, able to move large workforce populations and support tourist and entertainment venues through its passenger and light-rail systems. The key to the system's success has been the linking of the parts, in which passengers can rely on intermodal transfer, from rails to roads.

c. It is in the State's economic interest to investigate new types of service which may improve the usefulness and integration of existing platforms, provide fast, inexpensive travel options, reduce capital costs of projects, and reduce pollution from motor vehicle travel. Personal Rapid Transit (hereinafter "PRT") is one such technology currently being made available.

d. According to the Federal Transit Administration, average capital cost per two-way mile for heavy rail is $150 million, and for light rail is $70 million. For operating cost per passenger mile: heavy rail is $1.20, light rail is $1.80. However, PRT has the potential to cost much less than heavy and light-rail applications, carry high capacity, be flexibly located, and require much less physical "footprint," potentially reducing easement impact for currently scheduled projects. PRT studies have shown a capital cost of about one-tenth the cost of existing rail technology, with similarly low operating costs. A demonstration of PRT in Minneapolis, Minnesota found that PRT can be built for $15 million per two-way mile, has an operating cost of about $0.40 per passenger mile, and operated at a break-even fare (including depreciation) of $0.60 per trip.

e. The transportation system of New Jersey may benefit greatly from fostering a niche role for profitably managed rapid transit as a supplement to its current system. It is in the State's interest to consider the integration of PRT into its transportation system.

2. The Commissioner of Transportation, in consultation with the Executive Director of the New Jersey Transit Corporation (hereinafter, the "corporation"), shall prepare and submit, within one year of the effective date of this act, to the Chair of the Senate Transportation Committee and the Chair of the Assembly Transportation Committee, or the respective successor committees, as appropriate, a written report which evaluates the viability of PRT as a supplement to the corporation's current project plans and future possibilities. The report shall include the following:

a. A complete and thorough description of PRT technology, and a comparison with the corporation's current light rail and heavy rail systems, including potential differences in capital and operating costs, ridership, and break-even fares, and State subsidy required.

b. A detailed examination as to the extent PRT application could be expected to reduce traffic congestion in various regions throughout the State.

c. An assessment of the estimated savings or costs of PRT applications, including the acquisition of property and rights-of-way, which compares current cost estimates for future rail stations with that of locating such stations in less expensive easements and supplementing the stations with PRT.

d. A recommendation as to which options overall are most sensitive to the environmental concerns of the region as well as to the feasibility and safety of traffic management and impact in the region.

3. There is appropriated from the General Fund, for the purposes of implementing this act, $75,000 to the Department of Transportation for the costs in preparing a study in accordance with section 2 of this act.

4. This act shall take effect immediately.

Approved December 7, 2004.

CHAPTER 161

AN ACT concerning the development of certain standards for enrollment in approved police training schools.

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

1. The Police Training Commission shall contract with an appropriate entity or entities to undertake a study regarding the development of pre-entry standards for schools approved and authorized by the commission to give police training courses pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.). The study shall include, but not be limited to, pre-entry physical fitness standards for law enforcement officers predicated upon a job task analysis. A contracted entity shall submit a report of its findings to the commission.

2. The commission shall review any report submitted pursuant to section 1 of this act. Within 90 days of the receipt of that report, the commission shall prepare its recommendations regarding appropriate pre-entry standards for schools approved and authorized to give police training courses pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.) and submit them to the Governor and Legislature. Those recommendations shall address, but not be limited to, issues pertaining to appropriate pre-entry physical fitness standards for law enforcement officers. Along with its recommendations, the commission also may submit any proposed legislation the commission deems appropriate.

3. Notwithstanding any limitations placed upon the expenditure of moneys deposited in the "Law Enforcement Officers Training and Equipment Fund," under the provisions of section 9 of P.L.1996, c.115 (C.2C:43-3.3), the costs directly associated with any contract entered into pursuant to section 1 of this act shall be paid from the moneys deposited in that fund.

4. This act shall take effect on the first day of the third month following enactment and shall expire upon the commission's submission of its recommendations, along with any proposed legislation it may deem appropriate, to the Governor and Legislature.

Approved December 7, 2004.

CHAPTER 162

AN ACT concerning small employer health benefits plans and amending P.L.1992, c.162.

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

1. Section 11 of P.L.1992, c.162 (C.17B:27A-27) is amended to read as follows:

C.17B:27A-27 Continued coverage for certain terminated employees, dependents.

11. a. (1) Every policy or contract issued to a small employer in this State, including, but not limited to, policies or contracts which are subject to this act and which are delivered, issued, renewed, or continued on or after January 1, 1994, shall offer continued coverage under the plan to any employee whose employment was terminated for a reason other than for cause and to any employee covered by such plan whose hours of employment were reduced to less than 25 subsequent to the effective date of coverage for that employee.

(2) Every policy or contract issued to a small employer in this State, including, but not limited to, policies or contracts which are subject to P.L.1992, c.162 (C.17B:27A-17 et seq.) and which are delivered, issued, renewed, or continued on or after the effective date of P.L.2004, c.162, shall offer continued coverage under the plan to: (a) any spouse who is a qualified beneficiary under the plan by reason of being the spouse of a covered employee on the day before the qualifying event; (b) to any dependent child who is a qualified beneficiary under the plan by reason of being the dependent child of a covered employee on the day before the qualifying event, subject to the applicable terms of the plan; and (c) to any such spouse or dependent child who is a qualified beneficiary under the plan whenever that spouse or dependent child is no longer entitled to coverage under the plan by reason of the death of the employee or the divorce of the employee from the spouse.

(3) The employee, spouse or dependent child shall make a written election for continued coverage within 30 days of a qualifying event. For the purposes of this section, "qualifying event" shall mean: (a) the date of termination of employment; (b) the date on which a reduction in an employee's hours of employment becomes effective; (c) the date of death of the employee; (d) the date of the divorce of the employee from the employee's spouse; or (e) the date the dependent child ceases to be an eligible dependent.

(4) For the purposes of paragraphs (1) and (2) of this subsection a., the date on which a health benefits plan is continued shall be the anniversary date of the issuance of the plan.

b. Coverage continued pursuant to subsection a. of this section shall consist of coverage which is identical to the coverage provided under the policy or contract to similarly situated qualified beneficiaries. If coverage is modified under the policy or contract for any group of similarly situated qualified beneficiaries, this coverage shall also be modified in the same manner for persons who are qualified beneficiaries entitled pursuant to subsection a. of this section to continued coverage. Continuation of coverage may not be conditioned upon, or discriminate on the basis of, lack of evidence of insurability.

c. The health benefits plan may require payment of a premium by the employee, spouse or dependent child for any period of continuation coverage as provided for in this section, except that the premium shall not exceed 102%, or 150% in the case of continuation of coverage pursuant to paragraph (2) of subsection g. of this section, of the applicable premium paid for similarly situated beneficiaries under the health benefits plan for a specified period, and may, at the election of the payor, be made in monthly installments. No premium payment shall be due before the 30th day after the day on which the covered employee made the initial election for continued coverage.

d. Coverage continued pursuant to this section shall continue until the earlier of the following:

(1) The date upon which the employer under whose health benefits plan coverage is continued ceases to provide any health benefits plan to any employee or other qualified beneficiary;

(2) The date on which the continued coverage ceases under the health benefits plan by reason of a failure to make timely payment of any premium required under the plan by the former employee, spouse, or dependent child having the continued coverage. The payment of any premium shall be considered to be timely if made within 30 days after the due date or within such longer period as may be provided for by the policy or contract; or

(3) The date after the date of election on which the qualified beneficiary first becomes:

(a) Covered under any other health benefits plan, as an employee or otherwise, which does not contain a provision which limits or excludes coverage with respect to any preexisting condition of a covered employee or any spouse or dependent child who is included under the coverage provided the covered employee, for such period of the limitation or exclusion; or

(b) Entitled to benefits under Title XVIII of the Social Security Act, Pub.L.89-97 (42 U.S.C.s.1395 et seq.).

e. Notice shall be provided to employees in the certificate of coverage prepared for employees by the carrier on or about the commencement of coverage and by the small employer at the time of the qualifying event as to their continuation rights under the plan. A qualified beneficiary may elect continuation coverage offered pursuant to this section no later than 30 days after the qualifying event. For the purposes of this section, "qualified beneficiary" means any person covered under a small employer group policy who has a qualifying event.

f. The provisions of this section shall not apply to any person who is a qualified beneficiary for the purposes of continuation of coverage as provided in accordance with section 10002 of Title X of Pub.L.99-272 (29 U.S.C.s.1161 et seq.).

g. Continuation of coverage provided for under this section shall not exceed 18 months from the qualifying event, except that:

(1) In the case of a spouse or dependent child who is a qualified beneficiary, continuation of coverage shall extend until the date 36 months after the date the spouse's or dependent child's benefits under the policy or contract would otherwise have terminated by reason of the death of the employee, the divorce of the employee from the spouse or a dependent child ceasing to be a dependent child under the applicable provisions of the policy or contract; and

(2) In the case of an employee who is determined to have been disabled under Title II or XVI of the Social Security Act (42 U.S.C.ss.401-433 or 42 U.S.C.ss.1381-1383) at the time of termination of employment or at any time during the first 60 days of continuation of coverage, 29 months after the date benefits under the policy or contract would have terminated pursuant to paragraph (1) of subsection a. of this section; provided, however, that if the employee is no longer disabled, continuation of coverage shall terminate on the later date of 18 months or the month that begins more than 31 days after the date of final determination under Title II or Title XVI of the Social Security Act (42 U.S.C.ss.401-433 or 42 U.S.C.ss.1381-1383) that the employee is no longer disabled. The employee shall provide notification of the disability determination under Title II or XVI of the Social Security Act (42 U.S.C.ss.401-433 or 42 U.S.C.ss.1381-1383) to the carrier within 60

days of the date of that determination, and within 18 months of the date benefits under the policy or contract would have terminated pursuant to paragraph (1) of subsection a. of this section

2. This act shall take effect on the 90th day after enactment.

Approved December 7, 2004.

CHAPTER 163

AN ACT concerning operation of a motor vehicle in the vicinity of a horse, amending R.S.39:4-72 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.39:4-72 is amended to read as follows:

Slowing, stopping on signal from driver, rider of a horse; violations, fine.

39:4-72. a. When approaching or passing a person riding or driving a horse, a person driving a motor vehicle shall reduce the vehicle's speed to a rate not exceeding 25 miles an hour and proceed with caution. At the request of or upon a signal by putting up the hand or otherwise, from a person riding or driving a horse in the opposite direction, the motor vehicle driver shall cause the motor vehicle to stop and remain stationary so long as may be necessary to allow the horse to pass.

b. The administrator shall include in the New Jersey Driver Manual information explaining the requirements of subsection a. of this section and cautioning licensees on the need to exercise caution when operating a motor vehicle near horses.

c. A person who violates subsection a. of this section shall be subject to a fine of $150.

C.39:3-41.1 Distribution of existing manual prior to reprint for equestrian information.

2. The administrator may distribute all remaining copies of the existing manual before reprinting it with the information required pursuant to subsection b. of R.S.39:4-72.

3. This act shall take effect immediately.

Approved December 7, 2004.

CHAPTER 164

AN ACT concerning mortgage guaranty insurance and amending P.L.1968, c.248.

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

1. Section 2 of P.L.1968, c.248 (C.17:46A-2) is amended to read as follows:

C.17:46A-2 Definitions.

2. Definitions. The definitions set forth in this section shall govern the construction of the terms used in this act.

(a) "Mortgage guaranty insurance" means:

(1) Insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate, provided the improvement on such real estate is a residential building or a condominium unit or buildings designed for occupancy by not more than four families;

(2) Insurance against financial loss by reason of nonpayment of principal, interest or other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust or other instrument constituting a lien or charge on real estate, provided the improvement on such real estate is a building or buildings designed for occupancy by five or more families or designed to be occupied for industrial or commercial purposes;

(3) Insurance against financial loss by reason of nonpayment of rent or other sums agreed to be paid under the terms of a written lease for the possession, use or occupancy of real estate, provided the improvement on such real estate is a building or buildings designed to be occupied for industrial or commercial purposes.

(b) "Authorized real estate security" means a note, bond or other evidence of indebtedness not exceeding 103 percent of the fair market value of the real estate, secured by a mortgage, deed of trust, or other instrument constituting a first lien or charge on real estate; provided:

(1) The real estate loan secured in such manner is one which a bank, savings and loan association, or an insurance company, which is supervised and regulated by a department of this State or an agency of the federal government, is authorized to make.

(2) The improvement on such real estate is a building or buildings designed for occupancy as specified by subsections (a)(1) and (a)(2) of this section.

(3) The lien on such real estate may be subject and subordinate to the following:

(i) The lien of any public bond, assessment, or tax, when no installment, call or payment of or under such bond, assessment or tax is delinquent.

(ii) Outstanding mineral, oil or timber rights, rights-of-way, easements or rights-of-way or support, sewer rights, building restrictions or other restrictions or covenants, conditions or regulations of use, or outstanding leases upon such real property under which rents or profits are reserved to the owner thereof.

(c) "Contingency reserve" means an additional premium reserve established for the protection of policyholders against the effect of adverse economic cycles.

(d) "Policyholders' surplus" means the aggregate of capital, surplus and contingency reserve.

2. This act shall take effect immediately.

Approved December 7, 2004.

CHAPTER 165

AN ACT concerning the New Jersey Surplus Lines Insurance Guaranty Fund and amending and supplementing P.L.1984, c.101.

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

1. Section 2 of P.L.1984, c.101 (C.17:22-6.71) is amended to read as follows:

C.17:22-6.71 Purpose, application of act.

2. The purpose of this act is to provide a mechanism for the payment of covered claims under certain insurance policies issued by eligible surplus lines insurers; to minimize excessive delays in the payment of the covered claims against insolvent, eligible, nonadmitted insurers; and to avoid financial loss to claimants or policyholders because of the insolvency of an eligible, nonadmitted insurer.

On and after July 27, 1984 and before June 25, 2002, P.L.1984, c.101 (C.17:22-6.70 et seq.) shall apply to all property and casualty lines of direct insurance authorized under R.S.17:17-1, except workers' compensation insurance, title insurance, surety bonds, credit insurance, mortgage guaranty insurance, municipal bond coverage, fidelity insurance, investment return assurance, and ocean marine insurance. This act shall also not apply to reinsurance of any kind.

On or after June 25, 2002, P.L.1984, c.101 (C.17:22-6.70 et seq.) shall apply only to medical malpractice liability insurance as defined in subsection d. of section 3 of P.L.1975, c.301 (C.17:30D-3) and property insurance covering owner occupied dwellings of less than four dwelling units. On or after June 25, 2002, P.L.1984, c.101 (C.17:22-6.70 et seq.) shall not apply to reinsurance of any kind.

2. Section 3 of P.L.1984, c.101 (C.17:22-6.72) is amended to read as follows:

C.17:22-6.72 Definitions relative to the Surplus Lines Insurance Guaranty Fund.

3. Affiliate" means a person who directly, or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer.

"Association" means the New Jersey Property-Liability Insurance Guaranty Association created pursuant to P.L.1974, c.17 (C.17:30A-1 et seq.).

"Commissioner" means the Commissioner of Banking and Insurance.

"Covered claim" means an unpaid claim, including a claim for unearned premiums, which arises out of and is within the coverage, and not in excess of the applicable limits of an insurance policy to which this act applies, and which was issued by a surplus lines insurer which was eligible to transact insurance business in this State at the time the policy was issued and which has been determined to be an insolvent insurer on or after June 1, 1984, but prior to June 25, 2002, if (1) the claimant or policyholder is a resident of this State at the time of the occurrence of the insured event for which a claim has been made, provided that for an entity other than an individual, the residence of the claimant or insured is the state in which its principal place of business was located at the time of the insured event; or (2) the claim is a first party claim for damage to property with a permanent location in this State. A "covered claim" which arises because of an insolvency occurring on or after June 25, 2002 shall be limited to an unpaid claim, including a claim for unearned premiums, which arises out of either medical malpractice liability insurance coverage or property insurance covering owner occupied dwellings

of less than four dwelling units within the coverage, and not in excess of the applicable limits, of an insurance policy to which P.L.1984, c.101 (C.17:22-6.70 et seq.) applies, and which was issued by a surplus lines insurer which was eligible to transact insurance business in this State at the time the policy was issued and which has been determined to be an insolvent insurer on or after June 25, 2002, if (1) the claimant or policyholder is a resident of this State at the time of the occurrence of the insured event for which a claim has been made, provided that for an entity other than an individual, the residence of the claimant or insured is the state in which its principal place of business was located at the time of the insured event; or (2) the claim is a first party claim for damage to property with a permanent location in this State.

"Covered claim" shall not include: (1) any amount due any reinsurer, insurance pool or underwriting association, as subrogation recoveries or otherwise, except that a claim for any such amount, asserted against a person insured under a policy issued by a surplus lines insurer which has become an insolvent insurer, which, if it were not a claim by or for the benefit of a reinsurer, insurer, insurance pool, or underwriting association, would be a "covered claim," may be filed directly with the receiver of the insolvent insurer, but in no event may any such claim be asserted in any legal action against the insured of that insolvent insurer; (2) amounts for interest on unliquidated claims; (3) punitive damages unless covered by the policy; (4) counsel fees for prosecuting suits for claims against the fund; (5) assessments or charges for failure by an insolvent insurer to have expeditiously settled claims; (6) counsel fees and other claim expenses incurred prior to the date of insolvency; (7) a claim filed with the fund, liquidator or receiver of an insolvent insurer after the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer or, if a final date is not set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer, two years from the date of the order of liquidation, unless the claimant demonstrates unusual hardship and the commissioner approves of treatment of the claim as a "covered claim." "Unusual hardship" shall be defined in regulations promulgated by the commissioner. With respect to insurer insolvencies pending as of the effective date of P.L.2004, c.165 (C.17:22-6.84 et al.), a "covered claim" shall not include a claim filed with the fund, liquidator or receiver of an insolvent insurer: (a) more than one year after the effective date of P.L.1996, c. 156 or (b) the date set by the court for the filing of claims against the liquidator or receiver of the insolvent insurer, whichever date occurs later; and (8) any first party claim by an insured whose net worth exceeds $25 million on December 31 of the year prior to the year in which the insurer becomes an insolvent insurer provided that the insured's net worth on that date shall be deemed to include the

aggregate net worth of the insured and all of its affiliates as calculated on a consolidated basis.

"Exhaust" means with respect to other insurance, the application of a credit for the maximum limit under the policy provided, however, in any case where continuous indivisible injury or property damage occurs over a period of years as a result of exposure to injurious conditions, exhaustion shall be deemed to have occurred only after a credit for the maximum limits under all other coverages, primary or excess, if applicable, issued in all other years has been applied. With respect to health insurance and workers' compensation insurance, "exhaust" means the application of a credit for the amount of recovery under the insurance policy. With respect to another insurance guaranty association or its equivalent, "exhaust" means the application of a credit for the maximum statutory limit of recovery from that other guaranty association or its equivalent. The amount of a covered claim payable by the fund shall be reduced by the amount of any applicable credits.

"Fund" means the New Jersey Surplus Lines Insurance Guaranty Fund created pursuant to section 4 of this act.

"Insolvent insurer" means an insurer which was an eligible surplus lines insurer at the time the insurance policy was issued or when the insured event occurred, and against whom an order of liquidation has been entered with a finding of insolvency by a court of competent jurisdiction in this State or the state or place in which the surplus lines insurer is domiciled. "Insolvent insurer" does not include an admitted insurer or any insurance exchange issuing insurance pursuant to section 10 of P.L.1960, c.32 (C.17:22-6.44).

"Member insurer" means an eligible, nonadmitted or surplus lines insurer required to be a member of, and that is subject to, assessments by the fund.

"Net direct written premiums" means direct gross premiums on insurance policies written by a surplus lines insurer to which this act applies, less return premiums thereon and dividends paid or credited to policyholders on that direct business. If a policy issued by a surplus lines insurer covers risks or exposures only partially in this State, the "net direct written premiums" shall be computed, for assessment purposes, on that portion of the premium subject to the premium receipts tax levied in accordance with section 25 of P.L.1960, c.32 (C.17:22-6.59). "Net direct written premiums" do not include premiums on contracts between insurers or reinsurers.

"Person" means any individual, corporation, partnership, association or voluntary organization.

"Surplus lines insurer" means a nonadmitted insurer approved as an eligible, nonadmitted or unauthorized insurer pursuant to section 11 of P.L.1960, c.32 (C.17:22-6.45) at the time the policies were issued against which a covered claim may be filed in accordance with this act.

3. Section 5 of P.L.1984, c.101 (C.17:22-6.74) is amended to read as follows:

C.17:22-6.74 Powers, duties and obligations of the Surplus Lines Insurance Guaranty Fund.

5. a. The fund shall:

(1) Be obligated to the extent of the covered claims against an insolvent insurer incurred prior to or 30 days after the determination of insolvency, or before the policy expiration date, if less than 30 days after that determination, or before the policyholder replaces the policy or causes its cancellation, if he does so within 30 days of the determination. The fund's obligation for covered claims shall not be greater than $300,000.00 per occurrence, subject to any applicable deductible and self-insured retention contained in the policy. The commissioner may pay a portion of or defer the fund's obligations for covered claims based on the moneys available in the fund. In no event shall the fund be obligated to a policyholder or claimant in excess of the limits of liability of the insolvent insurer stated in the policy from which the claim arises. Any obligation of the fund to defend an insured shall cease upon the fund's payment or tender of an amount equal to the lesser of the fund's covered claim statutory limit or the applicable policy limit;

(2) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(3) Assess member insurers in accordance with section 6 of this act in amounts necessary to pay:

(a) Obligations of the fund under paragraph (1) of this subsection,

(b) Expenses of handling covered claims,

(c) Any other expenses incurred in the implementation of the provisions of this act;

(4) Investigate claims brought against the fund; and adjust, compromise, settle, and pay covered claims to the extent of the fund's obligation; and deny all other claims; and may review settlements, releases and judgments to which the insolvent insurer or its policyholders were parties to determine the extent to which the settlements, releases and judgments may be properly contested;

(5) Notify those persons as the commissioner directs under section 8 of this act;

(6) Handle claims through the association's employees or representatives, or through one or more insurers or other persons designated as servicing facilities;

(7) Pay the other expenses of the association in administering the provisions of this act; and

(8) (Deleted by amendment, P.L.2004, c.165.)

b. The fund may:

(1) Sue or be sued;

(2) Negotiate and become a party to those contracts which are necessary to carry out the purpose of this act;

(3) Perform those other acts which are necessary or appropriate to effectuate the purpose of this act;

(4) (Deleted by amendment, P.L.2002, c.30.)

(5) With the approval of the commissioner, borrow and separately account for moneys from any source, including but not limited to the New Jersey Property-Liability Insurance Guaranty Association and the Unsatisfied Claim and Judgment Fund, in such amounts and on such terms as the New Jersey Property-Liability Insurance Guaranty Association may determine are necessary or appropriate to effectuate the purposes of P.L.2003, c.89 (C.17:30A-2.1 et al.) in accordance with the association's plan of operation; and

(6) Make loans, in such amounts and on such terms as the association may determine are necessary or appropriate, to the New Jersey Property-Liability Insurance Guaranty Association in accordance with the provisions of the "New Jersey Property-Liability Insurance Guaranty Association Act," P.L.1974, c.17 (C.17:30A-1 et seq.) and the "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et seq.).

4. Section 8 of P.L.1984, c.101 (C.17:22-6.77) is amended to read as follows:

C.17:22-6.77 Declaration of insolvency, actions of commissioner.

8. a. An insolvent insurer shall forward to the commissioner and to the association a copy of the declaration of insolvency within three business days of the date of the determination of the insolvency. A surplus lines insurer shall forward to the fund and commissioner a copy of any complaint seeking an order of liquidation with a finding of insolvency against the insurer at the same time that such complaint is filed with a court of competent jurisdiction.

b. The commissioner shall:

(1) Order the termination of all in-force policies of an insolvent insurer within 30 days of the date of determination of the insolvency;

(2) Upon request, provide the fund with a statement of the net direct written premiums of each member insurer; and

(3) Require surplus lines agents or the fund to notify the policyholders of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this act. Notification shall be by publication in newspapers of general circulation as the commissioner shall direct.

5. Section 9 of P.L.1984, c.101 (C.17:22-6.78) is amended to read as follows:

C.17:22-6.78 Assignment of rights by person recovering.

9. a. Any person recovering under this act shall be deemed to have assigned his rights under the policy from which the claim arose to the fund to the extent of his recovery from the fund. Every policyholder or claimant seeking the protection of this act shall cooperate with the fund to the same extent as that person would have been required to cooperate with the insolvent insurer. The fund shall have no cause of action against the policyholder of the insolvent insurer for any sums it has paid out, except for those causes of action as the insolvent insurer would have had if the sums had been paid by the insolvent insurer. In the case of an insolvent insurer operating on a plan with an assessment liability, payments of claims by the fund shall not operate to reduce the liability of policyholders to the receiver, liquidator, or statutory successor for unpaid assessments.

b. The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the fund or its representatives. The court having jurisdiction shall grant the covered claims paid by the fund priority, against the assets of the insolvent insurer, over any claims against the assets of the insolvent insurer by claimants having received any payment from the fund for the covered claims, to the extent of the amount of the payments made by the fund. The expenses of the fund in handling claims shall be accorded the same priority as the liquidator's expenses.

c. The fund shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the fund and estimates of anticipated claims on the fund, which shall preserve the rights of the fund against the assets of the insolvent insurer.

d. The liquidator, receiver, or statutory successor of an insolvent insurer covered by this act shall permit access by the fund or its representative to all of the insolvent insurer's records which would assist the fund in carrying out its functions under this act with regard to covered claims. In addition, the liquidator, receiver or statutory successor shall provide the fund or its representative with copies, or permit copies to be made of the insolvent insurer's records upon request, and at the expense of the fund.

e. The fund shall have the right to recover from the following persons the amount of any covered claim paid to or on behalf of such person pursuant to this act:

(1) An insured whose net worth on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer exceeds $25 million and whose liability obligations to other persons are satisfied in

whole or in part by payments made under P.L.1984, c.101 (C.17:22-6.71 et seq.); and

(2) Any person who is an affiliate of the insolvent insurer and whose liability obligations to other persons are satisfied in whole or in part by payments made under P.L.1984, c.101 (C.17:22-6.71 et seq.).

6. Section 10 of P.L.1984, c.101 (C.17:22-6.79) is amended to read as follows:

C.17:22-6.79 Recovery of covered claims, exhaustion of other sources.

10. a. Any person having a covered claim that may be recovered from more than one insurance guaranty association, or its equivalent, shall be required to exhaust first his rights under the statute governing the association of the place of residence of the policyholder at the time of the insured event, except that if it is a first party claim for damage to property with a permanent location, he shall seek recovery first from the association of the jurisdiction in which the property is located. If recovery is denied or deferred by that association, a person may proceed to seek recovery from any other insurance guaranty association from which recovery may be legally sought.

b. Any person having a claim under an insurance policy other than a policy of an insolvent insurer, shall be required to exhaust first his right under that other policy. For purposes of this subsection b., a claim under an insurance policy shall include a claim under any kind of insurance, whether it is a first-party or third-party claim, and shall include without limitation, general liability, accident and health insurance, workers' compensation, health benefits plan coverage, primary and excess coverage, if applicable, and all other private, group or governmental coverages.

C.17:22-6.84 Proceedings involving insolvent insurer stayed; conditions.

7. All proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court in this State shall, subject to full or partial waiver by the fund in specific cases involving covered claims, be stayed for 120 days, and any additional time thereafter as may be determined by the court, from the date of the order of liquidation or any ancillary proceeding initiated in the State, whichever is later, to permit proper defense by the fund of all pending causes of action. Public notice of the stay shall be by publication in three newspapers of general circulation in this State within 10 days of the order of liquidation. With respect to any covered claims arising from a judgment under any decision, verdict or finding based on the default of the insolvent insurer or its failure to defend an insured, the fund either on its own behalf or on behalf of that insured may apply to have such judgment, order, decision, verdict or finding set aside by the court in which such judgment,

order, decision, verdict or finding is entered and shall be permitted to defend against such claim on the merits.

8. This act shall take effect immediately and shall apply to covered claims resulting from insolvencies occurring on or after that date.

Approved December 7, 2004.

CHAPTER 166

AN ACT appropriating $50,000 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 $50,000 for the purpose of construction, 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:

Project	**Institution Funds**	**P.L.1988, c.78 Bond Funds**
Construction of Higher Education Buildings at the Independent Colleges		
Renovation of Main College Building at Felician College	$50,000	$50,000
TOTAL		**$50,000**

2. This act shall take effect immediately.

Approved December 7, 2004.

CHAPTER 167

AN ACT concerning respiratory care practitioners and amending and supplementing P.L.1991, c.31.

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

1. Section 3 of P.L.1991, c.31 (C.45:14E-3) is amended to read as follows:

C.45:14E-3 Definitions.

3. As used in this act:

a. "Board" means the State Board of Respiratory Care established pursuant to section 4 of this act.

b. "Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

c. "Respiratory care" means the health specialty involving the treatment, disease management, control, and care of patients with deficiencies and abnormalities of the cardiac and pulmonary system. The care shall include the use of medical gases, air and oxygen-administering apparatus, environmental control systems, humidification and aerosols, drugs and medications, apparatus for cardiopulmonary support and control, postural drainage, chest percussion and vibration and breathing exercise, pulmonary rehabilitation, performance of cardiopulmonary resuscitation, maintenance of natural and mechanical airways, insertion and maintenance of artificial airways and insertion and maintenance of peripheral arterial and peripheral venous catheters. The care shall also include testing techniques to assist in diagnosis, monitoring, treatment and research, including but not necessarily limited to, the measurement of cardiopulmonary volumes, pressure and flow, and the drawing and analyzing of samples of arterial, capillary and venous blood.

d. "Respiratory care practitioner" means a person licensed by the board to practice respiratory care under the direction or supervision of a physician.

2. Section 6 of P.L.1991, c.31 (C.45:14E-6) is amended to read as follows:

C.45:14E-6 Election of officers, meetings.

6. The board shall annually elect from among its members a chairman and a vice-chairman. The board shall meet quarterly and may hold additional meetings as necessary to discharge its duties.

3. Section 9 of P.L.1991, c.31 (C.45:14E-9) is amended to read as follows:

C.45:14E-9 Licensing for respiratory care practitioners required.

9. a. No person shall practice, nor present himself as able to practice, respiratory care unless he possesses a valid license as a respiratory care practitioner in accordance with the provisions of P.L.1991, c.31 (C.45:14E-1 et seq.).

b. This section shall not be construed to prohibit a person enrolled in a bona fide respiratory care training program from performing those duties essential for completion of a trainee's clinical service, provided the duties are performed under the supervision and direction of a physician or licensed respiratory care practitioner.

c. Nothing in P.L.1991, c.31 (C.45:14E-1 et seq.) is intended to limit the provision of respiratory care services rendered in the course of an emergency by a certified emergency medical technician or paramedic or other person licensed to practice medicine, dentistry, podiatry or other health care professional trained to render emergency services.

d. Nothing in P.L.1991, c.31 (C.45:14E-1 et seq.) shall confer the authority of a person licensed under that act to perform or operate any apparatus used in the performance of extracorporeal circulation or oxygenation.

e. Nothing in P.L.1991, c.31 (C.45:14E-1 et seq.) is intended to limit, preclude or otherwise interfere with the practices of other persons and health providers licensed by appropriate agencies of the State of New Jersey, so long as those duties are consistent with the accepted standards of the member's profession and the member does not present himself as a respiratory care practitioner.

f. Nothing in P.L.1991, c.31 (C.45:14E-1 et seq.) shall confer the authority to a person licensed to practice respiratory care to practice another health profession as currently defined in Title 45 of the Revised Statutes.

4. Section 12 of P.L.1991, c.31 (C.45:14E-12) is amended to read as follows:

C.45:14E-12 Written examination required for licensure.

12. The written examination provided for in section 10 of this act shall test the applicant's knowledge of basic and clinical sciences as they relate to respiratory care and respiratory care theory and procedures and any other subjects the board may deem useful to test the applicant's fitness to practice respiratory care or act as a respiratory care practitioner.

5. Section 14 of P.L.1991, c.31 (C.45:14E-14) is amended to read as follows:

C.45:14E-14 Issuance of temporary license.

14. a. Upon submission of a written application on forms provided by it, the board shall issue a temporary license to a person who has applied for licensure pursuant to this act and who, in the judgment of the board, is eligible for examination. A temporary license shall be available to an applicant with his initial application for examination and he may practice only under the direct supervision of a licensed respiratory care practitioner. A temporary license shall expire automatically at the end of a six-month period at which time it shall be surrendered to the board.

b. Upon payment to the board of a fee and the submission of a written application on forms provided by it, the board may issue without examination a temporary license to practice respiratory care in this State to a person who provides evidence that he is in the State on a temporary basis to assist in a medical emergency or to engage in a special project or teaching assignment relating to respiratory care practice. A temporary license shall expire one year from its date of issue, however, it may be renewed by the board for an additional one-year period. A temporary license shall be surrendered to the board upon its expiration.

C.45:14E-16 Continuing education requirements, duties of board.

6. a. The board shall require each respiratory care practitioner, as a condition of biennial license renewal pursuant to section 1 of P.L.1972, c.108 (C.45:1-7), to complete any continuing education requirements imposed by the board pursuant to this section.

b. The board shall:

(1) Promulgate rules and regulations for implementing continuing education requirements as a condition of license renewal for licenses issued under its jurisdiction;

(2) Establish standards for continuing education, including the subject matter and content of courses of study, competency assessments and the number and type of continuing education credits required of a licensee as a condition of biennial license renewal;

(3) Recognize the New Jersey Society for Respiratory Care, the American Association for Respiratory Care and other entities or persons approved by the board as providers of continuing education, and accredit educational programs, including, but not limited to, lectures, seminars, examinations, papers, publications, presentations, teaching and research appointments, and shall establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs. In the case of education courses or programs, each hour of instruction shall be equivalent to one credit; and

(4) Approve only those continuing education programs as are available to all respiratory care practitioners in this State on a reasonable, nondiscriminatory basis.

C.45:14E-17 Discretionary waiver of requirements.

7. The board may, in its discretion, waive requirements for continuing education on an individual basis for reasons of hardship, such as health or other good cause.

C.45:14E-18 Continuing education credits not required in certain cases; transition requirements.

8. The board shall not require completion of continuing education credits for initial registrations. The board shall not require completion of continuing education credits for any registration periods commencing within 12 months of the effective date of P.L.2004, c.167 (C. 45:14E-16 et al.). The board shall require completion of continuing education credits on a pro rata basis for any registration periods commencing more than 12 but less than 24 months following the effective date of P.L.2004, c.167 (C.45:14E-16 et al.).

9. This act shall take effect immediately.

Approved December 7, 2004.

CHAPTER 168

AN ACT concerning advanced practice nurses and amending P.L.1940, c.153 and P.L.1948, c.110.

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

1. Section 8 of P.L.1940, c.153 (C.34:2-21.8) is amended to read as follows:

C.34:2-21.8 Issuance of certificates; prerequisites.

8. The issuing officer shall issue such certificates only upon the application in person of the minor desiring employment, and after having approved and filed the following papers:

(1) A promise of employment signed by the prospective employer or by someone duly authorized by him, setting forth the specific nature of the occupation in which he intends to employ such minor, the wage to be paid such minor, and the number of hours per day and days per week which said minor shall be employed.

(2) Evidence of age showing that the minor is of the age required by this act, which evidence shall consist of one of the following proofs of age and shall be required in the order herein designated, as follows:

(a) A birth certificate or certified transcript thereof or a signed statement of the recorded date and place of birth issued by a registrar of vital statistics or other officer charged with the duty of recording births, or

(b) A baptismal certificate or attested transcript thereof showing the date and place of birth, and date and place of baptism of the minor, or

(c) Other documentary evidence of age satisfactory to the issuing officer, such as a bona fide contemporary record of the date and place of the minor's birth kept in the Bible in which the records of the births in the family of the minor are preserved, or a passport, showing the age of the minor, or a certificate of arrival in the United States, issued by the Office of Immigration and Naturalization Services, showing the age of the minor, or a life insurance policy, provided that such other documentary evidence has been in existence at least one year prior to the time it is offered as evidence, and provided further that a school record of age or an affidavit of a parent or guardian or other written statement of age shall not be accepted, except as specified in paragraph (d) of this section.

(d) In the case none of the aforesaid proofs of age shall be obtainable and only in such case, the issuing officer may accept the school record or the school-census record of the age of the minor together with the sworn statement of a parent or guardian as to the age of the minor and also with a certificate signed by the physician or advanced practice nurse authorized to sign the statements of physical fitness required by this section, specifying what in his opinion is the physical age of the minor. Such certificates shall show the height and weight of the minor and other facts concerning his physical development which were revealed by such examination and upon which the opinion of the physician or advanced practice nurse is based as to the physical age of the minor. If the school or school-census record of age is not obtainable, the sworn statement of the minor's parent or guardian, certifying to the name, date and place of birth of the minor, together with a physician's or advanced practice nurse's certificate of age as hereinbefore specified, may be accepted as evidence of age. The issuing officer shall administer said sworn statement.

The issuing officer shall, in issuing a certificate for a minor, require the evidence of age specified in paragraph (a) of this section in preference to that specified in paragraphs (b), (c) and (d) of this section and shall not accept the evidence of age permitted by any subsequent paragraph unless he shall receive and file evidence that the evidence of age required by the preceding paragraph or paragraphs cannot be obtained.

(3) A statement of physical fitness, signed by a medical inspector employed by the applicable board of education, or any other physician licensed to practice medicine and surgery, or advanced practice nurse, setting forth that such minor has been thoroughly examined by such medical inspector, or such other physician licensed to practice medicine and surgery, or advanced practice nurse, that he either is physically fit for employment in occupations permitted for persons under 18 years of age, or is physically fit to be employed under certain limitations, specified in the statement. If the statement of physical fitness is limited, the employment certificate issued thereon shall state clearly the limitations upon its use, and shall be valid only when used under the limitations so stated. The method of making such examinations shall be prescribed jointly by the Commissioner of Education and the State Department of Health and Senior Services; provided, however, no minor shall be required to submit to a physical examination, whose parent or guardian objects thereto in writing on the grounds such examination is contrary to his religious beliefs and practices.

(4) A school record signed by the principal of the school which the minor has last attended or by someone duly authorized by him, giving the full name, date of birth, grade last completed, and residence of the minor, provided, that in the case of a vacation certificate issued for work before or after school hours, such record shall also state that the child is a regular attendant at school, and in the opinion of the principal may perform such work without impairment of his progress in school, but such principal's statement shall not be required for the issuance of a vacation certificate for work during regular school vacations.

2. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to read as follows:

C.43:21-39 Limitation of benefits.

15. Limitation of benefits. Notwithstanding any other provision of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), no benefits shall be payable under the State plan to any person:

(a) for the first seven consecutive days of each period of disability; except that if benefits shall be payable for three consecutive weeks with respect to any period of disability commencing on or after January 1, 1968, then benefits shall also be payable with respect to the first seven days thereof;

(b) for more than 26 weeks with respect to any one period of disability;

(c) for any period of disability which did not commence while the claimant was a covered individual;

(d) for any period during which the claimant is not under the care of a legally licensed physician, dentist, optometrist, podiatrist, practicing psychologist, advanced practice nurse, or chiropractor, who, when requested by the

division, shall certify within the scope of the practitioner's practice, the disability of the claimant, the probable duration thereof, and, where applicable, the medical facts within the practitioner's knowledge;

(e) (Deleted by amendment, P.L.1980, c.90.)

(f) for any period of disability due to willfully and intentionally self-inflicted injury, or to injury sustained in the perpetration by the claimant of a crime of the first, second, or third degree;

(g) for any period during which the claimant performs any work for remuneration or profit;

(h) in a weekly amount which together with any remuneration the claimant continues to receive from the employer would exceed regular weekly wages immediately prior to disability;

(i) for any period during which a covered individual would be disqualified for unemployment compensation benefits under subsection (d) of R.S.43:21-5, unless the disability commenced prior to such disqualification; and there shall be no other cause of disqualification or ineligibility to receive disability benefits hereunder except as may be specifically provided in this act.

3. Section 25 of P.L.1948, c.110 (C.43:21-49) is amended to read as follows:

C.43:21-49 Notice and claim for disability benefits.

25. (a) 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, together with a printed copy of benefit instructions of the division. 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.

4. This act shall take effect immediately.

Approved December 7, 2004.

CHAPTER 169

AN ACT concerning municipal streets and amending R.S.39:4-8.

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

1. R.S.39:4-8 is amended to read as follows:

Commissioner of Transportation's approval required; exceptions.

39:4-8. a. Except as otherwise provided in this section, no ordinance or resolution concerning, regulating or governing traffic or traffic conditions, adopted or enacted by any board or body having jurisdiction over highways, shall be of any force or effect unless the same is approved by the Commissioner of Transportation, according to law. The commissioner shall not be required to approve any such ordinance, resolution or regulation, unless, after investigation by him, the same shall appear to be in the interest of safety and the expedition of traffic on the public highways.

b. (1) A municipality may, without the approval of the Commissioner of Transportation, do the following by ordinance or resolution, as appropriate:

(a) designate parking restrictions, no passing zones, mid-block crosswalks, and crosswalks at intersections, and erect appropriate signs and install appropriate markings, on streets under municipal jurisdiction which are totally self-contained within that municipality and have no direct connection with any street in any other municipality;

(b) designate reasonable and safe speed limits and erect appropriate signs, on any street under municipal jurisdiction;

(c) designate any intersection as a stop or yield intersection and erect appropriate signs, on streets under municipal jurisdiction which are totally self-contained within that municipality and have no direct connection with any street in any other municipality; and

(d) designate any intersection as a stop intersection and erect appropriate signs, on streets under municipal jurisdiction if that intersection is located within 500 feet of a school, or of a playground or youth recreational facility and the street on which the stop sign will be erected is contiguous to that school, or playground or youth recreational facility. The municipal engineer shall certify to the following in regard to the designated site in which a stop intersection is being designated: (i) that both intersecting streets are under municipal jurisdiction; (ii) that the intersection is within 500 feet of a school, or of a playground or youth recreational facility as defined herein; and (iii) that the intersection is on a street contiguous to a school, or playground or youth recreational facility. A claim against a municipality for damage or injury under this subparagraph for a wrongful act or omission shall be dismissed if the municipality is deemed to have conformed to the provisions contained in this subparagraph.

(2) A county may, without the approval of the Commissioner of Transportation, do the following by ordinance or resolution, as appropriate, on streets which are totally self-contained within the county and have no direct connection with any street in any other county:

(a) designate parking restrictions, no passing zones, mid-block crosswalks, and crosswalks at intersections and erect appropriate signs;

(b) designate reasonable and safe speed limits and erect appropriate signs;

(c) designate any intersection as a stop or yield intersection and erect appropriate signs; and

(d) place longitudinal pavement marking delineating the separation of traffic flows and the edge of the pavement and erect appropriate signs.

(3) Except with respect to subparagraph (d) of paragraph 1 of this subsection, the municipal or county engineer shall, under his seal as a

licensed professional engineer, certify to the governing body of the municipality or county, as appropriate, that any designation or erections of signs or placement or makings has been approved by the engineer after investigation of the circumstances, appears to the engineer to be in the interest of safety and the expedition of traffic on the public highways and conforms to the current standards prescribed by the Manual of Uniform Traffic Control Devices for Streets and Highways, as adopted by the commissioner.

A certified copy of the adopted ordinance or resolution, as appropriate, shall be transmitted by the clerk of the municipality or county, as appropriate, to the commissioner within 30 days of adoption, together with a copy of the engineer's certification; a statement of the reasons for the engineer's decision; detailed information as to the location of streets, intersections and signs affected by any designation or erection of signs or placement of markings; and traffic count, accident and speed sampling data, when appropriate. The commissioner, at his discretion, may invalidate the provisions of the ordinance or resolution within 90 days of receipt of the certified copy if he reviews it and finds that the provisions of the ordinance or resolution are inconsistent with the Manual of Uniform Traffic Control Devices for Streets or Highways; are inconsistent with accepted engineering standards; are not based on the results of an accurate traffic and engineering survey; or place an undue traffic burden or impact on streets in an adjoining municipality or negatively affect the flow of traffic on the State highway system.

Nothing in this subsection shall allow municipalities to designate any intersection with any highway under State or county jurisdiction as a stop or yield intersection or counties to designate any intersection with any highway under State or municipal jurisdiction as a stop or yield intersection.

c. Subject to the provisions of R.S.39:4-138, in the case of any street under municipal or county jurisdiction, a municipality or county may, without the approval of the Commissioner of Transportation, do the following:

By ordinance or resolution:

(1) prohibit or restrict general parking;

(2) designate restricted parking under section 1 of P.L.1977, c.309 (C.39:4-197.6);

(3) designate time limit parking;

(4) install parking meters.

By ordinance, resolution or regulation:

(1) designate loading and unloading zones and taxi stands;

(2) approve street closings for periods up to 48 continuous hours; and

(3) designate restricted parking under section 1 of P.L.1977, c.202 (C.39:4-197.5);

Nothing in this subsection shall allow municipalities or counties to establish angle parking or to reinstate or add parking on any street, or approve the closure of streets for more than 48 continuous hours, without the approval of the Commissioner of Transportation.

d. A municipality or county may, by ordinance or resolution, as appropriate, in any street under its jurisdiction, install or place an in-street pedestrian crossing right-of-way sign at a marked crosswalk or unmarked crosswalk at an intersection. The installation shall be subject to guidelines that shall be issued by the Commissioner of Transportation after consultation with the Director of the Office of Highway Traffic Safety in the Department of Law and Public Safety. The guidelines shall be aimed at ensuring safety to both pedestrians and motorists including, but not limited to, the proper method of sign installation, dimensions, composition of material, proper placement points and maintenance. A certified copy of the adopted ordinance or resolution shall be transmitted to the commissioner within 30 days of adoption. The commissioner, at his discretion, may invalidate the provisions of the ordinance or resolution within 90 days of receipt of the certified copy if he reviews it and finds that the provisions of the ordinance or resolution are inconsistent with the guidelines issued pursuant to this subsection. A claim against the State or a municipality or county for damage or injury under this subsection for a wrongful act or omission shall be dismissed if the municipality or county is deemed to have conformed to the guidelines required hereunder.

e. A municipality or county may, by resolution, in any street under its jurisdiction, designate stops, stations or stands for omnibuses. The designation shall be subject to guidelines that shall be issued by the Commissioner of Transportation. The guidelines shall be aimed at ensuring safety to both pedestrians and motorists including, but not limited to, the proper method of sign installation, dimensions, composition of material, proper placement points and maintenance. A certified copy of the adopted resolution shall be transmitted to the commissioner within 30 days of adoption. The commissioner, at his discretion, may invalidate the provisions of the ordinance or resolution within 90 days of receipt of the certified copy if he reviews it and finds that the provisions of the ordinance or resolution are inconsistent with the guidelines issued pursuant to this subsection. A claim against the State or a municipality or county for damage or injury under this subsection for a wrongful act or omission shall be dismissed if the municipality or county is deemed to have conformed to the guidelines required hereunder.

2. This act shall take effect immediately.

Approved December 7, 2004.

CHAPTER 170

AN ACT providing for the protection of certain publicly owned archaeological findings and archaeological sites, and amending P.L.1983, c.324 and supplementing Title 23, Title 27, Title 40, and Title 58 of the Revised Statutes.

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

C.40:10D-1 Findings, declarations relative to protection of archaeological findings, sites.

1. The Legislature finds and declares that it is of critical importance to protect archaeological sites in New Jersey to prevent their despoliation; that archaeological sites in the State have been pillaged by relic hunters; that these collectors generally dig without permission, almost always lack the technical training required to conduct scientific archaeological excavations, and seldom conduct legitimate research; and that illicit diggings have resulted in the loss of scientific data and archaeological findings that would make these sites invaluable to cultural research and to the State's heritage, destroying irreplaceable records of human activities and history.

The Legislature therefore determines that it is in the State's historic and cultural interests to prevent the unauthorized excavation and removal of archaeological findings from certain public lands in New Jersey.

2. Section 10 of P.L.1983, c.324 (C.13:1L-10) is amended to read as follows:

C.13:1L-10 Destruction of park property, archaeological findings, sites prohibited.

10. a. (1) Except as may be provided pursuant to subsection c. or subsection d. of this section, no person may alter, deface, destroy, disturb, or remove any State park or forest property, whether man-made or natural, or any animal, or any archaeological findings on State park or forest property or which are held by the department pursuant to the provisions of P.L.1983, c.324 (C.13:1L-1 et seq.), without the written permission of the department. As used in this section, "archaeological findings" shall include, but need not be limited to, relics, objects, fossils, or artifacts of an historical, prehistorical, geological, paleontological, archaeological or anthropological nature.

(2) No person may sell, transfer, exchange, transport, purchase, receive or offer to sell, transfer, exchange, transport, purchase or receive any archaeological findings originating in a State park or forest property without the written permission of the department.

b. No person may litter or abandon any material on State park or forest property held pursuant to the provisions of P.L.1983, c.324 (C.13:1L-1 et seq.).

c. The department shall provide for exceptions to the prohibitions concerning archaeological findings set forth in subsection a. of this section for archaeological findings of de minimis value innocently discovered on any State park or forest property.

d. No provision of this section shall be construed to restrict or affect in any way fishing, hunting, trapping, or other such activities or related activities otherwise authorized or permitted on State park or forest property by the Department of Environmental Protection.

e. Notwithstanding any provision of this section to the contrary, examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this section.

3. Section 23 of P.L.1983, c.324 (C.13:1L-23) is amended to read as follows:

C.13:1L-23 Injunctive relief; penalties.

23. a. If any person violates any of the provisions of P.L.1983, c.324 (C.13:1L-1 et seq.) or any rule, regulation or order promulgated pursuant thereto, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent the violation and the court may proceed in a summary manner.

Any person who violates any of the provisions of P.L.1983, c.324 (C.13:1L-1 et seq.) or any rule, regulation or order promulgated pursuant thereto shall be liable to a penalty of not more than $1,000 for each offense, except as otherwise provided under subsection b. of this section, 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.) or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court and municipal courts shall have jurisdiction to hear and determine violations of the provisions of P.L.1983, c.324 (C.13:1L-1 et seq.). If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. If the damage resulting from any violation of P.L.1983, c.324

(C.13:1L-1 et seq.) or from any violation of any rule, regulation or order promulgated pursuant thereto exceeds $1,000, the person causing the damage shall be liable to a penalty equal to the value of the damage caused.

b. A person who knowingly violates, or who solicits or employs any other person to violate, the provisions of subsection a. of section 10 of P.L.1983, c.324 (C.13:1L-10) shall be subject to the following penalties: a fine of not less than $750 nor more than $1,500 for the first offense; a fine of not less than $1,500 nor more than $3,000 for the second offense; and a fine of not less than $3,000 nor more than $5,000 for any subsequent offense. Penalties assessed pursuant to this subsection shall be collected in a civil action by a summary proceeding. Any vessel, vehicle or equipment used in the commission of the violation shall be subject to confiscation and forfeiture to the State, if warranted, as determined by the courts. Further, in addition to any penalty provided pursuant to subsection a. of this section, restitution and damages may be ordered to compensate the State for the cost of remediating any violation of this section and for the value of any lost, damaged, or destroyed archaeological findings. All fines, restitution payments, and damages collected shall be remitted to the department to be used for the preservation, remediation or protection of State archaeological sites. Any archaeological findings obtained as a result of a violation of this section shall be subject to confiscation, forfeiture, and return to the State and, upon recovery, shall be deposited with the New Jersey State Museum.

c. Notwithstanding any provision of this section to the contrary, examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this section.

C.23:7-1.2 Archaeological findings in wildlife management area protected.

4. a. (1) Except as may be provided pursuant to subsection c. of this section, no person may alter, deface, destroy, disturb, or remove any archaeological findings in any wildlife management area administered by the Department of Environmental Protection, without the written permission of the department. As used in this section, "archaeological findings" shall include, but need not be limited to, relics, objects, fossils, or artifacts of an historical, prehistorical, geological, paleontological, archaeological or anthropological nature.

(2) No person may sell, transfer, exchange, transport, purchase, receive or offer to sell, transfer, exchange, transport, purchase or receive any such archaeological findings originating in a wildlife management area without the written permission of the Department of Environmental Protection.

b. A person who knowingly violates, or who solicits or employs any other person to violate, the provisions of subsection a. of this section shall be subject to the following penalties: a fine of not less than $750 nor more than $1,500 for the first offense; a fine of not less than $1,500 nor more than $3,000 for the second offense; and a fine of not less than $3,000 nor more than $5,000 for any subsequent offense. Penalties assessed pursuant to this subsection shall be collected in a civil action by a summary proceeding. Any vessel, vehicle or equipment used in the commission of the violation shall be subject to confiscation and forfeiture to the State, if warranted, as determined by the courts. Further, restitution and damages may be ordered to compensate the State for the cost of remediating any violation of this section and for the value of any lost, damaged, or destroyed archaeological findings. All fines, restitution payments, and damages collected shall be remitted to the Department of Environmental Protection to be used for the preservation, remediation or protection of State archaeological sites. Any archaeological findings obtained as a result of a violation of this section shall be subject to confiscation, forfeiture, and return to the State and, upon recovery, shall be deposited with the New Jersey State Museum.

c. The Department of Environmental Protection shall provide for exceptions to the prohibitions set forth in subsection a. of this section for archaeological findings of de minimis value innocently discovered in any wildlife management area.

d. Notwithstanding any provision of this section to the contrary, examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this section.

C.58:4-14 Archaeological findings on reservoir lands protected.

5. a. (1) Except as may be provided pursuant to subsection c. of this section, no person may alter, deface, destroy, disturb, or remove any archaeological findings on any reservoir lands administered by the Department of Environmental Protection or by a State authority or commission, without written permission from the department or the respective administrative body as appropriate. As used in this section, "archaeological findings" shall include, but need not be limited to, relics, objects, fossils, or artifacts of an historical, prehistorical, geological, paleontological, archaeological or anthropological nature.

(2) As a condition of granting permission pursuant to paragraph (1) of this subsection, the Department of Environmental Protection or the respective administrative body shall require that all excavation and exploration for archaeological findings be conducted in the least destructive

manner possible. The administering authority or commission may also, in its discretion, require a person or persons granted such permission to consult with the Department of Environmental Protection prior to undertaking an approved project to verify that the methods and techniques selected are the least destructive and most appropriate to the site.

(3) No person may sell, transfer, exchange, transport, purchase, receive or offer to sell, transfer, exchange, transport, purchase or receive any archaeological findings originating on any reservoir lands administered by the Department of Environmental Protection or by a State authority or commission without the written permission of the department or the respective administrative body as appropriate.

b. A person who knowingly violates, or who solicits or employs any other person to violate, the provisions of subsection a. of this section shall be subject to the following penalties: a fine of not less than $750 nor more than $1,500 for the first offense; a fine of not less than $1,500 nor more than $3,000 for the second offense; and a fine of not less than $3,000 nor more than $5,000 for any subsequent offense. Penalties assessed pursuant to this subsection shall be collected in a civil action by a summary proceeding. Any vessel, vehicle or equipment used in the commission of the violation shall be subject to confiscation and forfeiture to the department or to the State authority or commission, if warranted, as determined by the courts. All fines collected shall be remitted to the Department of Environmental Protection to be used for Statewide preservation, remediation or protection of archaeological sites. Further, restitution and damages may be ordered to compensate the department or State authority or commission for the cost of remediating any violation of this section and for the value of any lost, damaged, or destroyed archaeological findings. The State authority or commission shall consult with the department for proper remediation of affected lands. Any archaeological findings obtained as a result of a violation of this section shall be subject to confiscation, forfeiture, and return to the proper owner. Upon recovery, the archaeological findings shall be deposited with the Department of Environmental Protection for verification of ownership. The Department 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 to ensure the appropriate disposition of any confiscated, forfeited, or returned archaeological findings. The return of archaeological findings to a State authority or commission shall be made upon verification of ownership by the Department of Environmental Protection that the State authority or commission owns the archaeological findings.

c. The Department of Environmental Protection and each State authority and commission administering reservoir lands shall provide for

exceptions to the prohibitions set forth in subsection a. of this section for archaeological findings of de minimis value innocently discovered on any reservoir lands.

d. Notwithstanding any provision of this section to the contrary, examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this section.

C.40:10D-2 Archaeological findings on lands owned by political subdivision protected.

6. a. (1) Except as may be provided pursuant to subsection c. of this section, no person may alter, deface, destroy, disturb or remove any archaeological findings on lands owned by a county, municipality, or any political subdivision thereof, without written permission from the respective county, municipality, or political subdivision thereof. As used in this section, "archaeological findings" shall include, but not need be limited to, relics, objects, fossils, or artifacts of an historical, prehistorical, geological, paleontological, archaeological or anthropological nature.

(2) As a condition of granting permission pursuant to paragraph (1) of this subsection, the respective county, municipality, or political subdivision thereof shall require that all excavation and exploration for archaeological findings be conducted in the least destructive manner possible. The county, municipality, or political subdivision thereof may also, in its discretion, require a person or persons granted such permission to consult with the Department of Environmental Protection prior to undertaking an approved project to verify that the methods and techniques selected are the least destructive and most appropriate to the site.

(3) No person may sell, transfer, exchange, transport, purchase, receive or offer to sell, transfer, exchange, transport, purchase or receive any such archaeological finding originating on lands owned by a county, municipality, or any political subdivision thereof, without the written permission of the respective county, municipality, or political subdivision thereof.

b. A person who knowingly violates, solicits or employs any other person to violate the provisions of subsection a. of this section shall be subject to the following penalties: a fine of not less than $750 nor more than $1,500 for the first offense; a fine of not less than $1,500 nor more than $3,000 for the second offense; and a fine of not less than $3,000 nor more than $5,000 for any subsequent offense. Penalties assessed pursuant to this subsection shall be collected in a civil action by a summary proceeding. Any vessel, vehicle or equipment used in the commission of the violation shall be subject to confiscation and forfeiture to the county, municipality, or political subdivision thereof, if warranted, as determined by the courts. All

fines collected shall be remitted to the Department of Environmental Protection to be used for Statewide preservation, remediation or protection of archaeological sites. Further, restitution and damages may be ordered to compensate the county, municipality, or political subdivision thereof, for the cost of remediating any violation of this section and for the value of any lost, damaged, or destroyed archaeological findings. The county, municipality, or political subdivision thereof shall consult with the department for proper remediation of affected lands. Any archaeological findings obtained as a result of a violation of this section shall be subject to confiscation, forfeiture, and return to the proper owner. Upon recovery, the archaeological findings shall be deposited with the Department of Environmental Protection for verification of ownership. The Department 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 to ensure the appropriate disposition of any confiscated, forfeited, or returned archaeological findings. The return of archaeological findings to a county, municipality, or political subdivision thereof shall be made upon verification of ownership by the Department of Environmental Protection that the county, municipality, or political subdivision thereof owns the archaeological findings.

c. A county, municipality, or any applicable political subdivision thereof shall provide for exceptions to the prohibitions set forth in subsection a. of this section for archaeological findings of de minimis value innocently discovered on lands owned by the respective local governmental entity.

d. Notwithstanding any provision of this section to the contrary, examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this section.

C.27:5J-1 Archaeological findings on property of DOT, various authorities, protected.

7. a. (1) Except as may be provided pursuant to subsection c. of this section, no person may alter, deface, destroy, disturb, or remove any archaeological findings on any lands or rights-of-way owned by the Department of Transportation, the New Jersey Transit Corporation, the New Jersey Turnpike Authority, or the South Jersey Transportation Authority, without written permission from the respective administrative body as appropriate. As used in this section, "archaeological findings" shall include, but need not be limited to, relics, objects, fossils, or artifacts of an historical, prehistorical, geological, paleontological, archaeological or anthropological nature.

(2) As a condition of granting permission pursuant to paragraph (1) of this subsection, the owner of the property or right-of-way shall require that all excavation and exploration for archaeological findings be conducted in the least destructive manner possible. The owner of the property or right-of-way may also, in its discretion, require a person or persons granted such permission to consult with the owner of the property or right-of-way prior to undertaking an approved project to verify that the methods and techniques selected are the least destructive and most appropriate to the site.

(3) No person may sell, transfer, exchange, transport, purchase, receive or offer to sell, transfer, exchange, transport, purchase or receive any archaeological findings originating on any lands or right-of-ways owned by the Department of Transportation, the New Jersey Transit Corporation, the New Jersey Turnpike Authority or the South Jersey Transportation Authority without the written permission of the owner of the property or right-of-way as appropriate.

b. A person who knowingly violates, or who solicits or employs any other person to violate, the provisions of subsection a. of this section shall be subject to the following penalties: a fine of not less than $750 nor more than $1,500 for the first offense; a fine of not less than $1,500 nor more than $3,000 for the second offense; and a fine of not less than $3,000 nor more than $5,000 for any subsequent offense. Penalties assessed pursuant to this subsection shall be collected in a civil action by a summary proceeding. Any vessel, vehicle or equipment used in the commission of the violation shall be subject to confiscation and forfeiture to the owner of the property or right-of-way, if warranted, as determined by the courts. All fines collected shall be remitted to the Department of Environmental Protection to be used for Statewide preservation, remediation or protection of archaeological sites. Further, restitution and damages may be ordered to compensate the owner of the property or right-of-way for the cost of remediating any violation of this section and for the value of any lost, damaged, or destroyed archaeological findings. The owner of the property or right-of-way shall consult with the Department of Environmental Protection for proper remediation of affected lands. Any archaeological findings obtained as a result of a violation of this section shall be subject to confiscation, forfeiture, and return to the proper owner. Upon recovery, the archaeological findings shall be deposited with the Department of Environmental Protection for verification of ownership. The Department 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 to ensure the appropriate disposition of any confiscated, forfeited, or returned archaeological findings. The return of archaeological findings to the owner of the property or right-of-way shall be made upon verification

of ownership by the Department of Environmental Protection that the owner of the property or right-of-way owns the archaeological findings.

c. The owner of the property or right-of-way shall provide for exceptions to the prohibitions set forth in subsection a. of this section for archaeological findings of de minimis value innocently discovered on any lands or rights-of-way.

d. Notwithstanding any provision of this section to the contrary, examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this section.

8. This act shall take effect immediately.

Approved December 7, 2004.

CHAPTER 171

AN ACT concerning the establishment of certain scholarship foundations and supplementing chapter 11 of Title 18A of the New Jersey Statutes.

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

1. Notwithstanding the provisions of any law, rule or regulation to the contrary, any school district which terminates the operation of a separate school for special education pupils and returns all funds legally owed to the school districts that sent pupils to the school may utilize any remaining funds for the purpose of establishing a scholarship foundation for the pupils of the district.

2. This act shall take effect immediately and shall expire one year thereafter.

Approved December 7, 2004.

CHAPTER 172

AN ACT prohibiting the dry cutting and dry grinding of masonry in certain instances and supplementing P.L.1962, c.45 (C.34:5-166 et seq.).

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

C.34:5-182 Dry cutting, grinding of masonry, certain circumstances; prohibited.

1. In order to protect the health and safety of employees against the effects of silicosis and other respiratory diseases, the dry cutting of masonry units by means of hand-held, gas-powered or electrical, portable chop saws or skill saws and the dry grinding of masonry materials shall be prohibited, except in instances in which it is determined, in a manner consistent with all applicable standards promulgated pursuant to the federal Occupational Safety and Health Act of 1970 (29 U.S.C.s.651 et seq.), that the use of water in the cutting or grinding is not feasible. In any instance in which it is determined pursuant to this section that the use of water in the cutting or grinding is not feasible:

a. The employer shall use engineering and work practice controls to control the dust, such as a vacuum with high efficiency particulate air filter, or other dust control system;

b. Any dry cutting which occurs shall be done in a designated area away from craftworkers if possible; and

c. The employer shall provide workers with full face respirators as part of a complete respiratory program which includes training, the proper selection of respiratory cartridges and fit-testing to ensure that the workers are able to wear the respirators.

The provisions of this section shall not apply to emergency service personnel responding to emergency situations.

2. This act shall take effect immediately.

Approved December 9, 2004.

CHAPTER 173

AN ACT concerning the veterans pension benefits in the funds of certain boards of education in first-class counties and amending and supplementing chapter 66 of Title 18A of the New Jersey Statutes.

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

1. N.J.S.18A:66-114 is amended to read as follows:

Public employee veterans, retirement benefits, certain.

18A:66-114. a. (Deleted by amendment, P.L.2004, c.173.)

b. Any veteran who took or shall take office, position or employment with a board of education or a school district after June 26, 1962 and who shall become a member of the pension fund after such date, and who shall have attained 62 years of age and who shall present to the board of trustees satisfactory evidence of 20 years of aggregate service in office, position or employment with this State or with a county, municipality, or school district or board of education, shall have the privilege of retiring and of receiving annually from the fund, for and during the remainder of his life, by way of pension, 54.5% of the compensation upon which the veteran made contributions to the pension fund during the 12-month period of membership providing the largest possible benefit to the veteran, with the optional privileges provided in subsection d. of section 18A:66-110.

c. Any public employee veteran member of the pension fund who has been for 20 years in the aggregate in office, position or employment with this State or with a county, municipality, or school district or board of education shall have the privilege of retiring for ordinary disability and of receiving a retirement allowance equal to 54.5% of the compensation upon which contributions to the pension fund are based during the 12-month period of membership providing the largest possible benefit to the veteran, with the optional privileges provided in subsection d. of section 18A:66-110.

d. Any public employee veteran member who shall be in office, position or employment with a board of education or a school district and who shall have attained the age of 60 years of age and who has at least 25 years of aggregate service credit in such office, position or employment and who shall present to the board of trustees satisfactory evidence of at least 25 years of aggregate service in such office, position or employment, shall have the privilege of retiring for service and receiving annually from the fund, for and during the remainder of his life, by way of pension, 2.42% of the highest year's compensation during employment, upon which compensation he made contributions to the pension fund, multiplied by the number of years of service with the optional privileges provided in subsection d. of N.J.S.18A:66-110.

C.18A:66-114.1 Veteran retirees, allowance increased.

2. a. The retirement allowance of each veteran retiree under N.J.S.18A:66-114 who retired before January 1, 1995 shall be increased by 33.3%.

b. The retirement allowance of each veteran retiree under N.J.S.18A:66-114 who retired on or after January 1, 1995 and before December 31, 1999 shall be increased by 11.1%.

c. The retirement allowance of each veteran retiree under N.J.S.18A:66-114 who retired after December 31, 1999 shall be increased by 9%.

d. The increases in retirement allowances provided under subsection a., b. or c. of this section shall be applicable retroactively to payments made on or after January 14, 2002. The board of trustees shall make the appropriate calculations and the increase in benefits due to retirees shall be paid in such manner as the board of trustees shall determine.

3. This act shall take effect immediately.

Approved December 9, 2004.

CHAPTER 174

AN ACT concerning political contributions, and amending and supplementing P.L.1993, c.65 (C.19:44A-1 et seq.).

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

1. Section 22 of P.L.1993, c.65 (C.19:44A-7.2) is amended to read as follows:

C.19:44A-7.2 Adjustment of amounts for office other than Governor.

22. a. Not later than December 1 of each year preceding any year in which a general election is to be held to fill the office of Governor for a four-year term, the Election Law Enforcement Commission shall adjust the amounts, set forth in subsection b. of this section, which shall be applicable under P.L.1973, c.83 (C.19:44A-1 et al.) to primary and general elections for any public office other than the office of Governor at a percentage which shall be the same as the percentage of change that the commission applies to the amounts used for the primary and general elections for the office of Governor held in the third year preceding the year in which that December 1 occurs, pursuant to section 19 of P.L.1980, c.74 (C.19:44A-7.1), and any amount so adjusted shall be rounded in the same manner as provided in that section.

b. The amounts subject to adjustment as provided under this section shall be:

(1) the minimum amount raised or expended by any two or more persons acting jointly who qualify as a political committee and the minimum amount contributed or expected to be contributed in any calendar year by any group of two or more persons acting jointly who qualify as a continuing political committee as defined in section 3 of P.L.1973, c.83 (C.19:44A-3);

(2) (Deleted by amendment, P.L.2004, c.28);

(3) the minimum amount of a contribution to a political committee, continuing political committee, legislative leadership committee or a political party committee received during the period between the 13th day prior to the election and the date of the election, the minimum amount of an expenditure by a political committee during that period, and the minimum amount of an expenditure by a continuing political committee during the period beginning after March 31 and ending on the date of the primary election and the period beginning after September 30 and ending on the date of the general election which triggers an obligation to report that contribution to the commission pursuant to section 8 of P.L.1973, c.83 (C.19:44A-8), and the minimum amount of a contribution to a candidate, candidate committee or joint candidates committee received during the period between the 13th day prior to the election and the date of the election which triggers an obligation to report that contribution to the commission pursuant to section 16 of P.L.1973, c.83 (C.19:44A-16);

(4) the maximum amount which may be expended by the campaign organizations of two or more candidates forming a joint candidates committee without being required to file contribution reports, pursuant to section 8 of P.L.1973, c.83 (C.19:44A-8);

(5) the maximum amount that a person, not acting in concert with any other person or group, may spend to support or defeat a candidate or to aid the passage or defeat of a public question without being required to report all such expenditures and expenses to the commission pursuant to section 11 of P.L.1973, c.83 (C.19:44A-11) and the maximum amount that a person, not acting in concert with any other person or group, may raise through a public solicitation and expend to finance any lawful activity in support of or in opposition to any candidate or public question or to seek to influence the content, introduction, passage or defeat of legislation pursuant to section 19 of P.L.1973, c.83 (C.19:44A-19);

(6) the maximum amount that may be expended, in the aggregate, on behalf of a candidate without requiring that candidate to file contribution reports with the commission and the maximum amount that may be expended, in the aggregate, on behalf of a candidate seeking election to a

public office of a school district, without requiring that candidate to file contribution reports with the commission pursuant to section 16 of P.L.1973, c.83 (C.19:44A-16);

(7) the maximum amount of penalty which may be imposed by the commission on any person who fails to comply with the regulatory provisions of P.L.1973, c.83 (C.19:44A-1 et al.) for a first offense or a second and subsequent offenses, pursuant to section 22 of P.L.1973, c.83 (C.19:44A-22);

(8) the maximum amount of penalty which may be imposed by the commission on any corporation or labor organization which provides any of its employees any additional increment of salary for the express purpose of making a contribution to a candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee for a first or a second and subsequent offenses, pursuant to section 15 of P.L.1993, c.65 (C.19:44A-20.1);

(9) (Deleted by amendment, P.L.2004, c.174);

(10) (Deleted by amendment, P.L.2004, c.174);

(11) (Deleted by amendment, P.L.2004, c.174);

(12) the amount of filing fees which may be collected from a candidate committee, a joint candidates committee, a continuing political committee, a political party committee, a legislative leadership committee, or any other person pursuant to section 6 of P.L.1973, c.83 (C.19:44A-6) (as that section shall have been amended by P.L.1983, c.579).

c. Not later than December 15 of each year preceding any year in which a general election is to be held to fill the office of Governor for a four-year term, the commission shall report to the Legislature and make public its adjustment of limits in accordance with the provisions of this section. Whenever, following the transmittal of that report, the commission shall have notice that a person has declared as a candidate for nomination for election or for election to any public office in a forthcoming primary or general election, it shall promptly notify that candidate of the amounts of those adjusted limits.

C.19:44A-7.3 Report recommending adjustments in limits on amount of contributions for office other than Governor.

2. a. No later than July 1 of each year preceding any year in which a general election is to be held to fill the office of Governor for a four-year term, the commission shall issue a report setting forth its recommendations for the adjustment of the amounts, set forth in subsection b. of this section and applicable to P.L.1973, c.83 (C.19:44A-1 et seq.), to primary and general elections for any public office other than the office of Governor, to

limitations on contributions to and from political committees, continuing political committees, candidate committees, joint candidates committees, political party committees and legislative leadership committees and to other amounts, at a percentage which shall be the same as the percentage of change that the commission applies to the amounts used for the primary and general elections for the office of Governor held in the third year preceding the year in which that December 1 occurs, pursuant to section 19 of P.L.1980, c.74 (C.19:44A-7.1). Any amount so recommended for adjustment shall be rounded in the same manner as provided in that section.

b. The amounts to be recommended for adjustment as provided under this section shall be:

(1) the maximum amount of contributions permitted to be made by an individual, a corporation or labor organization to a candidate, candidate committee or joint candidates committee, the maximum amount of contributions permitted to be made by a political committee or a continuing political committee to a candidate, candidate committee or joint candidates committee other than the committee of a candidate for nomination or election to the office of Governor and the maximum amount of contributions permitted to be made by one candidate, candidate committee or joint candidates committee, other than the committee of a candidate for nomination or election to the office of Governor, to another candidate, candidate committee or joint candidates committee other than the committee of a candidate for nomination or election to the office of Governor pursuant to section 18 of P.L.1993, c.65 (C.19:44A-11.3);

(2) the maximum amount of contributions permitted to be made by an individual, corporation, labor organization, political committee, continuing political committee, candidate committee or joint candidates committee or any other group to any political party committee or any legislative leadership committee pursuant to section 19 of P.L.1993, c.65 (C.19:44A-11.4); and

(3) the maximum amount of contributions permitted to be made by a candidate, candidate committee or joint candidates committee to a political committee or a continuing political committee and the maximum amount of contributions permitted to be made by one political committee or continuing political committee to another political committee or continuing political committee pursuant to section 20 of P.L.1993, c.65 (C.19:44A-11.5).

c. No later than July 15 of each year preceding any year in which a general election is to be held to fill the office of Governor for a four-year term, the commission shall transmit a copy of its report to each member of the Legislature and make public its recommended adjustment of limits pursuant to this section. The Legislature shall have the option of adopting

all or part of the recommended adjustments by the passage of appropriate legislation.

3. Section 18 of P.L.1993, c.65 (C.19:44A-11.3) is amended to read as follows:

C.19:44A-11.3 Contributions to candidates, limitations.

18. a. No individual, other than an individual who is a candidate, no corporation of any kind organized and incorporated under the laws of this State or any other state or any country other than the United States, no labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment, or any group shall: (1) pay or make any contribution of money or other thing of value to a candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee which in the aggregate exceeds $2,600 per election, or (2) pay or make any contribution of money or other thing of value to candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer, or joint candidates committee, which in the aggregate exceeds $2,600 per election per candidate, or (3) pay or make any contribution of money or other thing of value to a candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee, which in the aggregate exceeds $2,600 per election. No candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee shall knowingly accept from an individual, other than an individual who is a candidate, a corporation of any kind organized and incorporated under the laws of this State or any other state or any country other than the United States, a labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment, or any group any contribution of money or other thing of value which in the aggregate exceeds $2,600 per election, and no candidates who have established only a joint candidates committee, or their campaign treasurer, deputy campaign treasurer, or joint candidates committee, shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds $2,600 per election per candidate, and no candidate who has established both a candidate committee and a joint

candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds $2,600 per election.

b. (1) No political committee or continuing political committee shall: (a) pay or make any contribution of money or other thing of value to a candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee, other than a candidate for nomination for election or for election for the office of Governor, which in the aggregate exceeds $8,200 per election, or (b) pay or make any contribution of money or other thing of value to candidates who have established only a joint candidates committee, their campaign treasurer or deputy campaign treasurer, or the joint candidates committee, which in the aggregate exceeds $8,200 per election per candidate, or (c) pay or make any contribution of money or other thing of value to a candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee, which in the aggregate exceeds $8,200 per election. No candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee, other than a candidate for nomination for election or for election for the office of Governor, shall knowingly accept from any political committee or continuing political committee any contribution of money or other thing of value which in the aggregate exceeds $8,200 per election, and no candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer, or joint candidates committee, shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds $8,200 per election per candidate, and no candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds $8,200 per election.

(2) The limitation upon the knowing acceptance by a candidate, campaign treasurer, deputy campaign treasurer, candidate committee or joint candidates committee of any contribution of money or other thing of value from a political committee or continuing political committee under the provisions of paragraph (1) of this subsection shall also be applicable to the knowing acceptance of any such contribution from the county committee of a political party by a candidate or the campaign treasurer, deputy campaign treasurer, candidate committee or joint candidates committee of a candidate for any elective public office in another county or, in the case of

a candidate for nomination for election or for election to the office of member of the Legislature, in a legislative district in which, according to the federal decennial census upon the basis of which legislative districts shall have been established, less than 20% of the population resides within the county of that county committee. In addition, all contributor reporting requirements and other restrictions and regulations applicable to a contribution of money or other thing of value by a political committee or continuing political committee under the provisions of P.L.1973, c.83 (C.19:44A-1 et al.) shall likewise be applicable to the making or payment of such a contribution by such a county committee.

The limitation upon the knowing acceptance by a candidate, campaign treasurer, deputy campaign treasurer, candidate committee or joint candidates committee of any contribution of money or other thing of value from a political committee or continuing political committee under the provisions of paragraph (1) of this subsection, except that the amount of any contribution of money or other thing of value shall be in an amount which in the aggregate does not exceed $25,000, shall also be applicable to the knowing acceptance of any such contribution from the county committee of a political party by a candidate, or the campaign treasurer, deputy campaign treasurer, candidate committee or joint candidates committee of a candidate, for nomination for election or for election to the office of member of the Legislature in a legislative district in which, according to the federal decennial census upon the basis of which legislative districts shall have been established, at least 20% but less than 40% of the population resides within the county of that county committee. In addition, all contributor reporting requirements and other restrictions and regulations applicable to a contribution of money or other thing of value by a political committee or continuing political committee under the provisions of P.L.1973, c.83 (C.19:44A-1 et al.) shall likewise be applicable to the making or payment of such a contribution by such a county committee.

With respect to the limitations in this paragraph, the Legislature finds and declares that:

(a) Persons making contributions to the county committee of a political party have a right to expect that their money will be used, for the most part, to support candidates for elective office who will most directly represent the interest of that county;

(b) The practice of allowing a county committee to use funds raised with this expectation to make unlimited contributions to candidates for the Legislature who may have a limited, or even nonexistent, connection with that county serves to undermine public confidence in the integrity of the electoral process;

(c) Furthermore, the risk of actual or perceived corruption is raised by the potential for contributors to circumvent limits on contributions to candidates by funnelling money to candidates through county committees;

(d) The State has a compelling interest in preventing the actuality or appearance of corruption and in protecting public confidence in democratic institutions by limiting amounts which a county committee may contribute to legislative candidates whose districts are not located in close proximity to that county; and

(e) It is, therefore, reasonable for the State to promote this compelling interest by limiting the amount a county committee may give to a legislative candidate based upon the degree to which the population of the legislative district overlaps with the population of that county.

c. (1) No candidate who has established only a candidate committee, his campaign treasurer, deputy treasurer or candidate committee shall (a) pay or make any contribution of money or other thing of value to another candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee, other than a candidate for nomination for election or for election for the office of Governor, which in the aggregate exceeds $8,200 per election, or (b) pay or make any contribution of money or other thing of value to candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer, or joint candidates committee, which in the aggregate exceeds $8,200 per election per candidate in the recipient committee, or (c) pay or make any contribution of money or other thing of value to a candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee, which in the aggregate exceeds $8,200 per election. No candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee, other than a candidate for nomination for election or for election to the office of the Governor, shall knowingly accept from another candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee, any contribution of money or other thing of value which in the aggregate exceeds $8,200 per election, and no candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer, or joint candidates committee, shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds $8,200 per election per candidate in the recipient committee, and no candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates

committee, shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds $8,200 per election.

(2) No candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer, or joint candidates committee shall (a) pay or make any contribution of money or other thing of value to another candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee, other than a candidate for nomination for election or for election for the office of Governor, which in the aggregate exceeds, on the basis of each candidate in the contributing joint candidates committee, $8,200 per election, or (b) pay or make any contribution of money or other thing of value to candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer or joint candidates committee, which in the aggregate exceeds, on the basis of each candidate in the contributing joint candidates committee, $8,200 per election per candidate in the recipient joint candidates committee, or (c) pay or make any contribution of money or other thing of value to a candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers or candidate committee or joint candidates committee, which in the aggregate exceeds, on the basis of each candidate in the contributing joint candidates committee, $8,200 per election. No candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer, or candidate committee, other than a candidate for nomination for election or for election for the office of Governor, shall knowingly accept from other candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer or joint candidates committee, any contribution of money or other thing of value which in the aggregate exceeds, on the basis of each candidate in the contributing committee, $8,200 per election, and no candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer, or joint candidates committee, shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds, on the basis of each candidate in the contributing joint candidates committee, $8,200 per election per candidate in the recipient joint candidates committee, and no candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee, shall knowingly accept from any such source any contribution of money or other thing of value which in the

aggregate exceeds, on the basis of each candidate in the contributing joint candidates committee, $8,200 per election.

(3) No candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee shall (a) pay or make any contribution of money or other thing of value to another candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee, other than a candidate for nomination for election or for election for the office of Governor, which in the aggregate exceeds $8,200 per election, or (b) pay or make any contribution of money or other thing of value to candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer or joint candidates committee, which in the aggregate exceeds $8,200 per election per candidate in the recipient joint candidates committee, or (c) pay or make any contribution of money or other thing of value to a candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee, which in the aggregate exceeds $8,200 per election. No candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer, or candidate committee, other than a candidate for nomination for election or for election for the office of Governor, shall knowingly accept from a candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee, any contribution of money or other thing of value which in the aggregate exceeds $8,200 per election, and no candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer, or joint candidates committee, shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds $8,200 per election per candidate in the recipient joint candidates committee, and no candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds $8,200 per election.

(4) Expenditures by a candidate for nomination for election or for election to the office of member of the Legislature or to an office of a political subdivision of the State, or by the campaign treasurer, deputy treasurer, candidate committee or joint candidates committee of such a candidate, which are made in furtherance of the nomination or election,

respectively, of another candidate for the same office in the same legislative district or the same political subdivision shall not be construed to be subject to any limitation under this subsection; for the purposes of this sentence, the offices of member of the State Senate and member of the General Assembly shall be deemed to be the same office.

d. Nothing contained in this section shall be construed to impose any limitation on contributions by a candidate, or by a corporation, 100% of the stock in which is owned by a candidate or the candidate's spouse, child, parent or sibling residing in the same household, to that candidate's campaign.

e. For the purpose of determining the amount of a contribution to be attributed as given to or by each candidate in a joint candidates committee, the amount of the contribution to or by such a committee shall be divided equally among all the candidates in the committee.

4. Section 19 of P.L.1993, c.65 (C.19:44A-11.4) is amended to read as follows:

C.19:44A-11.4 Contributions to political party leadership committees; limitations.

19. a. (1) Except as otherwise provided in paragraph (2) of this subsection, no individual, no corporation of any kind organized and incorporated under the laws of this State or any other state or any country other than the United States, no labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment, no political committee, continuing political committee, candidate committee or joint candidates committee or any other group, shall pay or make any contribution of money or other thing of value to the campaign treasurer, deputy treasurer or other representative of the State committee of a political party or the campaign treasurer, deputy campaign treasurer or other representative of any legislative leadership committee, which in the aggregate exceeds $25,000 per year, or in the case of a joint candidates committee when that is the only committee established by the candidates, $25,000 per year per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, $25,000 per year from that candidate. No campaign treasurer, deputy campaign treasurer or other representative of the State committee of a political party or campaign treasurer, deputy campaign treasurer or other representative of any legislative leadership committee shall knowingly accept from an individual, a corporation of any kind organized and incorporated under the laws of this

State or any other state or any country other than the United States, a labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment, a political committee, a continuing political committee, a candidate committee or a joint candidates committee or any other group, any contribution of money or other thing of value which in the aggregate exceeds $25,000 per year, or in the case of a joint candidates committee when that is the only committee established by the candidates, $25,000 per year per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, $25,000 per year from that candidate.

(2) No national committee of a political party shall pay or make any contribution of money or other thing of value to the campaign treasurer, deputy treasurer or other representative of the State committee of a political party which in the aggregate exceeds $72,000 per year, and no campaign treasurer, deputy campaign treasurer or other representative of the State committee of a political party shall knowingly accept from the national committee of a political party any contribution of money or other thing of value which in the aggregate exceeds $72,000 per year.

b. No individual, no corporation of any kind organized and incorporated under the laws of this State or any other state or any country other than the United States, no labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment, no political committee, continuing political committee, candidate committee or joint candidates committee or any other group, shall pay or make any contribution of money or other thing of value to any county committee of a political party, which in the aggregate exceeds $37,000 per year, or in the case of a joint candidates committee when that is the only committee established by the candidates, $37,000 per year per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, $37,000 per year from that candidate. No campaign treasurer, deputy campaign treasurer or other representative of a county committee of a political party shall knowingly accept from an individual, a corporation of any kind organized and incorporated under the laws of this State or any other state or any country other than the United States, a labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the

grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment, a political committee, a continuing political committee, a candidate committee or a joint candidates committee or any other group, any contribution of money or other thing of value which in the aggregate exceeds $37,000 per year, or in the case of a joint candidates committee when that is the only committee established by the candidates, $37,000 per year per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, $37,000 per year from that candidate.

c. No individual, no corporation of any kind organized and incorporated under the laws of this State or any other state or any country other than the United States, no labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment, no political committee, continuing political committee, candidate committee or joint candidates committee or any other group shall pay or make any contribution of money or other thing of value to any municipal committee of a political party, which in the aggregate exceeds $7,200 per year, or in the case of a joint candidates committee when that is the only committee established by the candidates, $7,200 per year per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, $7,200 per year from that candidate. No campaign treasurer, deputy campaign treasurer or other representative of a municipal committee of a political party shall knowingly accept from an individual, a corporation of any kind organized and incorporated under the laws of this State or any other state or any country other than the United States, a labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment, a political committee, a continuing political committee, a candidate committee or a joint candidates committee or any other group, any contribution of money or other thing of value which in the aggregate exceeds $7,200 per year, or in the case of a joint candidates committee when that is the only committee established by the candidates, $7,200 per year per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, $7,200 per year from that candidate.

No county committee of a political party in any county shall pay or make any contribution of money or other thing of value to a municipal committee of a political party in a municipality not located in that county which in the aggregate exceeds the amount of aggregate contributions which, under this subsection, a continuing political committee is permitted to pay or make to a municipal committee of a political party. No campaign treasurer, deputy campaign treasurer or other representative of a municipal committee of a political party in any municipality shall knowingly accept from any county committee of a political party in any county other than the county in which the municipality is located any contribution of money or other thing of value which in the aggregate exceeds the amount of contributions permitted to be so paid or made under that subsection.

d. For the purpose of determining the amount of a contribution to be attributed as given by each candidate in a joint candidates committee, the amount of the contribution by such a committee shall be divided equally among all the candidates in the committee.

5. This act shall take effect on the seventh day following the date of enactment.

Approved December 15, 2004.

CHAPTER 175

AN ACT concerning the New Jersey Property-Liability Insurance Guaranty Association and amending P.L.1974, c.17.

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

1. Section 2 of P.L.1974, c.17 (C.17:30A-2) is amended to read as follows:

C.17:30A-2 Payment of covered claims.

2. a. The purpose of this act is to provide a mechanism for the payment of covered claims under certain insurance policies, to avoid excessive delay in payment, to minimize financial loss to claimants or policyholders because of the insolvency of an insurer, to assist in the detection and prevention of insurer insolvencies, to provide an association to assess the cost of such protection among insurers, and to provide a mechanism to run off, manage, administer and pay claims asserted against the Unsatisfied Claim and

Judgment Fund, created pursuant to P.L.1952, c.174 (C.39:6-61 et seq.), the New Jersey Automobile Full Insurance Underwriting Association, created pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.), and the Market Transition Facility, created pursuant to section 88 of P.L.1990, c.8 (C.17:33B-11).

b. This act shall apply to all kinds of direct insurance, except life insurance, accident and health insurance, workers' compensation insurance, title insurance, annuities, surety bonds, credit insurance, mortgage guaranty insurance, municipal bond coverage, fidelity insurance, investment return assurance, ocean marine insurance and pet health insurance.

2. Section 5 of P.L.1974, c.17(C.17:30A-5) is amended to read as follows:

C.17:30A-5 Definitions relative to the Property-Liability Insurance Guaranty Association.

5. As used in this act:

"Affiliate" means a person who directly, or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer;

"Association" means the New Jersey Property-Liability Insurance Guaranty Association created under section 6;

"Commissioner" means the Commissioner of Banking and Insurance of this State;

"Covered claim" means an unpaid claim, including one of unearned premiums, which arises out of and is within the coverage, and not in excess of the applicable limits of an insurance policy to which this act applies, issued by an insurer, if such insurer becomes an insolvent insurer after January 1, 1974, and (1) the claimant or insured is a resident of this State at the time of the insured event provided that for an entity other than an individual, the residence of the claimant or insured is the state in which its principal place of business was located at the time of the insured event; or (2) the claim is a first party claim made by an insured for damage to property with a permanent location in this State.

"Covered claim" shall not include: (1) any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise; provided, that a claim for any such amount, asserted against a person insured under a policy issued by an insurer which has become an insolvent insurer, which, if it were not a claim by or for the benefit of a reinsurer, insurer, insurance pool, or underwriting association, would be a "covered claim," may be filed directly with the receiver of the insolvent insurer, but in no event may any such claim be asserted in any legal action against the insured of such insolvent insurer; (2) amounts for

interest on unliquidated claims; (3) punitive damages unless covered by the policy; (4) counsel fees for prosecuting suits for claims against the association; (5) assessments or charges for failure of such insolvent insurer to have expeditiously settled claims; (6) counsel fees and other claim expenses incurred prior to the date of insolvency; (7) a claim filed with the association, liquidator or receiver of an insolvent insurer after the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer or, in the event a final date is not set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer, two years from the date of the order of liquidation, unless the claimant demonstrates unusual hardship and the commissioner approves of treatment of the claim as a "covered claim." "Unusual hardship" shall be defined in regulations promulgated by the commissioner. With respect to insurer insolvencies pending as of the effective date of P.L.2004, c.175, a "covered claim" shall not include a claim filed with the association, liquidator or receiver of an insolvent insurer: (a) more than one year after the effective date of P.L.2004, c.175; or (b) the date set by the court for the filing of claims against the liquidator or receiver of the insolvent insurer, whichever date occurs later; and (8) any first party claim by an insured whose net worth exceeds $25 million on December 31 of the year prior to the year in which the insurer becomes an insolvent insurer; provided that an insured's net worth on that date shall be deemed to include the aggregate net worth of the insured and all of its affiliates as calculated on a consolidated basis;

"Credit insurance" means credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance and any other form of insurance offered in connection with an extension of credit that the commissioner determines should be designated a form of credit insurance;

"Exhaust" means with respect to other insurance, the application of a credit for the maximum limit under the policy, except that in any case in which continuous indivisible injury or property damage occurs over a period of years as a result of exposure to injurious conditions, exhaustion shall be deemed to have occurred only after a credit for the maximum limits under all other coverages, primary and excess, if applicable, issued in all other years has been applied. With respect to health insurance and workers' compensation insurance, "exhaust" means the application of a credit for the amount of recovery under the insurance policy. With respect to another insurance guaranty association or its equivalent, "exhaust" means the application of a credit for the maximum statutory limit of recovery from that other guaranty association or its equivalent. The amount of a covered claim

payable by the association shall be reduced by the amount of any applicable credits;

"Insolvent insurer" means (1) a licensed insurer admitted pursuant to R.S.17:32-1 et seq. or authorized pursuant to R.S.17:17-1 et seq., or P.L.1945, c.161 (C.17:50-1 et seq.) to transact the business of insurance in this State either at the time the policy was issued or when the insured event occurred, and (2) against whom an order of liquidation has been entered with a finding of insolvency by a court of competent jurisdiction. "Insolvent insurer" does not include any unauthorized or nonadmitted insurer whether or not deemed eligible for surplus lines pursuant to P.L.1960, c.32 (C.17:22-6.37 et seq.);

"Member insurer" means any person who (1) writes any kind of insurance to which this act applies under section 2 b. including the exchange of reciprocal or interinsurance contracts and (2) is a licensed insurer admitted or authorized to transact the business of insurance in this State. "Member insurer" does not include any unauthorized or nonadmitted insurer whether or not deemed eligible for surplus lines pursuant to P.L.1960, c.32 (C.17:22-6.37 et seq.);

"Net direct written premiums" means direct gross premiums written in this State on insurance policies to which this act applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers, and does not include premiums on policies issued by an insurer as a member of the New Jersey Insurance Underwriting Association pursuant to P.L.1968, c.129 (C.17:37A-1 et seq.);

"Ocean marine insurance" means any form of insurance, regardless of the name, label or marketing designation of the insurance policy, which insures against maritime perils or risks and other related perils or risks, which are usually insured against by traditional marine insurance, such as hull and machinery, marine builders risk, and marine protection and indemnity. Perils and risks insured against include, without limitation, loss damage, expense or legal liability of the insured for loss, damage or expense arising out of or incident to ownership, operation, chartering, maintenance, use, repair or construction of any vessel, craft or instrumentality in use in ocean or inland waterways for commercial purposes, including liability of the insured for personal injury, illness or death or for loss or damage to the property of the insured or another person; and

"Person" means any individual, corporation, partnership, association or voluntary organization.

3. Section 6 of P.L.1974, c.17 (C.17:30A-6) is amended to read as follows:

C.17:30A-6 New Jersey Property-Liability Insurance Guaranty Association.

6. There is created a private, nonprofit, unincorporated, legal entity to be known as the New Jersey Property-Liability Insurance Guaranty Association. All insurers defined as member insurers in section 5 shall be and remain members of the association as a condition of their authority to transact insurance in this State. The association shall perform its functions under a plan of operation established and approved under section 9 and shall exercise its powers through a board of directors established under section 7.

The association is also authorized and shall have all of the powers necessary and appropriate for the management and administration of the affairs of the New Jersey Surplus Lines Insurance Guaranty Fund, in accordance with the provisions of the "New Jersey Surplus Lines Insurance Guaranty Fund Act," P.L.1984, c.101 (C.17:22-6.70 et seq.).

The association is also authorized and shall have all of the powers necessary and appropriate for the management and administration of the affairs of, and the payment of valid claims asserted against: the Unsatisfied Claim and Judgment Fund, created pursuant to the provisions of P.L.1952, c.174 (C.39:6-61 et seq.); the New Jersey Automobile Full Insurance Underwriting Association, created pursuant to the provisions of P.L.1983, c.65 (C.17:30E-1 et seq.); and the Market Transition Facility created pursuant to the provisions of section 88 of P.L.1990, c.8 (C.17:33B-11).

4. Section 8 of P.L.1974, c.17 (C.17:30A-8) is amended to read as follows:

C.17:30A-8 Association's obligations, powers and duties.

8. a. The association shall:

(1) Be obligated to the extent of the covered claims against an insolvent insurer incurred prior to or 90 days after the determination of insolvency, or before the policy expiration date if less than 90 days after said determination, or before the insured replaces the policy or causes its cancellation, if he does so within 90 days of the determination, except that in the case of private passenger automobile insurance, the commissioner may, depending upon factors such as the level of that insurance written by the insolvent insurer, the volume of claims arising under that insurance, and conditions currently relating to the voluntary market for that insurance in this State, order the association to treat all or a portion of claims arising under that insurance as covered claims if they are incurred prior to or after the determination of insolvency, but before the policy expiration date or the date upon which the insured replaces the policy or causes its cancellation, and otherwise qualify as covered claims under the act. That obligation shall

include only that amount of each covered claim which is less than $300,000.00 per claimant and subject to any applicable deductible and self-insured retention contained in the policy, except that the $300,000.00 limitation shall not apply to a covered claim arising out of insurance coverage mandated by section 4 of P.L.1972, c.70 (C.39:6A-4). In the case of benefits payable under subsection a. of section 4 of P.L.1972, c.70 (C.39:6A-4), the association shall be liable for payment of benefits in an amount not to exceed the amount set forth in section 4 of P.L.1972, c.70 (C.39:6A-4). The commissioner may pay a portion of or defer the association's obligations for covered claims based on the monies available to the association. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the limits of liability stated in the policy of the insolvent insurer from which the claim arises. Any obligation of the association to defend an insured shall cease upon the association's payment or tender of an amount equal to the lesser of the association's covered claim statutory limit or the applicable policy limit;

(2) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(3) Assess member insurers in amounts necessary to pay:

(a) The obligations of the association under paragraphs (1) and (11) of this subsection;

(b) The expenses of handling covered claims;

(c) The cost of examinations under section 13; and

(d) Other expenses authorized by this act.

The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment.

Each member insurer shall be notified of the assessment not later than 30 days before it is due. No member insurer of the association may be assessed pursuant to this paragraph (3) in any year in an amount greater than 2% of that member insurer's net direct written premiums for the calendar year preceding the assessment with regard to the association's obligation to pay covered claims and related expenses arising under coverages issued by insolvent insurers pursuant to P.L.1974, c.17 (C.17:30A-1 et seq.).

The association may, subject to the approval of the commissioner, exempt, abate or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. In the event an

assessment against a member insurer is exempted, abated, or deferred, in whole or in part, because of the limitations set forth in this section, the amount by which such assessment is exempted, abated, or deferred shall be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. If the maximum assessment, together with the other assets of the association, does not provide in any one year an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as it is permitted by this act. Each member insurer serving as a servicing facility may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by such member insurer;

(4) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims and may review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases and judgments may be properly contested;

(5) Notify such persons as the commissioner directs under paragraph (1) of subsection b. of section 10 of P.L.1974, c.17 (C.17:30A-10);

(6) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer. The association is designated as a servicing facility for the administration of claim obligations of: (a) the New Jersey Surplus Lines Insurance Guaranty Fund; (b) the New Jersey Medical Malpractice Reinsurance Association; and (c) the Unsatisfied Claim and Judgment Fund. The association may also be designated or may contract as a servicing facility for any other entity which may be recommended by the association's board of directors and approved by the commissioner;

(7) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this act;

(8) Make loans to the New Jersey Surplus Lines Insurance Guaranty Fund and the Unsatisfied Claim and Judgment Fund in such amounts and on such terms as the board of directors may determine are necessary or appropriate to effectuate the purposes of P.L.2003, c.89 (C.17:30A-2.1 et al.) in accordance with the plan of operation; provided, however, no such loan transaction shall be authorized to the extent the federal tax exemption

of the association would be withdrawn or the association would otherwise incur any federal tax or penalty as a result of such transaction;

(9) (Deleted by amendment, P.L.2004, c.175.)

(10) (Deleted by amendment, P.L.2004, c.175.)

(11) Reimburse an insurer for medical expense benefits in excess of $75,000 per person per accident as provided in section 2 of P.L.1977, c.310 (C.39:6-73.1) for injuries covered under an automobile insurance policy issued prior to January 1, 2004;

(12) Undertake all of the management, administrative, and claims activities of the Unsatisfied Claim and Judgment Fund, created pursuant to P.L.1952, c.174 (C.39:6-61 et seq.), the New Jersey Automobile Full Insurance Underwriting Association, created pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.), and the Market Transition Facility, created pursuant to section 88 of P.L.1990, c.8 (C.17:33B-11).

b. The association may:

(1) Employ or retain such persons as are necessary to handle claims and perform such other duties of the association;

(2) Borrow and separately account for funds from any source, including, but not limited to, the New Jersey Surplus Lines Insurance Guaranty Fund and the Unsatisfied Claim and Judgment Fund, in such amounts and on such terms, as the board of directors may determine are necessary or appropriate to effectuate the purpose of this act in accordance with the plan of operation; provided, however, no such borrowing transaction shall be authorized to the extent the federal tax exemption of the association would be withdrawn or the association would otherwise incur any federal tax or penalty as a result of such transaction;

(3) Sue or be sued;

(4) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this act;

(5) Perform such other acts as are necessary or proper to effectuate the purpose of this act;

(6) Refund to the member insurers in proportion of the contribution of each member insurer that amount by which the assets exceed the liabilities if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities, as estimated by the board of directors for the coming year.

5. Section 10 of P.L.1974, c.17 (C.17:30A-10) is amended to read as follows:

C.17:30A-10 Insolvent insurers; notices; revocation or suspension of certificate or authority.

10. a. The commissioner shall:

(1) Notify the association of the existence of an insolvent insurer not later than three days after he receives notice of the determination of the insolvency. The association shall be entitled to a copy of any complaint seeking an order of liquidation with a finding of insolvency against a member insurer at the same time that such complaint is filed with a court of competent jurisdiction;

(2) Upon request of the board of directors, provide the association with a statement of the net direct written premiums of each member insurer.

b. The commissioner may:

(1) Require that the association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this act. Such notification shall be by publication in newspapers of general circulation as the commissioner shall direct;

(2) Suspend or revoke, after notice and hearing, the certificate or authority to transact insurance in this State of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a fine on any member insurer which fails to pay an assessment when due. Such fine shall not exceed 5% of the unpaid assessment per month, except that no fine shall be less than $100.00 per month;

(3) Revoke the designation of any servicing facility if he finds claims are being handled unsatisfactorily.

6. Section 11 of P.L.1974, c.17 (C.17:30A-11) is amended to read as follows:

C.17:30A-11 Subrogation; cooperation of claimant; settlement of claims; filing statements of claims paid; access to records.

11. a. Any person recovering under this act shall be deemed to have assigned his rights under the policy to the association to the extent of his recovery from the association. Every insured or claimant seeking the protection of this act shall cooperate with the association to the same extent as such person would have been required to cooperate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except such causes of action as the insolvent insurer would have had if such sums had been paid by the insolvent insurer. In the case of an insolvent insurer operating on a plan with an assessment liability, payments of claims of the association shall not operate to reduce the liability of insureds to the receiver, liquidator, or statutory successor for unpaid assessments;

b. The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the association

or its representatives. The court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this act against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses;

c. The association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association which shall preserve the rights of the association against the assets of the insolvent insurer;

d. The liquidator, receiver, or statutory successor of an insolvent insurer covered by this act shall permit access by the board or its representative to all of the insolvent insurer's records which would assist the board in carrying out its functions under this act with regard to covered claims. In addition, the liquidator, receiver, or statutory successor shall provide the board or its representative with copies or permit it to make copies of such records upon the request of the board and at the expense of the board;

e. The association shall have the right to recover from the following persons the amount of any covered claim paid to or on behalf of that person pursuant to P.L.1974, c.17 (C.17:30A-1 et seq.):

(1) An insured whose net worth on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer exceeds $25 million and whose liability obligations to other persons are satisfied in whole or in part by payments made under P.L.1974, c.17 (C.17:30A-1 et seq.); and

(2) Any person who is an affiliate of the insolvent insurer and whose liability obligations to other persons are satisfied in whole or in part by payments made under P.L.1974, c.17 (C.17:30A-1 et seq.).

7. Section 12 of P.L.1974, c.17 (C.17:30A-12) is amended to read as follows:

C.17:30A-12 Recovery of covered claims, exhaustion of other sources.

12. a. Any person having a covered claim which may be recovered from more than one insurance guaranty association or its equivalent shall be required to exhaust first his rights under the statute governing the association of the place of residence of the insured at the time of the insured event except that if it is a first party claim for damage to property with a permanent location, he shall seek recovery first from the association of the location of the property. If recovery is denied or deferred by that association, a person may proceed to seek recovery from any other insurance

guaranty association or its equivalent from which recovery may be legally sought.

b. Any person having a claim, except for a claim for coverage for personal injury protection benefits issued pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4) and section 4 of P.L.1998, c.21 (C.39:6A-3.1), under an insurance policy other than a policy of an insolvent insurer, shall be required to exhaust first his right under that other policy.

For purposes of this subsection b., a claim under an insurance policy shall include a claim under any kind of insurance, whether it is a first-party or third-party claim, and shall include without limitation, general liability, accident and health insurance, workers' compensation, health benefits plan coverage, primary and excess coverage, if applicable, and all other private, group or governmental coverages except coverage for personal injury protection benefits issued pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4) and section 4 of P.L.1998, c.21 (C.39:6A-3.1).

8. Section 18 of P.L.1974, c.17 (C.17:30A-18) is amended to read as follows:

C.17:30A-18 Stay of actions or set aside of judgments against insolvent insurers, certain.

18. All proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court in this State shall, subject to full or partial waiver by the association in specific cases involving covered claims, be stayed for 120 days and such additional time thereafter as may be determined by the court from the date of the order of liquidation or any ancillary proceeding initiated in the State, whichever is later, to permit proper defense by the association of all pending causes of action. Public notice of the stay shall be by publication in three newspapers of general circulation in this State within 10 days of the order of liquidation. With respect to any covered claims arising from a judgment under any decision, verdict or finding based on the default of the insolvent insurer or its failure to defend an insured, the association either on its own behalf or on behalf of such insured may apply to have such judgment, order, decision, verdict or finding set aside by the court in which such judgment, order, decision, verdict or finding is entered and shall be permitted to defend against such claim on the merits.

9. This act shall take effect immediately and shall apply to covered claims resulting from insolvencies occurring on or after that date.

Approved December 22, 2004.

CHAPTER 176

AN ACT concerning financial assistance to certain businesses and amending P.L.1999, c.239 (C.52:27D-443 et seq.).

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

1. Section 1 of P.L.1999, c.239 (C.52:27D-443) is amended to read as follows:

C.52:27D-443 Short title.

1. This act shall be known and may be cited as the "New Jersey Women's Micro-Business Credit Act."

2. Section 2 of P.L.1999, c.239 (C.52:27D-444) is amended to read as follows:

C.52:27D-444 Findings, declarations relative to financial assistance to certain women's businesses.

2. The Legislature finds and declares that:

a. Micro-business loans are usually granted to those businesses that are mostly sole proprietorships with five or fewer employees, that require an initial capital outlay of less than $35,000 to start a new business or expand an existing business, utilize loans in amounts of less than $15,000 with most loans being paid back on time, and experience a default rate that is often no higher than on commercial loans;

b. Experience in numerous other states and in certain urban areas in New Jersey has shown that "micro lending," or carefully underwriting small loans to individual entrepreneurs with well-developed, realistic business plans, has been successful in helping individuals, without regard to geographical location, to start micro-businesses;

c. Nonprofit community-based development corporations have the experience of providing the training and technical assistance that is necessary for prospective entrepreneurs to establish a viable business;

d. While the New Jersey Economic Development Authority currently manages several programs to promote the development of micro and small businesses in the State and the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises has a peer group micro-lending program in place which targets urban areas of the State, there is a need to establish a separate micro-business credit program to provide new and innovative ways to assist more unemployed women and underemployed women in all areas of the State to enter or reenter the marketplace and to recognize that nonprofit community-based development corporations

and certain Statewide women's business organizations have the experience of providing the training and technical assistance that is necessary for prospective entrepreneurs to establish a viable business; and

e. It is appropriate to establish a micro-business credit program that would target only those potential female entrepreneurs who have little or no prior business experience, are self-motivated and are willing to undertake an extensive training program and receive other kinds of technical assistance in order to gain the necessary experience to start a successful business through grants given to certified nonprofit community development corporations and certain Statewide women's business organizations, and the Department of Community Affairs which has experience in evaluating and monitoring community development corporations and which already manages a number of programs through its Division on Women to assist women to improve their lives is the appropriate State agency to accomplish these goals.

3. Section 3 of P.L.1999, c.239 (C.52:27D-445) is amended to read as follows:

C.52:27D-445 Definitions relative to financial assistance to certain women's businesses.

3. As used in this act:

"Act" means the "New Jersey Women's Micro-Business Credit Act."

"Certified nonprofit community development corporation" or "certified corporation" means a nonprofit community development corporation, established pursuant to Title 15 of the Revised Statutes, Title 15A of the New Jersey Statutes, or other law of this State, and certified by the department pursuant to section 6 of this act to receive grants for the purpose of issuing loans, loan guarantees, or both, and providing training and technical assistance to qualified recipients;

"Commissioner" means the Commissioner of Community Affairs;

"Department" means the Department of Community Affairs;

"Grant" means money given to a certified nonprofit community development corporation or a Statewide organization by the department for the purpose of issuing loans, loan guarantees, or both, pursuant to section 4 of this act;

"Loan" means a loan made or guaranteed to a qualified recipient under the terms and conditions set forth by a certified nonprofit community development corporation or a Statewide organization;

"Program" means the New Jersey Women's Micro-Business Credit Program established pursuant to section 4 of P.L.1999, c.239 (C.52:27D-446);

"Qualified recipient" means one or more women who intend to establish a business enterprise which is to be independently owned and operated

solely by the woman or women, as appropriate, who have little or no prior business experience and each having a gross annual personal income of an amount less than 350 percent of the official poverty line, as determined by the Director of the federal Office of Management and Budget. A qualified recipient may conduct a business enterprise on a part-time basis, from a residence, or both; and

"Statewide organization" means an organization whose primary objective is to support and encourage business ownership by women and which maintains a visible Statewide presence.

4. Section 4 of P.L.1999, c.239 (C.52:27D-446) is amended to read as follows:

C.52:27D-446 "New Jersey Women's Micro-Business Credit Program."

4. a. There is created, in the department, a "New Jersey Women's Micro-Business Credit Program." The program shall be established by the department. The program shall consist of grants to certified corporations or a Statewide organization for the following purposes:

(1) issuing loans, loan guarantees, or both, to qualified recipients;

(2) providing training and technical assistance to qualified recipients; and

(3) payment of reasonable administrative expenses as approved by the commissioner, except that such expenses shall not amount to greater than 20 percent of the grant.

b. To implement the program, the department shall provide grants to certified corporations or a Statewide organization from such moneys that the department determines are necessary to effectively implement the program, in response to the demand for the program, and from other assistance programs administered by the department or by other State agencies or authorities, or from such other moneys as may be made available for the program pursuant to P.L.1999, c.239 (C.52:27D-443 et seq.).

c. The commissioner shall designate areas for the location of up to four certified corporations or a Statewide organization as part of the program. In selecting the areas for the certified corporations, the commissioner shall strive to allocate the areas in an equitable manner to achieve representation from the northern, central, southern and shore regions of the State. In selecting the areas in each region for the location of the certified corporations, the department shall consider the following factors: comparative unemployment or underemployment; an economic environment conducive to the establishment of businesses built around qualified businesses; the need for assistance in creating qualified businesses where such activity will protect or enhance a small business economy; the level of anticipated financial and other participation of county economic development agencies,

municipal economic development agencies or business organizations, and county or municipal educational and nonprofit organizations; and their ability to provide the necessary services in each region. In selecting a Statewide organization, the department shall consider the following factors: comparative unemployment or underemployment in area served; an economic environment conducive to the establishment of businesses built around qualified businesses; the need for assistance in creating qualified businesses where such activity will protect or enhance a small business economy; the level of anticipated financial and other participation of county economic development agencies, municipal economic development agencies or business organizations, and county or municipal educational and nonprofit organizations; and their ability to provide the necessary services Statewide.

d. The department shall, to the greatest extent feasible, coordinate its efforts to implement the program with other State or federal agencies or authorities including, but not limited to, the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises established pursuant to P.L.1985, c.386 (C.34:1B-47 et seq.), the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), and the Department of Human Services and shall enter into agreements to leverage the moneys in the program with moneys that may be available from other sources of financing including, but not limited to, the Fund for Community Economic Development and the Statewide Loan Pool for Business as established by the New Jersey Economic Development Authority.

e. The department shall, to the greatest extent feasible, advertise the program to community development organizations in the northern, central, southern and shore regions of the State or Statewide. In order to advertise and promote the program, the department is authorized to organize or participate in the organization of a nonprofit corporation, which is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code. Such nonprofit corporation must directly further the statutory mission of the department and the intent of P.L.1999, c.239 (C.52:27D-443 et seq.). Expenses incurred by such nonprofit corporations shall be payable from funds raised by the nonprofit corporation, and no liability or obligation, in tort or contract, shall be incurred by the department for the operation of the nonprofit corporation. The nonprofit corporation shall obtain private counsel and shall not be represented by the department or indemnified by the department.

5. Section 5 of P.L.1999, c.239 (C.52:27D-447) is amended to read as follows:

C.52:27D-447 Use of program moneys.

5. a. The department shall use the moneys in the program as established and for the purposes designated pursuant to section 4 of P.L.1999, c.239 (C.52:27D-446).

b. In determining the criteria for making grants to the certified corporations or the Statewide organization, the department shall, in addition to applying customary underwriting criteria, also consider:

(1) the plan and scope of business training and technical assistance to be provided to qualified recipients;

(2) the plan and scope of other services to be provided to qualified recipients;

(3) geographic representation among the regions chosen, pursuant to subsection b. of section 4 of P.L.1999, c.239 (C.52:27D-446);

(4) the ability of the certified corporation or the Statewide organization, with its plan, to monitor and provide financial oversight of recipients of loans, to administer a revolving loan fund, and to investigate and qualify financing proposals and to service credit accounts;

(5) the sources and the sufficiency of operating funds, other than those provided herein, for the certified corporation or the Statewide organization; and

(6) the intent of the certified corporation or the Statewide organization, as set forth in its plan and written indications of local institutional support, to provide services to qualified recipients in the region within which it is located.

c. Loan funds may be used by a certified corporation or the Statewide organization to:

(1) satisfy matching requirements for other State, federal, or private funding only if funding is intended and used for the purpose of providing or enhancing the certified corporation's or Statewide organization's ability to provide and administer loans, technical assistance, or business training to qualified recipients;

(2) establish a revolving loan fund from which the certified corporation or the Statewide organization may issue loans to qualified recipients, provided that a single loan amount, as part of a loan agreement, does not exceed $5,000, or issue additional loans to qualified recipients which have completed payments on an earlier loan, under terms and conditions of the certified corporation or the Statewide organization; or

(3) carry out the purposes of the provisions as provided in both paragraphs (1) and (2) of this subsection.

d. Loan funds created by a certified corporation or a Statewide organization shall not be:

(1) loaned for relending or investment in stocks, bonds, or other securities or for property not intended for use in production by the recipient of the loan; or

(2) used to refinance a nonperforming loan held by a financial institution or to pay the operating costs of a certified corporation or a Statewide organization; however, interest income earned from the proceeds of a loan may be used to pay operating expenses.

e. Certified corporations or the Statewide organization are required to contribute cash from other sources to leverage and secure loans from the program. Contributions provided by the certified corporation or a Statewide organization must be in a ratio of at least $1 from other sources for each $3 in loans from the program and at least $1 from other sources for each $4 for training, technical assistance and administrative expenses from the program. These contributions may come from a public or private source other than the program and may be in the form of loans or grants.

f. Loans made by a certified corporation or a Statewide organization to a qualified recipient shall be made pursuant to a loan agreement and may be amortization or term loans, bear interest at less than the market rate, be renewable, and contain other terms and conditions considered appropriate by the department that are consistent with the purposes of P.L.1999, c.239 (C.52:27D-443 et seq.) and with rules and regulations promulgated by the department to implement P.L.1999, c.239.

g. (1) Unless subject to federal law, rule or regulation, each certified corporation or the Statewide organization that receives a grant under P.L.1999, c.239 (C.52:27D-443 et seq.) shall undergo an audit, at its own expense, at least once every two years. The certified corporation or a Statewide organization shall submit a copy of the audit to the department.

(2) If an audit is performed under a requirement of federal law, rule or regulation, the department shall waive the audit required in this subsection with respect to all issues addressed by the federal audit report. However, the department may require an audit of matters that are not, in the department's judgment, addressed by the federal report including, but not limited to, verification of compliance with requirements specific to the program, such as job-generation standards and reporting.

h. The department may use up to five percent of the funds received from the General Fund for the purposes of implementing the program, as pursuant to P.L.1999, c.239 (C.52:27D-443 et seq.), for administrative costs.

6. Section 6 of P.L.1999, c.239 (C.52:27D-448) is amended to read as follows:

C.52:27D-448 Certification of nonprofit community development corporation or Statewide organization.

6. The department may certify a nonprofit community development corporation or a Statewide organization when it determines that the development corporation or the Statewide organization:

a. has developed a viable plan for providing training, access to financing, and technical assistance for qualified recipients;

b. has demonstrated an ability to successfully provide training and technical assistance to qualified recipients;

c. has broad-based community support within a region and has demonstrated support from other regional entities to provide assistance with service delivery and financial aspects; and

d. has an adequate source of operating capital.

7. Section 7 of P.L.1999, c.239 (C.52:27D-449) is amended to read as follows:

C.52:27D-449 Additional powers of department.

7. a. The department shall have, in addition to the powers enumerated in section 9 of P.L.1966, c.293 (C.52:27D-9), the power to enter into written agreements, including, but not limited to, limited partnership agreements with one or more professional investors or small business investment corporations, or inter-agency agreements with one or more State agencies or authorities for the purposes of establishing a pool of additional moneys which is to be used exclusively for grants to certified corporations or a Statewide organization for the sole purpose of providing loans to qualified recipients.

b. The department may also accept grants, donations, and other private and public funds, including payments of interest on loans made by the department and use such moneys received under this subsection for the purposes of the program.

8. Section 8 of P.L.1999, c.239 (C.52:27D-450) is amended to read as follows:

C.52:27D-450 Preparation of reports on program.

8. The department shall prepare a report within two years following the effective date of P.L.1999, c.239 (C.52:27D-443 et seq.), and not later than September 15 of each third year thereafter. The report shall include, but not be limited to: a description of the demand for the program from qualified recipients; the number of qualified recipients the program has assisted; the efforts made by the department and the certified corporations or the Statewide organization to promote the program; the efforts of the certified corporations or the Statewide organization to establish a pool of

funds from private and public sources; the total amount of loans issued by the certified corporations or the Statewide organization; and an assessment of the effectiveness of the program in meeting the goals of this act. The department shall submit its reports to the Governor and the Legislature, along with any recommendations to improve the effectiveness of the program.

9. Section 9 of P.L.1999, c.239 (C.52:27D-451) is amended to read as follows:

C.52:27D-451 Rules, regulations.

9. The department shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as may be necessary to effectuate the purposes of P.L.1999, c.239 (C.52:27D-443 et seq.) including, but not limited to: the criteria and procedures concerning certification of certified corporations or the Statewide organization; the criteria and procedures for selecting from competing grant applications and for awarding grants to certified corporations or the Statewide organization; the criteria and procedures to be followed by certified corporations or the Statewide organization in administering revolving loan funds supported by the program; the criteria for determining the terms and conditions of loans and loan repayments; the criteria for determining nonperformance and declaring default in the administration of loans; and the criteria and procedures to be followed by certified corporations or the Statewide organization in providing training and technical assistance to qualified recipients.

10. This act shall take effect immediately.

Approved December 22, 2004.

CHAPTER 177

AN ACT concerning the retirement benefits of certain veteran members of the Teachers' Pension and Annuity Fund and the Public Employees' Retirement System and amending N.J.S.18A:66-71 and P.L.1954, c.84.

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

1. N.J.S.18A:66-71 is amended to read as follows:

Retirement allowance for veterans.

18A:66-71. a. Any public employee veteran member in office, position or employment of this State or of a county, municipality, or school district, board of education or other employer who (1) has or shall have attained the age of 60 years and has or shall have been for 20 years continuously or in the aggregate in office, position or employment of this State or of a county, municipality or school district, board of education or other employer, or (2) has or shall have attained the age of 55 years and has or shall have been for 25 years continuously or in the aggregate in that office, position or employment, shall have the privilege of retiring for service and of receiving, instead of the retirement allowance provided under N.J.S.18A:66-44, a retirement allowance of 54.5% of the compensation for which contributions are made during the 12-month period of membership providing the largest possible benefit to the member or the member's beneficiary.

b. (Deleted by amendment, P.L.1984, c.69.)

c. Any public employee veteran member who has been for 20 years in the aggregate in office, position or employment of this State or of a county, municipality or school district, board of education or other employer as of January 1, 1955, shall have the privilege of retiring for ordinary disability and of receiving, instead of the retirement allowance provided under N.J.S.18A:66-41, a retirement allowance of one-half of the compensation received during the last year of employment upon which contributions to the annuity savings fund or contingent reserve fund are made. Such retirement shall be subject to the provisions governing ordinary disability retirement in N.J.S.18A:66-39 and N.J.S.18A:66-40.

d. Any public employee veteran member who shall be in office, position or employment of this State or of a county, municipality, school district, board of education or other employer and who shall have attained 55 years of age and who has at least 35 years of aggregate service credit in such office, position or employment, shall have the privilege of retiring for service and receiving a retirement allowance of 1/55 of the compensation the member received during the 12-month period of membership providing the largest possible benefit to the member or the member's beneficiary for each year of creditable service.

e. The death benefit provided in N.J.S.18A:66-44 shall apply in the case of any member retiring under the provisions of subsections a. and d. of this section and in the case of any member who has previously retired under the provisions of subsection b. of this section before said subsection was amended by P.L.1984, c.69. The death benefit provided in N.J.S.18A:66-41 shall apply in the case of any member retired under the provisions of subsection c. of this section.

f. A member who purchases service credit pursuant to any provision of the "Teachers' Pension and Annuity Fund Law" (N.J.S.18A:66-1 et seq.) is entitled to apply the credit for the purpose of satisfying any of the service requirements of that act.

2. Section 61 of P.L.1954, c.84 (C.43:15A-61) is amended to read as follows:

C.43:15A-61 Public employee veterans' pensions.

61. a. (Deleted by amendment, P.L.1995, c.332.)

b. Any public employee veteran member in office, position or employment of this State or of a county, municipality, public agency, school district or board of education and who (1) shall have attained 60 years of age and who has 20 years of aggregate service credit in such office, position or employment, or (2) shall have attained 55 years of age and who has 25 years of aggregate service credit in such office, position or employment, shall have the privilege of retiring for service and receiving, instead of the retirement allowance provided under section 48 of this act, a retirement allowance of 54.5% of the compensation for which contributions are made during the 12-month period of membership providing the largest possible benefit to the member or the member's beneficiary.

c. Any public employee veteran member who has been for 20 years in the aggregate in office, position or employment of this State or of a county, municipality, public agency, school district or board of education as of January 2, 1955, shall have the privilege of retiring for ordinary disability and of receiving, instead of the retirement allowance provided under section 45 of this act, a retirement allowance of one-half of the compensation received during the last year of employment upon which contributions to the annuity savings fund or contingent reserve fund are made. Such retirement shall be subject to the provisions governing ordinary disability retirement in sections 42 and 44 of this act.

d. Any public employee veteran member who shall be in office, position or employment of this State or of a county, municipality, public agency, school district or board of education and who shall have attained 55 years of age and who has at least 35 years of aggregate service credit in such office, position or employment, shall have the privilege of retiring for service and receiving a retirement allowance of 1/55 of the compensation the member received during the 12-month period of membership providing the largest possible benefit to the member or the member's beneficiary for each year of creditable service.

e. The death benefit provided in section 48 shall apply in the case of any member retiring under the provisions of subsections a., b. and d. of this

section. The death benefit provided in section 45 shall apply in the case of any member retired under the provisions of subsection c. of this section.

f. The State shall be liable for any increased cost to local government employers participating in the retirement system as a result of the amendment of this section by P.L.2001, c.353, except as provided in section 16 of P.L.2001, c.353.

3. This act shall take effect immediately.

Approved December 22, 2004.

CHAPTER 178

AN ACT concerning law enforcement memorials and supplementing chapter 73 of Title 18A of the New Jersey Statutes.

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

C.28:2-34 Designation of official entity constructing law enforcement memorial and museum.

1. The New Jersey Law Enforcement Memorial and Museum in Madison Boro is hereby designated as the official entity constructing the law enforcement memorial and museum of the State of New Jersey.

2. This act shall take effect immediately.

Approved December 22, 2004.

CHAPTER 179

AN ACT concerning the workers' compensation security funds and amending and repealing various sections of chapter 15 of Title 34 of the Revised Statutes.

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

1. R.S.34:15-104 is amended to read as follows:

Definitions.

34:15-104. As used in this article, unless the context or subject matter otherwise requires:

"Fund" means the workers' compensation security fund created by R.S.34:15-105.

"Fund year" means the calendar year.

"Carrier" means any stock corporation, reciprocal or association organized and operating on the mutual plan, authorized to transact the business of workers' compensation insurance in this State, except an insolvent carrier.

"Insolvent carrier" means a carrier which has been determined to be insolvent, or for which or for the assets of which a receiver has been appointed by a court or public officer of competent jurisdiction and authority.

"Covered claims" means "compensation," "benefits," "death benefits," and "payments of losses" with respect to the injury or death of workers under this chapter, R.S. 34:15-1 et seq., or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. s.901 et seq.), arising from coverage of risks located or resident in this State.

"Compensation rate" means the rate of compensation provided by the workers' compensation act, R.S.34:15-1 et seq.

2. R.S.34:15-105 is amended to read as follows:

Workers' compensation security fund.

34:15-105. There is hereby created a fund to be known as "the workers' compensation security fund," for the purpose of assuring to persons entitled thereto the compensation provided by this chapter, R.S.34:15-1 et seq., or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. s.901 et seq.), or both, for employments insured in insolvent carriers and for the purpose of providing money for first year annual adjustments for benefit payments and supplemental payments during fiscal years 1984 and 1985 provided for by P.L.1980, c.83 (C.34:15-95.4 et al.). Such fund shall be applicable to the payment of valid claims for compensation or death benefits heretofore or hereafter made pursuant to this chapter or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. s.901 et seq.), and remaining unpaid, in whole or in part, by reason of the default, after March 26, 1935, of an insolvent carrier. Expenses of administration also shall be paid from the fund as herein provided. Such fund shall consist of all contributions received and paid into the fund by carriers, as herein defined, all property and securities acquired by and through the use of moneys belonging to the fund, and of interest earned upon moneys deposited or invested as herein provided. The fund shall be administered by the Commissioner of Banking and Insurance in accordance with the provisions of this chapter.

Compensation pursuant to the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. s.901 et seq.), shall be payable under this article only with respect to coverage or risks located or resident in this State. The insolvency, bankruptcy, or dissolution of the insured shall effect a termination of compensation provided under this article for claims arising under the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. s.901 et seq.).

3. R.S.34:15-106 is amended to read as follows:

Returns by carriers; "net written premiums," defined.

34:15-106. Every carrier shall, on or before September 1, 1935, file with the State Treasurer and with the Commissioner of Banking and Insurance identical returns, under oath, on a form to be prescribed and furnished by the commissioner, stating the amount of net written premiums for the six months' period ending June 30, 1935, on policies issued, renewed or extended by such carrier, to insure payment of compensation pursuant to this chapter or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. s.901 et seq.), as authorized by this article. For the purposes of this article "net written premiums" shall mean gross written premiums less return premiums on policies returned not taken, and on policies canceled. Thereafter, on or before the first day of March and September of each year, each such carrier shall file similar identical returns, stating the amount of such net written premiums for the six months' period ending, respectively, on the preceding December 31st and June 30th, on policies issued, renewed or extended by such carrier.

4. R.S.34:15-107 is amended to read as follows:

Contributions to the fund.

34:15-107. For the privilege of carrying on the business of workers' compensation insurance in this State, every carrier shall pay into the fund on the first day of September, nineteen hundred thirty-five, a sum equal to one per cent of its net written premiums as shown by the return hereinbefore prescribed for the period ending June thirtieth, one thousand nine hundred and thirty-five, and thereafter each carrier, upon filing each semiannual return, shall pay a sum equal to one percent of its net written premiums for the period covered by such return.

5. R.S.34:15-108 is amended to read as follows:

Contributions, when ceased; resumption of contributions.

34:15-108. When the aggregate amount of all such payments into the fund, together with accumulated interest thereon, less all its expenditures

and known liabilities, becomes equal to 5% of the loss reserves of all carriers for the payment of benefits under this chapter or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. s. 901 et seq.), as authorized by this article, as of December 31, next preceding, no further contributions to the fund shall be required to be made. But whenever thereafter, the amount of the fund shall be reduced below 5% of such loss reserves as of said date by reason of payments from and known liabilities of the fund, then contributions to the fund may be resumed forthwith pursuant to regulations of the Commissioner of Banking and Insurance, and may continue until the fund, over and above its known liabilities, shall be equal to not less than 3% nor more than 5% of such reserves.

The Commissioner of Banking and Insurance may by regulation provide that the amount of the fund may fluctuate between 3% and 5% of loss reserves of all carriers whenever he finds it to be in the best interest of the fund or advisable for its proper administration.

6. R.S.34:15-109 is amended to read as follows:

Regulations; examination of correctness of returns; penalties.

34:15-109. The Commissioner of Banking and Insurance may adopt, amend and enforce rules and regulations necessary for the proper administration of the fund. In the event any carrier shall fail to file any return or make any payment required by this article, or in case the commissioner shall have cause to believe that any return or other statement filed is false or inaccurate in any particular, or that any payment made is incorrect, he shall have full authority to examine all the books and records of the carrier for the purpose of ascertaining the facts and shall determine the correct amount to be paid and may proceed in any court of competent jurisdiction to recover for the benefit of the fund any sums shown to be due upon such examination and determination. Any carrier which fails to make any statement as required by R.S.34:15-103 et seq., or to pay any contribution to the fund when due, shall thereby forfeit to the fund a penalty of five per cent of the amount of unpaid contribution determined to be due as provided by R.S.34:15-103 et seq. plus one per cent of such amount for each month of delay, or fraction thereof, after the expiration of the first month of such delay, but the commissioner may upon good cause shown extend the time for filing of such return or payment. The commissioner shall revoke the certificate of authority to do business in this State of any carrier which shall fail to comply with the provisions of this article or to pay any penalty imposed in accordance with this article.

7. R.S.34:15-110 is amended to read as follows:

Fund kept separate; investment; treasurer may sell securities.

34:15-110. The fund created by R.S.34:15-105 shall be separate and apart from any other fund so created and from all other State moneys. The State Treasurer shall be the custodian of such fund; and all disbursements from the fund shall be made by the State Treasurer upon vouchers signed by the Commissioner of Banking and Insurance as hereinafter provided. The moneys of the fund may be invested by the State Treasurer only in the bonds or securities which are the direct obligations or which are guaranteed as to principal and interest by the United States or of this State. The State Treasurer may sell any of the securities in which the fund is invested, if advisable for its proper administration or in the best interests of such fund, and all earnings from the investments of such fund shall be credited to such fund.

8. R.S.34:15-111 is amended to read as follows:

Payment of claims on application therefor; fund may recover against insurance carrier but not from employer, except as otherwise provided.

34:15-111. A valid claim for compensation or death benefits, or installments thereof, heretofore or hereafter made pursuant to this chapter or the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. s. 901 et seq.), as authorized by this article, which has remained or shall remain due and unpaid for 60 days, by reason of default by an insolvent carrier, shall be paid from the fund in the manner provided in this section. Any person in interest may file with the Commissioner of Banking and Insurance an application for payment of compensation or death benefits from the fund on a form to be prescribed and furnished by the commissioner. If there has been an award, final or otherwise, a certified copy thereof shall accompany the application. Such commissioner shall thereupon certify to the State Treasurer such award for payment according to the terms of the same, whereupon payment shall be made by the State Treasurer:

Any person recovering under R.S.34:15-103 et seq. shall be deemed to have assigned his rights under the policy to the fund to the extent of his recovery from the fund. Every insured or claimant seeking the protection of R.S.34:15-103 et seq. shall cooperate with the fund to the same extent as that person would have been required to cooperate with the insolvent carrier. The fund shall have no cause of action against the insured employer or the insolvent carrier for any sums it has paid out, except those causes of action that the insolvent carrier would have had if those sums had been paid by the insolvent carrier, including, but not limited to, the right to receive the benefit of, and to enforce any and all obligations on the part of the insured,

to either fund directly (or indirectly through a third party administrator), or secure the payment of, compensation due under the policies of the insolvent carrier, to the extent of claims paid. The foregoing vests the fund with an exclusive cause of action against the insured and includes the right to enforce against the insured the rights of the carrier with respect to any obligation of the insured to reimburse the carrier for deductibles or pay claims within a deductible. Further, the fund is vested with a first lien in any collateral provided by the insured to the carrier to secure the insured's performance, to the extent of claims paid by the fund, which lien can be perfected by notice to the liquidator. In the case of an insolvent insurer operating on a plan with an assessment liability, payments of claims of the fund shall not operate to reduce the liability of insureds to the receiver, liquidator or statutory successor for unpaid assessments.

The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the fund or its representatives. The court having jurisdiction shall grant a claim priority equal to that to which the claimant would have been entitled in the absence of R.S.34:15-103 et seq. against the assets of the insolvent carrier. The expenses of the fund or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

Except as otherwise provided in this section, an employer may pay such award or part thereof in advance of payment from the fund and shall thereupon be subrogated to the rights of the employee or other party in interest against the fund to the extent of the amount so paid.

The State Treasurer as custodian of the fund shall be entitled to recover the sum of all liabilities of such insolvent carrier assumed by such fund from such carrier, its receiver, liquidator, rehabilitator or trustee in bankruptcy and may prosecute an action or other proceedings therefor. All moneys recovered in any such action or proceedings shall forthwith be placed to the credit of the fund by the State Treasurer to reimburse the fund to the extent of the moneys so recovered and paid.

9. R.S.34:15-117 is amended to read as follows:

Insolvency of carrier; notice to Division of Workers' Compensation; report of conditions.

34:15-117. Forthwith upon any carrier becoming insolvent, the Commissioner of Banking and Insurance shall so notify the Division of Workers' Compensation, and the division shall immediately advise the commissioner: (a) of all claims for compensation pending or thereafter made against an employer insured by such insolvent carrier, or against such insolvent carrier; (b) of all unpaid or continuing agreements, awards or decisions made upon claims prior to or after the date of such notice from

such commissioner; and (c) of all appeals from or applications for modifications or recision or review of such agreements, awards or decisions.

10. R.S.34:15-118 is amended to read as follows:

Powers and duties of Commissioner of Banking and Insurance with respect to compensation claims.

34:15-118. The Commissioner of Banking and Insurance or his duly authorized representative may investigate and may defend before the Division of Workers' Compensation or any court any or all claims for compensation against an employer insured by an insolvent carrier or against such insolvent carrier and may prosecute any pending appeal or may appeal from or make application for modification or recision or review of an agreement, award or decision against such employer or insolvent carrier. Until all such claims for compensation are closed and all such awards thereon are paid the commissioner, as administrator of the fund, shall be a party in interest in respect to all such claims, agreements and awards. For the purposes of R.S.34:15-103 et seq. the commissioner shall have exclusive power to select and employ such counsel, clerks and assistants as may be deemed necessary and to fix and determine their powers and duties; and he may also, in his discretion, arrange with any carrier or carriers to investigate and defend any or all such claims and to liquidate and pay such as are valid and such commissioner may from time to time reimburse from the fund, such carrier or carriers for compensation payments so made together with reasonable allowance for the services so rendered.

11. R.S.34:15-119 is amended to read as follows:

Administration expenses; report to Legislature.

34:15-119. The expense of administering the fund shall be paid out of the fund. The Commissioner of Banking and Insurance shall serve as administrator of the fund without additional compensation, but may be allowed and paid from the fund those expenses incurred in the performance of his duties in connection with the fund. The compensation of those persons employed by such commissioner shall be deemed administration expenses payable from the fund in the manner provided in R.S.34:15-110. Such commissioner shall include in his regular report to the Legislature a statement of the expense of administering the fund for the preceding year.

12. R.S.34:15-120 is amended to read as follows:

No deposit of securities required by contributing carriers.

34:15-120. Contributions made by any carrier to the fund created by R.S.34:15-105 shall relieve such carriers from filing any surety bond or

making any deposit of securities required under the provisions of any law of this State for the purpose of securing the payment of workmen's compensation benefits.

Repealer.

13. R.S.34:15-112, 34:15-113, 34:15-114, 34:15-115 and 34:15-116 are repealed.

14. This act shall take effect immediately.

Approved December 22, 2004.

CHAPTER 180

AN ACT concerning special improvement districts and amending P.L.1984, c.151.

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

1. Section 17 of P.L.1984, c.151 (C.40:56-83) is amended to read as follows:

C.40:56-83 District management corporation; powers.

17. a. In addition to the powers otherwise conferred pursuant to this amendatory and supplementary act, a district management corporation may exercise those of the powers listed herein as may be conferred upon it by ordinance. A district management corporation incorporated pursuant to Title 15A of the New Jersey Statutes shall exercise its powers in a manner consistent with that title.

b. The district management corporation shall have all powers necessary and requisite to effectuate its purposes, including, but not limited to, the power to:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(2) Employ such persons as may be required, and fix and pay their compensation from funds available to the corporation;

(3) Apply for, accept, administer and comply with the requirements respecting an appropriation of funds or a gift, grant or donation of property or money;

(4) Make and execute agreements which may be necessary or convenient to the exercise of the powers and functions of the corporation,

including contracts with any person, firm, corporation, governmental agency or other entity;

(5) Administer and manage its own funds and accounts and pay its own obligations;

(6) Borrow money from private lenders and from governmental entities;

(7) Fund the improvement of the exterior appearance of properties in the district through grants or loans;

(8) Fund the rehabilitation of properties in the district;

(9) Accept, purchase, rehabilitate, sell, lease or manage property in the district;

(10) Enforce the conditions of any loan, grant, sale or lease made by the corporation;

(11) Provide security, sanitation and other services to the district, supplemental to those provided normally by the municipality;

(12) Undertake improvements designed to increase the safety or attractiveness of the district to businesses which may wish to locate there or to visitors to the district, including, but not limited to, litter cleanup and control, landscaping, parking areas and facilities, recreational and rest areas and facilities, and those improvements generally permitted for pedestrian malls under section 2 of P.L.1972, c.134 (C.40:56-66), pursuant to pertinent regulations of the governing body;

(13) Publicize the district and the businesses included within the district boundaries;

(14) Recruit new businesses to fill vacancies in, and to balance the business mix of, the district;

(15) Organize special events in the district;

(16) Provide special parking arrangements for the district;

(17) Provide temporary decorative lighting in the district.

2. This act shall take effect immediately.

Approved December 22, 2004.

CHAPTER 181

AN ACT concerning certain taxes authorized to be imposed by local units, revaluation relief and restrictions on certain local tax proceeds, amending P.L.1970, c.326 and repealing parts of the statutory law.

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

Repealer.

1. The following are repealed:

Section 8 of P.L.1970, c.326 (C.40:48C-8);

Sections 1, 2, 10, 11 and 12 of P.L.1999, c.216 (C.54:1-35.51 through 54:1-35.55).

2. Section 19 of P.L.1970, c.326 (C.40:48C-19) is amended to read as follows:

C.40:48C-19 Imposition of municipal payroll tax.

19. No tax shall be imposed under any ordinance adopted pursuant to this article in a municipality that has not within two years prior to July 1, 1995 collected taxes or enacted an ordinance imposing a tax.

3. This act shall take effect immediately and shall be retroactive to September 21, 1999.

Approved December 22, 2004.

CHAPTER 182

AN ACT concerning automated teller machines.

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

C.17:16K-16 Definitions relative to automated teller machines.

1. As used in this act:

"Automated teller machine" means any electronic information processing device located in the State of New Jersey which accepts or dispenses cash in connection with a credit or deposit account.

"Operator" means any State or federally chartered bank, savings bank, savings and loan association, credit union, or other entity, which owns or operates an automated teller machine.

C.17:16K-17 Required display on automated teller machine.

2. Every automated teller machine located in this State shall have displayed on it, in a conspicuous place, a permanent, affixed label or notice that appears on the automated teller machine screen that clearly indicates the name and contact telephone number of the operator of the automated teller machine.

C.17:16K-18 Enforcement; violations, penalties.

3. a. The Department of Banking and Insurance shall enforce the provisions of this act.

b. Any party found to be in violation of this act shall be subject to a civil penalty of not more than $1,000 per day for each day that the party is in violation of this act, which penalty may be collected by summary proceedings instituted by the Commissioner of Banking and Insurance in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). An operator of an automated teller machine shall not be subject to a civil penalty pursuant to this section if the label or notice has been removed or defaced without notice to the operator unless the operator knew or reasonably should have known of the removal or defacement.

c. Any provision of any agreement contrary to the provisions of this act and against public policy shall be void and unenforceable.

4. This act shall take effect on the 60th day after enactment.

Approved December 22, 2004.

CHAPTER 183

AN ACT concerning the qualifications required to obtain a property tax exemption as a historic site and supplementing chapter 4 of Title 54 of the Revised Statutes.

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

C.54:4-3.54a Certain historical properties exempt from taxation.

1. After the effective date of P.L.2004, c.183 (C.54:4-3.54a et seq.), any building, its pertinent contents and the land on which it is erected and which may be necessary for the fair enjoyment thereof, owned by a nonprofit corporation that: is organized under P.L.1983, c.127 (C.15A:1-1 et seq.); is qualified for tax exempt status under the Internal Revenue Code of 1986, 26 U.S.C. s.501(c) and meets all other State and federal requirements; has a primary mission as an historical organization to research, preserve and interpret history and architectural history; and has been certified to be an historic site by the Commissioner of Environmental Protection as hereinafter provided, shall be exempt from taxation.

C.54:4-3.54b Certification of building as historic site.

2. a. The Commissioner of Environmental Protection, when requested for any such certification after the effective date of P.L.2004, c.183 (C.54:4-

3.54a et seq.), shall certify a building to be an historic site qualified for tax exemption whenever the commissioner finds such building to have the following characteristics:

(1) material relevancy to the history of the State and its government warranting its preservation as an historical site;

(2) the building is listed in the New Jersey Register of Historic Places;

(3) in the event of a restoration or rehabilitation, or both, heretofore or hereafter made, such restoration or rehabilitation shall be done in accordance with the United States Secretary of the Interior's Standards for the Treatment of Historic Properties; and

(4) the building is open to the general public and freely available to all people, without discrimination as to race, creed, color or religion, under reasonable terms and conditions, including but not limited to a nominal fee, that would ensure the preservation and maintenance of the site, for a minimum of 96 days per year. Notwithstanding the foregoing, the building can be open to the public for less than 96 days per year if the building meets the following three qualifications: (a) the nonprofit corporation that owns the building applies to the Commissioner of Environmental Protection for approval of fewer days; (b) the governing body of the municipality in which the building is located passes a resolution in support of the nonprofit corporation's application for fewer days; and (c) the commissioner determines, based upon the financial resources of the nonprofit corporation, that 96 days is not feasible and approves a fewer number of days.

b. On or before January 30 annually, a nonprofit corporation that owns the building certified as an historic site pursuant to this section shall submit to the Historic Preservation Office in the Department of Environmental Protection a status report that contains the following information:

(1) evidence that the property was open to the public during the preceding calendar year, including proof of public notification or advertisement and a brief summary of visitation statistics;

(2) a copy of any amendments or modifications to the current corporation bylaws;

(3) evidence that the nonprofit corporation that owns the building certified as an historic site has current nonprofit status pursuant to P.L.1983, c.127 (C.15A:1-1 et seq.) and is qualified for tax exempt status under the Internal Revenue Code of 1986, 26 U.S.C. s.501(c);

(4) a brief description of any physical restoration or rehabilitation undertaken in the preceding calendar year, with photographs documenting the current condition of the building; and

(5) a description of any physical restoration or rehabilitation anticipated to be taken in the subsequent calendar year.

c. The Commissioner of Environmental Protection shall on or before September 15 of each year certify that a property owner and the real property for which an exemption is claimed pursuant to P.L.2004, c.183 (C.54:4-3.54a et seq.) have met all of the qualifications for certification as an historic site. If an owner and property are not yet qualified for such exemption because the property was not open to the public for at least the number of days required pursuant to subsection a. of this section by August 31 but is otherwise qualified, the commissioner shall certify the number of days the property was open by August 31, and that the owner and property will be qualified for such exemption if the property is open to the public for at least the required number of days by December 31. The commissioner shall deliver such certification to the property owner and the tax assessor of the taxing district in which the real property is located. In addition to the report required pursuant to subsection b. of this section, on or before August 31 annually, the nonprofit corporation that owns the building certified as an historic site pursuant to this section shall submit to the Historic Preservation Office in the Department of Environmental Protection an interim status report that contains current calendar year information that the commissioner determines is necessary to fulfill the commissioner's obligation pursuant to this subsection.

C.54:4-3.54c Cancellation of certification, issuance of new certification.

3. With respect to any certification as an historic site awarded by the commissioner after the effective date of P.L.2004, c.183 (C.54:4-3.54a et seq.), in the event of any substantial change in the building or the premises or in the event that the nonprofit corporation that owns the building certified as an historic site fails to comply with the requirements of P.L.2004, c.183 (C.54:4-3.54a et seq.), that certification may be canceled by the Commissioner of Environmental Protection, but no such cancellation shall preclude the issuance of a new certification.

4. This act shall take effect immediately.

Approved December 22, 2004.

CHAPTER 184

AN ACT concerning the regulation of casino gambling and amending P.L.1995, c.18 and amending 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.5:12-45.1 "Slot system agreement."

4. "Slot system agreement" - A written agreement governing the operation and administration of a multi-casino progressive slot machine system that is approved by the commission and executed by the participating casino licensees and any slot system operator.

C.5:12-45.2 "Slot system operator."

5. "Slot system operator" - Any person designated in a slot system agreement as being responsible for the operation and administration of a multi-casino progressive slot machine system, including a casino licensee, a group of casino licensees acting jointly or 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.

6. Section 82 of P.L.1977, c.110 (C.5:12-82) is amended to read as follows:

C.5:12-82 Casino license - applicant eligibility.

82. a. No casino shall operate unless all necessary licenses and approvals therefor have been obtained in accordance with law.

b. Only the following persons shall be eligible to hold a casino license; and, unless otherwise determined by the commission with the concurrence

of the Attorney General which may not be unreasonably withheld in accordance with subsection c. of this section, each of the following persons shall be required to hold a casino license prior to the operation of a casino in the casino hotel with respect to which the casino license has been applied for:

(1) Any person who either owns an approved casino hotel or owns or has a contract to purchase or construct a casino hotel which in the judgment of the commission can become an approved casino hotel within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;

(2) Any person who, whether as lessor or lessee, either leases an approved casino hotel or leases or has an agreement to lease a casino hotel which in the judgment of the commission can become an approved casino hotel within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;

(3) Any person who has a written agreement with a casino licensee or with an eligible applicant for a casino license for the complete management of a casino and, if applicable, any authorized games in a casino simulcasting facility; and

(4) Any other person who has control over either an approved casino hotel or the land thereunder or the operation of a casino.

c. Prior to the operation of a casino and, if applicable, a casino simulcasting facility, every agreement to lease an approved casino hotel or the land thereunder and every agreement for the management of the casino and, if applicable, any authorized games in a casino simulcasting facility, shall be in writing and filed with the commission. No such agreement shall be effective unless expressly approved by the commission. The commission may require that any such agreement include within its terms any provision reasonably necessary to best accomplish the policies of this act. Consistent with the policies of this act:

(1) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any person who does not have the ability to exercise any significant control over either the approved casino hotel or the operation of the casino contained therein shall not be eligible to hold or required to hold a casino license;

(2) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any owner, lessor or lessee of an approved casino hotel or the land thereunder who does not own or lease the entire approved casino hotel shall not be eligible to hold or required to hold a casino license;

(3) The commission shall require that any person or persons eligible to apply for a casino license organize itself or themselves into such form or

forms of business association as the commission shall deem necessary or desirable in the circumstances to carry out the policies of this act;

(4) The commission may issue separate casino licenses to any persons eligible to apply therefor;

(5) As to agreements to lease an approved casino hotel or the land thereunder, unless it expressly and by formal vote for good cause determines otherwise, the commission shall require that each party thereto hold either a casino license or casino service industry license and that such an agreement be for a durational term exceeding 30 years, concern 100% of the entire approved casino hotel or of the land upon which same is located, and include within its terms a buy-out provision conferring upon the casino licensee-lessee who controls the operation of the approved casino hotel the absolute right to purchase for an expressly set forth fixed sum the entire interest of the lessor or any person associated with the lessor in the approved casino hotel or the land thereunder in the event that said lessor or said person associated with the lessor is found by the commission to be unsuitable to be associated with a casino enterprise;

(6) The commission shall not permit an agreement for the leasing of an approved casino hotel or the land thereunder to provide for the payment of an interest, percentage or share of money gambled at the casino or derived from casino gaming activity or of revenues or profits of the casino unless the party receiving payment of such interest, percentage or share is a party to the approved lease agreement; unless each party to the lease agreement holds either a casino license or casino service industry license and unless the agreement is for a durational term exceeding 30 years, concerns a significant portion of the entire approved casino hotel or of the land upon which same is located, and includes within its terms a buy-out provision conforming to that described in paragraph (5) above;

(7) As to agreements for the management of a casino and, if applicable, the authorized games in a casino simulcasting facility, the commission shall require that each party thereto hold a casino license, that the party thereto who is to manage the casino gaming operations own at least 10% of all outstanding equity securities of any casino licensee or of any eligible applicant for a casino license if the said licensee or applicant is a corporation and the ownership of an equivalent interest in any casino licensee or in any eligible applicant for a casino license if same is not a corporation, and that such an agreement be for the complete management of all casino space in the casino hotel and, if applicable, all authorized games in a casino simulcasting facility, provide for the sole and unrestricted power to direct the casino gaming operations of the casino hotel which is the subject of the agreement, and be for such a durational term as to assure reasonable continuity, stability and independence in the management of the casino

gaming operations, provided that the provisions of this paragraph shall not apply to a slot system agreement between a group of casino licensees 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, and that, with regard to such agreements, the casino service industry licensee or applicant may operate and administer the multi-casino progressive slot machine system, including, but not limited to, the operation of a monitor room or the payment of progressive jackpots, including annuity jackpots, or both, and further provided that the obligation to pay a progressive jackpot or establish an annuity jackpot guarantee shall be the sole responsibility of the casino licensee or casino service industry licensee or applicant designated in the slot system agreement and that no other party shall be jointly or severally liable for the payment or funding of such jackpots or guarantees unless such liability is specifically established in the slot system agreement;

(8) The commission may permit an agreement for the management of a casino and, if applicable, the authorized games in a casino simulcasting facility to provide for the payment to the managing party of an interest, percentage or share of money gambled at all authorized games or derived from casino gaming activity or of revenues or profits of casino gaming operations;

(9) Notwithstanding any other provision of P.L.1977, c.110 (C.5:12-1 et seq.) to the contrary, the commission may permit an agreement 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) for the conduct of casino simulcasting in a simulcasting facility or for the operation of a multi-casino progressive slot machine system, to provide for the payment to the casino service industry of an interest, percentage or share of the money derived from the casino licensee's share of proceeds from simulcast wagering activity or the operation of a multi-casino progressive slot machine system; and

(10) As to agreements to lease an approved casino hotel or the land thereunder, agreements to jointly own an approved casino hotel or the land thereunder and agreements for the management of casino gaming operations or for the conduct of casino simulcasting in a simulcasting facility, the commission shall require that each party thereto, except for a banking or other chartered or licensed lending institution or any subsidiary thereof, or any chartered or licensed life insurance company or property and casualty insurance company, or the State of New Jersey or any political subdivision thereof or any agency or instrumentality of the State or any political subdivision thereof, shall be jointly and severally liable for all acts, omissions and violations of this act by any party thereto regardless of actual knowledge of such act, omission or violation and notwithstanding any

provision in such agreement to the contrary. Notwithstanding the foregoing, nothing in this paragraph shall require a casino licensee to be jointly and severally liable for any acts, omissions or violations of this act, P.L.1977, c.110 (C.5:12-1 et seq.), committed by any casino service industry licensee or applicant performing as a slot system operator pursuant to a slot system agreement.

d. No corporation shall be eligible to apply for a casino license unless:

(1) The corporation shall be incorporated in the State of New Jersey, although such corporation may be a wholly or partially owned subsidiary of a corporation which is organized pursuant to the laws of another state of the United States or of a foreign country;

(2) The corporation shall maintain an office of the corporation in the casino hotel licensed or to be licensed;

(3) The corporation shall comply with all the requirements of the laws of the State of New Jersey pertaining to corporations;

(4) The corporation shall maintain a ledger in the principal office of the corporation in New Jersey which shall at all times reflect the current ownership of every class of security issued by the corporation and shall be available for inspection by the commission or the division and authorized agents of the commission and the division at all reasonable times without notice;

(5) The corporation shall maintain all operating accounts required by the commission in a bank in New Jersey, except that a casino licensee may establish deposit-only accounts in any jurisdiction in order to obtain payment of any check described in section 101 of P.L.1977, c.110 (C.5:12-101);

(6) The corporation shall include among the purposes stated in its certificate of incorporation the conduct of casino gaming and provide that the certificate of incorporation includes all provisions required by this act;

(7) The corporation, if it is not a publicly traded corporation, shall file with the commission such adopted corporate charter provisions as may be necessary to establish the right of prior approval by the commission with regard to transfers of securities, shares, and other interests in the applicant corporation; and, if it is a publicly traded corporation, provide in its corporate charter that any securities of such corporation are held subject to the condition that if a holder thereof is found to be disqualified by the commission pursuant to the provisions of this act, such holder shall dispose of his interest in the corporation; provided, however, that, notwithstanding the provisions of N.J.S.14A:7-12 and N.J.S.12A:8-101 et seq., nothing herein shall be deemed to require that any security of such corporation bear any legend to this effect;

(8) The corporation, if it is not a publicly traded corporation, shall establish to the satisfaction of the commission that appropriate charter provisions create the absolute right of such non-publicly traded corporations and companies to repurchase at the market price or the purchase price, whichever is the lesser, any security, share or other interest in the corporation in the event that the commission disapproves a transfer in accordance with the provisions of this act;

(9) Any publicly traded holding, intermediary, or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall contain in its corporate charter the same provisions required under paragraph (7) for a publicly traded corporation to be eligible to apply for a casino license; and

(10) Any non-publicly traded holding, intermediary or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall establish to the satisfaction of the commission that its charter provisions are the same as those required under paragraphs (7) and (8) for a non-publicly traded corporation to be eligible to apply for a casino license.

Notwithstanding the foregoing, any corporation or company which had bylaw provisions approved by the commission prior to the effective date of this 1987 amendatory act shall have one year from the effective date of this 1987 amendatory act to adopt appropriate charter provisions in accordance with the requirements of this subsection.

The provisions of this subsection shall apply with the same force and effect with regard to casino license applicants and casino licensees which have a legal existence that is other than corporate to the extent which is appropriate.

e. No person shall be issued or be the holder of a casino license if the issuance or the holding results in undue economic concentration in Atlantic City casino operations by that person. The commission shall, after conducting public hearings thereon, promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) defining the criteria the commission will use in determining what constitutes undue economic concentration. For the purpose of this subsection a person shall be considered the holder of a casino license if such license is issued to such person or if such license is held by any holding, intermediary or subsidiary company thereof, or by any officer, director, casino key employee or principal employee of such person, or of any holding, intermediary or subsidiary company thereof.

7. Section 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 simulcasting 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 appropriate, 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) 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, refer testing to 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). 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 casino 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. 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. 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.

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

C.5:12-101 Credit.

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

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

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

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

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

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

(3) The check is presented to the cashier or the cashier's representative at a location in the casino approved by the commission and is exchanged for cash or slot tokens which total an amount equal to the amount for which the check is drawn, or the check is presented to the cashier's representative at a gaming table in exchange for chips which total an amount equal to the amount for which the check is drawn; and

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

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

c. When a casino licensee or other person licensed under this act, or any person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, cashes a check in conformity with the requirements of subsection b. of this section, the casino licensee shall cause the deposit of such check in a bank for collection or payment, or shall require an attorney or casino key employee with no

incompatible functions to present such check to the drawer's bank for payment, within (1) seven calendar days of the date of the transaction for a check in an amount of $1,000.00 or less; (2) 14 calendar days of the date of the transaction for a check in an amount greater than $1,000.00 but less than or equal to $5,000.00; or (3) 45 calendar days of the date of the transaction for a check in an amount greater than $5,000.00. Notwithstanding the foregoing, the drawer of the check may redeem the check by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subsection g. of this section in an amount equal to the amount for which the check is drawn; or he may redeem the check in part by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subsection g. of this section and another check which meets the requirements of subsection b. of this section for the difference between the original check and the cash, cash equivalents, chips, or check tendered; or he may issue one check which meets the requirements of subsection b. of this section in an amount sufficient to redeem two or more checks drawn to the order of the casino licensee. If there has been a partial redemption or a consolidation in conformity with the provisions of this subsection, the newly issued check shall be delivered to a bank for collection or payment or presented to the drawer's bank for payment by an attorney or casino key employee with no incompatible functions within the period herein specified. No casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall accept any check or series of checks in redemption or consolidation of another check or checks in accordance with this subsection for the purpose of avoiding or delaying the deposit of a check in a bank for collection or payment or the presentment of the check to the drawer's bank within the time period prescribed by this subsection.

In computing a time period prescribed by this subsection, the last day of the period shall be included unless it is a Saturday, Sunday, or a State or federal holiday, in which event the time period shall run until the next business day.

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

(1) The drawer of the check upon redemption or consolidation in accordance with subsection c. of this section;

(2) A bank for collection or payment of the check;

(3) A purchaser of the casino license as approved by the commission; or

(4) An attorney or casino key employee with no incompatible functions for presentment to the drawer's bank.

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

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

f. Notwithstanding the provisions of any law to the contrary, checks cashed in conformity with the requirements of this act shall be valid instruments, enforceable at law in the courts of this State. Any check cashed, transferred, conveyed or given in violation of this act shall be invalid and unenforceable for the purposes of collection but shall be included in the calculation of gross revenue pursuant to section 24 of P.L.1977, c.110 (C.5:12-24).

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

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

(b) The check is issued by a banking institution which is chartered in a country other than the United States on its account at a federally chartered or state-chartered bank and is made payable to "cash," "bearer," a casino licensee, or the person presenting the check;

(c) The check is issued by a banking institution which is chartered in the United States on its account at another federally chartered or state-chartered bank and is made payable to "cash," "bearer," a casino licensee, or the person presenting the check;

(d) The check is issued by a slot system operator or pursuant to an annuity jackpot guarantee as payment for winnings from a multi-casino progressive slot machine system jackpot; or

(e) The check is issued by an affiliate of a casino licensee that holds a gaming license in any jurisdiction;

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

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

(4) The check is presented to the cashier or the cashier's representative by the original payee and its validity is verified by the drawer in the case of a check drawn pursuant to subparagraph (a) of paragraph (1) of this subsection, or the check is verified in accordance with regulations promulgated by the commission in the case of a check issued pursuant to subparagraph (b), (c), (d) or (e) of paragraph (1) of this subsection; and

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

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

h. Notwithstanding the provisions of subsection b. and subsection c. of this section to the contrary, a casino licensee may, at a location outside the casino, accept a personal check or checks from a person for up to $5,000 in exchange for cash or cash equivalents, and may, at such locations within the casino or casino simulcasting facility as may be permitted by the commission, accept a personal check or checks for up to $5,000 in exchange for cash, cash equivalents, tokens, chips, or plaques to enable the person to take part in gaming or simulcast wagering activity as a player, provided that:

(a) The check is drawn on the patron's bank or brokerage cash management account;

(b) The check is for a specific amount;

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

(d) The check is dated but not post-dated;

(e) The patron's identity is established by examination of one of the following: valid credit card, driver's license, passport, or other form of identification credential which contains, at a minimum, the patron's signature;

(f) The check is restrictively endorsed "For Deposit Only" to the casino licensee's bank account and deposited on the next banking day following the date of the transaction;

(g) The total amount of personal checks accepted by any one licensee pursuant to this subsection that are outstanding at any time, including the current check being submitted, does not exceed $5,000;

(h) The casino licensee has an approved system of internal controls in place that will enable it to determine the amount of outstanding personal checks received from any patron pursuant to this subsection at any given point in time; and

(i) The casino licensee maintains a record of each such transaction in accordance with regulations established by the commission.

i. (Deleted by amendment, P.L.2004, c.128).

j. A person may request the commission to put that person's name on a list of persons to whom the extension of credit by a casino as provided in this section would be prohibited by submitting to the commission the person's name, address, and date of birth. The person does not need to provide a reason for this request. The commission shall provide this list to the credit department of each casino; neither the commission nor the credit department of a casino shall divulge the names on this list to any person or entity other than those provided for in this subsection. If such a person wishes to have that person's name removed from the list, the person shall submit this request to the commission, which shall so inform the credit departments of casinos no later than three days after the submission of the request.

k. (Deleted by amendment, P.L.2004, c.128).

9. This act shall take effect immediately.

Approved December 22, 2004.

CHAPTER 185

AN ACT concerning municipal prosecutors and amending P.L.2004, c.95.

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

1. Section 1 of P.L.2004, c.95 (C.2B:25-5.1) is amended to read as follows:

C.2B:25-5.1 Municipal prosecutors, review of motor vehicle abstracts of certain offenders for repeat offenses; transmission to judge.

1. Whenever a person is charged with a violation of R.S.39:3-40, R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a) or R.S.39:4-129, a municipal prosecutor shall contact the New Jersey Motor Vehicle Commission by electronic or other means, for the purpose of obtaining an abstract of the person's driving record. In every such case, the prosecutor shall:

a. Determine, on the basis of the record, if the person shall be charged with enhanced penalties as a repeat offender; and

b. Transmit the abstract to the appropriate municipal court judge prior to the imposition of sentence.

2. This act shall take effect immediately.

Approved December 30, 2004.

CHAPTER 186

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:

66 DEPARTMENT OF LAW AND PUBLIC SAFETY
10 Public Safety and Criminal Justice
12 Law Enforcement
DIRECT STATE SERVICES

06-1200 State Police Operations	$5,000,000
Total Direct State Services Appropriation, Law Enforcement	$5,000,000

Direct State Services:
Special Purpose
06 State Police Recruit Class - Security Enhancement ..... ($3,000,000)
06 Communication Systems Upgrade ..... ($2,000,000)

2. This act shall take effect immediately.

Approved January 3, 2005.

JOINT RESOLUTIONS

(1663)

JOINT RESOLUTION NO. 1

A JOINT RESOLUTION establishing the "Task Force to Study Attendance in Public Schools."

WHEREAS, Attendance is shown to be positively associated with student performance; and

WHEREAS, Under the federal "No Child Left Behind Act of 2001," student performance on reading, math and science are to be used as indicators of the performance of schools with certain consequences for schools whose students do not perform at certain levels; and

WHEREAS, Under N.J.S.18A:38-25, parents, guardians or other persons having custody or control of a child between the ages of 6 and 16, inclusive, are required to cause that child to attend the public school of the district or a day school in which there is given instruction equivalent to that provided in the public schools or to receive equivalent instruction elsewhere than at school; and

WHEREAS, Patterns of unauthorized absences from school which begin early in a child's career as a student and which are not attended to in a careful and decisive manner, often result in more severe patterns of unauthorized absences as the child grows older; and

WHEREAS, Current practices in the State for dealing with a child with patterns of repeated unauthorized absences are: the treatment of a parent, guardian or other person having charge and control of the child as a disorderly person subject to fines and other penalties in municipal court; or the treatment of the habitual absences as a family crisis involving a referral of the child and the child's parent, guardian or person having charge and control of the child to a Family Crisis Intervention Unit established pursuant to section 1 of P.L.1982, c.80 (C.2A:4A-76); and

WHEREAS, In response to a requirement under the federal "No Child Left Behind Act of 2001" that an indicator of school district performance in addition to the required assessments be selected, most states are selecting some measure of average daily attendance; and

WHEREAS, There is no definition in statute or regulation providing guidance to school districts regarding what constitutes patterns of unauthorized

absences and as a result there is no uniform policy in the State on addressing attendance and tardiness; now, therefore,

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

1. There is established the "Task Force to Study Attendance in Public Schools," which shall be composed of 17 members as follows: the Commissioner of Education, who shall serve ex officio, or a designated representative; a representative of the Juvenile Justice Commission, who shall serve ex officio; a representative of the Administrative Office of the Courts, who shall serve ex officio; a representative of the Division of Youth and Family Services, who shall serve ex officio; a representative of the Division of Criminal Justice, who shall serve ex officio; eight members of the public appointed by the Governor, one of whom shall be a representative of the New Jersey School Boards Association, one of whom shall be a representative of the New Jersey Association of School Administrators, one of whom shall be a representative of the New Jersey Principals and Supervisors Association, one of whom shall be a representative of the New Jersey Education Association, one of whom shall be a representative of the New Jersey State Federation of Teachers, one of whom shall be a representative of the Statewide Parent Advocacy Network, one of whom shall be a representative of the New Jersey Fraternal Order of Police and one of whom shall be a representative of the New Jersey Policeman's Benevolent Association; two members of the Senate, one from each party, appointed by the President of the Senate to serve during the two-year legislative session in which the appointment is made; and two members of the General Assembly, one member from each party, appointed by the Speaker of the General Assembly to serve during the two-year legislative session in which the appointment is made. Vacancies in the membership of the task force shall be filled in the same manner as the original appointments were made.

2. a. The Commissioner of Education, or the commissioner's designee, shall serve as chairperson of the task force and shall call a meeting of the task force as soon as is practicable after the appointment of its members. The task force shall select a vice-chairperson from among its members and may select a secretary who need not be a member of the task force. The members of the task force shall be nonsalaried, but may be reimbursed for necessary and reasonable expenses actually incurred in the performance of their duties, within the limit of funds appropriated or otherwise made available to the task force for this purpose.

b. The task force shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, bureau, commission or agency as it may require and as may be made available for its purposes.

3. It shall be the duty of the task force to study current practices within school districts in the State regarding student attendance, including, but not limited to: absences; tardiness; and procedures for addressing students with patterns of unauthorized absences or excessive tardiness. In addition, the task force shall investigate what other states are doing with respect to student attendance and the handling of patterns of unauthorized absences.

4. The task force may meet and hold hearings at the place or places it designates during the sessions or recesses of the Legislature and shall issue a report of its findings and recommendations, including any recommended legislation, to the Governor and the Legislature no later than one year after its first meeting.

5. This joint resolution shall take effect immediately and shall expire 30 days after the submission of the task force's report.

Approved May 12, 2004.

JOINT RESOLUTION NO. 2

A JOINT RESOLUTION directing the New Jersey Department of Transportation to install an appropriate sign at the intersection of Route U.S. 130 and Voelbel Road in Washington Township, Mercer County honoring the "U.S. Army Parachute Test Platoon."

WHEREAS, The U.S. Army Parachute Test Platoon was authorized by the War Department on June 25, 1940 to experiment with the potential use of airborne troops; and

WHEREAS, In the months of August and September in 1940, members of the U.S. Army Infantry School completed parachute training in Washington Township, Mercer County on two practice jump towers, approximately in the location of the intersection of Route U.S. 130 and Voelbel Road; and

WHEREAS, The success of the U.S. Army Parachute Test Platoon led to the formation of a large and successful airborne contingent serving from World War II until the present; and

WHEREAS, The 82nd Airborne Division was the first airborne division that was organized following the successes of the U.S. Army Parachute Test Platoon and the early airborne training program and has continued in active service since its creation; and

WHEREAS, The 82nd Airborne Division Association Inc., a non-profit organization chartered by the United States Congress, exists to continue and foster that special esprit de corps among fellow paratroopers and to maintain the bond of friendship and comradeship formed in war and peace among the members of the Airborne community; and

WHEREAS, It is altogether fitting and proper for this State, in recognition of the many soldiers from New Jersey who have proudly served their State and their country in the U.S. Airborne Divisions, to install an appropriate sign at the intersection of Route U.S. 130 and Voelbel Road in Washington Township, Mercer County to commemorate this site and to honor our distinguished airborne forces; now, therefore,

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

1. The Commissioner of Transportation is directed to install an appropriate and permanent sign honoring the "U.S. Army Parachute Test Platoon" at the intersection of Route U.S. 130 and Voelbel Road in Washington Township, Mercer County to commemorate this site and to honor our distinguished airborne forces.

2. This joint resolution shall take effect immediately.

Approved July 12, 2004.

JOINT RESOLUTION NO. 3

A JOINT RESOLUTION designating November annually as "Lung Cancer Awareness Month" in the State of New Jersey.

WHEREAS, Lung cancer is the leading cause of cancer deaths in both men and women in New Jersey, the United States and the world, this year killing more Americans than breast, prostate and colon cancer combined; and

WHEREAS, There were an estimated 169,400 new cases of lung cancer and an estimated 154,900 deaths from lung cancer in the United States in 2002; and

WHEREAS, Smoking is the number one cause of lung cancer, yet former smokers and persons who have never smoked but have inhaled second-hand smoke comprise the majority of new cases of lung cancer each year; and

WHEREAS, Radon is considered to be the second leading cause of lung cancer in the United States today, causing between 15,000 and 22,000 lung cancer deaths each year; and

WHEREAS, Another cause of lung cancer is on-the-job exposure to cancer-causing substances or carcinogens, such as asbestos, uranium, arsenic, and certain petroleum products; and

WHEREAS, In the early stages of lung cancer, symptoms are usually not apparent, however, when symptoms occur, the cancer is often advanced. Symptoms of lung cancer include chronic cough, hoarseness, coughing up blood, weight loss and loss of appetite, shortness of breath, fever without a known reason, wheezing, repeated bouts of bronchitis or pneumonia and chest pain; and

WHEREAS, There is currently no standard screening for lung cancer, and funding for lung cancer medical research falls far short of that for other less fatal diseases; and

WHEREAS, To help build awareness and save lives, the Alliance for Lung Cancer Advocacy, Support, and Education (ALCASE), a national patient advocacy group for lung cancer dedicated to helping build awareness of this disease, has proclaimed November as Lung Cancer Awareness Month; and

WHEREAS, It is only fitting and proper for the State of New Jersey to join the nation in designating November as "Lung Cancer Awareness Month" so that through better education, more cases of lung cancer may

be found in the early stage, when the chance of long-term survival is as high as 85 percent; now, therefore,

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

C.36:2-82 "Lung Cancer Awareness Month," November; designated.

1. The month of November annually is designated "Lung Cancer Awareness Month" in the State of New Jersey.

2. The Governor is requested to issue a proclamation calling upon the public officials and the citizens of New Jersey to observe the month with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved December 12, 2004.

EXECUTIVE ORDERS

(1671)

EXECUTIVE ORDER No. 92

WHEREAS, Executive Order No. 59 (2003) established the Billboard Policy and Procedure Review Task Force (hereinafter Task Force); and

WHEREAS, Executive Order No. 59 (2003) imposed a 120-day moratorium on the approval of any permit application, contract, sale or lease for billboards on State-owned property or property of any State department, agency or independent authority; and

WHEREAS, Executive Order No. 66 (2003) continued that moratorium until the end of the current Legislative Session of the New Jersey Legislature, to allow time to convert the recommendations of the Task Force into proposed legislation and to achieve their enactment; and

WHEREAS, The complexity involved in drafting the proposed legislation and the nature and schedule of the Legislature's Lame Duck Session did not allow for sufficient time to achieve the passage of the necessary legislation; and

WHEREAS, There remains a compelling need to continue the suspension of the siting and construction of new billboards on State property until the new Legislative framework is put in place;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The moratorium on the approval of any permit application or contract for the design, construction or erection of any new billboards on State-owned property or property owned by any State department, agency or independent authority established by Executive Order No. 59 (2003) and continued by Executive Order No. 66 (2003) is hereby continued until June 30, 2004, so that the 211th Legislature has an opportunity to enact appropriate legislation.

2. This Order shall take effect immediately.

Dated January 14, 2004.

EXECUTIVE ORDER No. 93

WHEREAS, Former Senator Thomas F. Connery, Jr., a devoted family man, received his law degree from Rutgers University in 1939; and

WHEREAS, From 1941 to 1946, Senator Connery served honorably as an agent and officer with the United States Naval Intelligence Service, later applying for sea duty and participating in the Normandy Invasion, and serving as a commanding officer at Okinawa at the end of World War II; and

WHEREAS, Senator Connery dedicated many years in public service to the people of the State of New Jersey; and

WHEREAS, Senator Connery was elected to the New Jersey General Assembly in 1958, and to the State Senate in 1960; and

WHEREAS, Senator Connery also served as a Delegate to the New Jersey Constitutional Convention in 1966; and

WHEREAS, Senator Connery held several public offices, including serving as Chairman and Commissioner of the New Jersey Racing Commission, member of the Gloucester County Housing Authority, member of the New Jersey Law Enforcement Council, member of the New Jersey Off-Track Betting Commission, and Special and General Counsel for several governmental entities, including the Delaware River Port Authority and the Port Authority Transit Corporation; and

WHEREAS, It is with deep sadness that we mourn the loss of Senator Connery and extend our sincerest sympathy to his family and friends; and

WHEREAS, It is fitting and appropriate to honor the memory and the passing of Senator Connery;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Thursday,

January 22, 2004 in recognition and mourning of the passing of Senator Connery.

2. This Order shall take effect immediately.

Dated January 21, 2004.

EXECUTIVE ORDER No. 94

WHEREAS, Bertram T. Zimmerman III, joined the New Jersey State Police in March, 2001, and was assigned to Troop A, Tactical Patrol Unit; and

WHEREAS, Trooper Zimmerman served with exceptional courage and professionalism, genuine courtesy and abiding commitment to the finest traditions of the New Jersey State Police; and

WHEREAS, Trooper Zimmerman served proudly as part of the finest State Police force in the Nation; and

WHEREAS, Trooper Zimmerman has made the ultimate sacrifice, giving his life in the line of duty while protecting New Jersey citizens and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory.

NOW, THEREFORE, I, JAMES E. McGreevey, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United State of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours for one week, commencing Thursday, February 5, 2004, in recognition and mourning of New Jersey State Trooper Bertram T. Zimmerman III, Badge 5853.

2. This Order shall take effect immediately.

Dated February 5, 2004.

EXECUTIVE ORDER No. 95

WHEREAS, Army Second Lieutenant Seth J. Dvorin, a native of the State of New Jersey, graduated from South Brunswick High School in 1998 and Rutgers University in 2002; and

WHEREAS, Second Lieutenant Dvorin subsequently enlisted in the U.S. Army in 2002, where he completed Officer Candidate School, Airborne School and Air-Defense Artillery School; and

WHEREAS, Second Lieutenant Dvorin served proudly as a member of the U.S. Army Third Battalion, 62nd Air-Defense Artillery Regiment of the 10th Mountain Division, and was deployed to Iraq in the service of his country, where he was assigned to lead an Air-Defense Artillery Platoon; and

WHEREAS, Second Lieutenant Dvorin was a courageous soldier and a loving husband, son and brother; and

WHEREAS, Second Lieutenant Dvorin has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Second Lieutenant Dvorin's patriotism and dedicated service to his country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Friday, February 13, 2004, in recognition and mourning of Army Second Lieutenant Seth J. Dvorin.

2. This Order shall take effect immediately.

Dated February 11, 2004.

EXECUTIVE ORDER No. 96

WHEREAS, The State of New Jersey is committed to ensuring that all of its citizens receive equal protection under the law; enjoy a healthy

environment; and given opportunities for consistent input into governmental decision-making; and

WHEREAS, New Jersey's communities of color and low-income communities have historically been located in areas of the State having a higher density of known contaminated sites as compared to other communities, with the accompanying potential for increased environmental and public health impacts; and

WHEREAS, Studies by the Centers for Disease Control and Prevention (CDC) and other federal agencies have documented that the prevalence of childhood asthma is increasing, and that this increase is linked in part to poor air quality, and that prevalence is far higher for Black and Latino/Hispanic communities; and

WHEREAS, The Federal government has underscored the importance of Environmental Justice in Executive Order 12898 and created the National Environmental Justice Advisory Council to integrate environmental justice into the Environmental Protection Agency's policies, programs, initiatives and activities; and

WHEREAS, The State of New Jersey is committed to ensuring that communities of color and low-income communities are afforded fair treatment and meaningful involvement in decision-making regardless of race, color, ethnicity, religion, income or education level; and

WHEREAS, The State of New Jersey is further committed to promoting the protection of human health and the environment, empowerment via public involvement, and the dissemination of relevant information to inform and educate, especially in people of color and low-income communities; and

WHEREAS, The State of New Jersey is committed to enabling our older urban and suburban centers to be made more attractive and vital, creating a broader range of choices and more livable communities for families and businesses in New Jersey, consistent with the State Development and Redevelopment Plan and principles of Smart Growth; and

WHEREAS, The cumulative impact of multiple sources of exposure to environmental hazards in low-income and people of color communities, and the roles of multiple agencies in addressing the causes and factors that compromise environmental health and quality of life in these communities require an interagency response; and

WHEREAS, The Department of Community Affairs (DCA), the Department of Environmental Protection (DEP), the Department of Health and Senior Services (DHSS), and the Department of Law and Public Safety (DL&PS) have entered into collaborative interagency work to address environmental health and quality of life issues in communities of color and low income, such as in the City of Camden and other urban, suburban, and rural communities;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by the virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. All Executive Branch departments, agencies, boards, commissions and other bodies involved in decisions that may affect environmental quality and public health shall provide meaningful opportunities for involvement to all people regardless of race, color, ethnicity, religion, income, or education level. Programs and policies to protect and promote protection of human health and the environment shall be reviewed periodically to ensure that program implementation and dissemination of information meet the needs of low-income and communities of color, and seek to address disproportionate exposure to environmental hazards.

2. DEP and DHSS shall recognize the need to communicate significant public health and environmental information in languages other than English, by establishing Spanish-language websites.

3. The DEP will use available environmental and public health data to identify existing and proposed industrial and commercial facilities and areas in communities of color and low-income communities for which compliance, enforcement, remediation, siting and permitting strategies will be targeted to address impacts from these facilities.

4. Recognizing that there is greater reliance on subsistence fishing among communities of color and low-income communities, DEP, DHSS, and the Department of Agriculture, shall work together to develop and issue appropriately protective fish consumption advisories and provide effective risk communications, education programs and public information services with an objective of consistency with neighboring states, to the greatest extent possible.

5. Recognizing the significant health implications of fine particulate pollution, such as premature death and asthma, especially for urban communities, DEP and the Department of Transportation (DOT) shall develop a coordinated strategy for reducing the public's exposure to fine particulate pollution in affected communities, particularly from diesel emissions from stationary and mobile sources.

6. The Commissioner of DEP and Commissioner of DHSS, or their appointed designees, shall convene a multi-agency task force, to be named the Environmental Justice Task Force, which will include senior management designees, from the Office of Counsel to the Governor, the Attorney General's office, the Departments of Environmental Protection, Human Services, Community Affairs, Health and Senior Services, Agriculture, Transportation, and Education. The Task Force shall be an advisory body, the purpose of which is to make recommendations to State Agency heads regarding actions to be taken to address environmental justice issues consistent with agencies' existing statutory and regulatory authority. The Task Force is authorized to consult with, and expand its membership to, other State agencies as needed to address concerns raised in affected communities.

7. The Commissioner of DEP shall reconstitute the existing Environmental Justice Advisory Council to the DEP, whose mission shall be to make recommendations to the Commissioner and the Environmental Justice Task Force in fulfillment of this Executive Order. The Advisory Council shall consist of fifteen (15) individuals and shall meet quarterly. The Council shall annually select a Chairperson from its membership and shall have a minimum composition of one third membership from grassroots or faith-based community organizations with additional membership to include membership from the following communities: academic public health, Statewide environmental, civil rights and public health organizations; large and small business and industry; municipal and county officials, and organized labor.

8. Any community may file a petition with the Task Force that asserts that residents and workers in the community are subject to disproportionate adverse exposure to environmental health risks, or disproportionate adverse effects resulting from the implementation of laws affecting public health or the environment.

a. Petitions shall be signed by fifty (50) or more residents or workers, provided that at least twenty-five (25) are residents, in the affected community;

b. In consultation with the Environmental Justice Advisory Council, the Task Force shall identify a set of communities from the petitions filed, based on a selection criteria developed by the Task Force, including consideration of state agency resource constraints;

c. The Task Force shall meet directly with the selected communities to understand their concerns. If desired by any of the selected communities, the DEP and DHSS Commissioners shall establish a public meeting in which the Environmental Justice Task Force shall hear from the petitioners and evaluate the petitioners' claims. Where the petitioners assert claims that lie predominantly within the jurisdiction of an agency other than the Task Force Chair, the chair shall include a senior management representative from the relevant agency as a member of the Task Force;

d. The Task Force shall develop an Action Plan for each of the selected communities after consultation with the citizens, as well as local and county government as relevant, that will address environmental, social and economic factors that affect their health or environment. The Action Plan shall clearly delineate the steps that will be taken in each of the selected communities to reduce existing environmental burdens and avoid or reduce the imposition of additional environmental burdens through allocation of resources, exercise of regulatory discretion, and development of new standards and protections. The Action Plan, which shall be developed in consultation with the Environmental Justice Advisory Council, will specify community deliverables, a timeframe for implementation, and the justification and availability of financial and other resources to implement the Plan within the statutory and regulatory jurisdiction of the Departments of the State of New Jersey. The Task Force shall present the Action Plan to the relevant Departments, recommending its implementation;

e. The Task Force shall monitor the implementation of each Action Plan in the selected communities, and shall make recommendations to the Departments as necessary to facilitate implementation of the Action Plans. Departments shall implement the strategy to the fullest extent practicable in light of statutory and resource constraints;

f. As an integral part of each Action plan, DEP and DHSS shall jointly develop a strategy to identify and reduce the most significant environmental and public health risks facing each of the selected communities through chronic health disease surveillance, health monitoring, data gathering, community education and public participation;

g. The Task Force shall identify and make recommendations concerning legislative and regulatory changes appropriate to achieve the purposes of this Order as well as the purposes of any particular Action Plan; and

h. The Task Force shall prepare and publicly release a report concerning the status of the Action Plans within eighteen (18) months following the establishment of the Task Force.

9. All agencies will assist as appropriate in implementing this Order and achieving its purposes. The actions mandated as a result of this Executive Order shall be accomplished within the bounds of, and consistent with, the legislative purpose supporting the relevant agency's existing statutory and regulatory authority.

10. Nothing in this Executive Order is intended to create a private right of action to enforce any provision of this Order or any Action Plan developed pursuant to this Order; nor is this Order intended to diminish any existing legal rights or remedies.

11. This Executive Order shall take effect immediately and shall remain in effect for five years from its effective date.

Dated February 18, 2004.

EXECUTIVE ORDER No. 97

WHEREAS, Harmful non-indigenous species of plants, animals, and other organisms, commonly referred to as invasive species, pose a threat to New Jersey's native vegetation and natural resources by invading healthy ecosystems where they displace, impair or destroy indigenous species and impair ecosystem function; and

WHEREAS, Invasive species threaten New Jersey's agricultural resources through loss of production and loss of product marketability; and

WHEREAS, Invasive species pose a threat to natural biodiversity, the integrity and function of natural ecosystems, and economic vitality in New Jersey and throughout the United States; and

WHEREAS, This national threat affects approximately 1,880 federally listed species; and

WHEREAS, It has been estimated that damages from non-indigenous species in the United States result in economic losses of $123 billion annually; and

WHEREAS, Invasive species have been documented on lands managed by the Department of Environmental Protection's Division of Parks and Forestry and Division of Fish and Wildlife, including portions of the State's Natural Areas System, on agricultural lands and on other private lands; and

WHEREAS, The federal government has created a national Invasive Species Council and an Invasive Species Advisory Committee and has mandated the preparation of a National Invasive Species Management Plan to address the invasive species threat; and

WHEREAS, The Departments of Environmental Protection and Agriculture have taken steps to address the threat posed by invasive species, including the formation of study groups, the monitoring of invasive species, the development of agricultural invasive species management plans, along with eradication and biological control programs targeting selected invasive species and plant pests of foreign origin; and

WHEREAS, Despite these efforts, invasive species continue to be introduced into New Jersey; and

WHEREAS, The most efficient means of controlling invasive species is to prevent their entry into the State and to address an invasive species before the species becomes established; and

WHEREAS, It is necessary and appropriate for New Jersey to develop uniform policies and a coordinated response to the threat posed by invasive species to the State's native and agricultural vegetation, and to establish a source of advice to the Governor on this issue;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established a New Jersey Invasive Species Council (Council).

2. The Council shall consist of:
- The Commissioner of the Department of Environmental Protection or his designee;
- The Secretary of the Department of Agriculture or his designee;

- The Commissioner of the Department of Transportation or his designee;
- The Secretary and Chief Executive Officer of the Commerce and Economic Growth Commission or his designee;

Additional members of the Council shall be appointed by the Governor as follows:

- Three representatives from conservation organizations;
- One representative from the agricultural sector;
- Two representatives of the nursery and landscape sector;
- One representative of the New Jersey Agricultural Invasive Species Council;
- One representative from academia;
- One or more representatives from the general public.

3. The Co-Chairpersons of the Council shall be the Commissioner of the Department of Environmental Protection and the Secretary of the Department of Agriculture, or their designees.

4. The Council shall request the participation of the United States Department of Agriculture, the United States Environmental Protection Agency and the United States Department of the Interior.

5. The Council shall develop a comprehensive New Jersey Invasive Species Management Plan to be submitted to the Governor no later than June 2005. The management plan shall include but not be limited to: a statement of policy and mission; definitions; findings concerning the current status of non-indigenous plant species in New Jersey and their impact on habitat, biota and natural ecosystems; identification of prevention methods and procedures for early detection and rapid response, and control measures; identification of restoration and research needs and pilot projects; establishment of information management, education and interpretation measures; and coordination among state agencies and adjacent states.

6. The Council shall undertake the following tasks and any other reasonable measures necessary to prevent the introduction of invasive species and to eliminate or minimize invasive species already established in the State. These tasks, as appropriate, may become components of the New Jersey Invasive Species Management Plan:

a. Recommend measures necessary for the Departments and non-governmental organizations to cooperate with federal agencies and other states in complying with Executive Order 13112 and the National Invasive Species Management Plan;

b. Identify research needs to better assess the sources, degree, distribution and threat posed by invasive species, and methods for preventing the introduction and control of invasive species;
c. Review ongoing invasive species control efforts being carried out by the Departments, and recommend new or revised measures to limit the introduction and effectuate the control of invasive species;
d. Produce educational materials for public distribution regarding the threats posed by invasive species, outlining measures to prevent the introduction of invasive species and to control invasive species, and encourage the use of local native genotypes propagated in New Jersey in landscaping and planting (including drought tolerant native plants);
e. Develop partnerships with federal, State and local government agencies and private organizations, including the horticultural industry, necessary to implement the policies and recommendations of the Council;
f. Identify funding sources for research, monitoring, control and outreach programs;
g. Plan, design and implement two invasive species eradication and native plant restoration pilot projects by June 2005.
h. Identify legislative or regulatory actions necessary to implement or further the policies and recommendations of the Council.

7. This order shall take effect immediately.

Dated February 27, 2004.

EXECUTIVE ORDER No. 98

WHEREAS, One year ago, on March 19, 2003, the Iraq Conflict began, and violence in this area still continues; and

WHEREAS, In this conflict, hundreds of United States military personnel have made the ultimate sacrifice and died while serving their country; and

WHEREAS, New Jerseyans are among these casualties, and our State mourns their loss deeply; and

WHEREAS, Our armed forces, including members of the New Jersey Army and Air National Guard, continue to serve honorably and bravely in the Iraq conflict; and

WHEREAS, It is fitting and appropriate to honor those who were lost in Iraq as well as those who served and who currently serve our Country in this conflict;

NOW, THEREFORE, I, JAMES E. MCGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER AND DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on March 19, 2004, in recognition and mourning of those lost in the Iraq Conflict, and to honor those who served and those who continue to serve in the conflict.

2. This Order shall take effect immediately.

Dated March 17, 2004.

EXECUTIVE ORDER No. 99

WHEREAS, James Dodridge, a resident of Old Bridge Township, joined the Old Bridge First Aid and Rescue Squad in 1993; and

WHEREAS, Mr. Dodridge served the First Aid and Rescue Squad and the People of Old Bridge as a volunteer Emergency Medical technician with exceptional courage, dedication and professionalism, genuine courtesy and abiding commitment to the finest humanitarian traditions; and

WHEREAS, Mr. Dodridge proudly served in the Squad for eleven years, in various capacities as the chaplain, engineer and crew chief in charge of a six-member unit; and

WHEREAS, Mr. Dodridge has made the ultimate sacrifice, giving his life in the line of duty to help New Jersey's citizens and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory.

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Saturday, March 20, 2004, in recognition and mourning of Old Bridge First Aid and Rescue Squad Crew Chief James Dodridge.

2. This Order shall take effect immediately.

Dated March 19, 2004.

EXECUTIVE ORDER No. 100

WHEREAS, New Jersey is home to 1.4 million adults 60 years of age and older and a primary objective of this Administration is to promote the independence, dignity and lifestyle choice of these residents as they age; and

WHEREAS, New Jersey must prepare to meet the individual and societal needs of our growing older adult population and their families; and

WHEREAS, For too long, government has forced older adults to choose between going into a nursing home or giving up the government funds which pay for needed services, thus denying them the right to choose where they receive these services; and

WHEREAS, Caregiving by unpaid family or friends has become and important issue because so many New Jerseyans are finding themselves or will find themselves in the role of caregiver for a loved one - with almost 900,000 adults in this capacity today; and

WHEREAS, The Department of Health and Senior Services provides resources and oversight for Medicaid services and special programs, yet it can be easier for older adults to get financial help from the State if they go into a nursing home versus getting services through the following home and community services: the Community Care Program for the Elderly and Disabled, Medical Day Care, Assisted

Living, Adult Family Care, Caregiver Assistance Program, Home Care Expansion Program, Jersey Assistance for Community Caregiving; and

WHEREAS, Policy changes are now critical to support an expanding elderly population that desires to stay at home with supports versus going into a nursing home; and

WHEREAS, The Adult Family Care Program offers senior citizens in New Jersey who are no longer able to live alone the opportunity to move in and share the home of a trained and caring caretaker who provides needed assistance and supervision, often in their same neighborhood;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Commissioner of the Department of Health and Senior Services, in consultation with the State Treasurer, shall prepare by December 1, 2004, an analysis and recommendations for developing a global long-term care budgeting process designed to provide the Department of Health and Senior Services with the authority and flexibility to move beneficiaries to the appropriate level of care based on their individual needs.

2. The Department of Health and Senior Services shall develop and launch, by the end of December 2004, the New Jersey Caring for Caregivers Initiative, which will bring essential services to family caregivers who make it possible for seniors to live in their homes. New Jersey Caring for Caregivers will enhance and prolong the ability of unpaid caregivers to continue to provide care for an elderly or adult disabled individual.

3. The Department of Health and Senior Services and the Department of Human Services shall identify specific gaps and requirements necessary to streamline the paperwork and fast track the process of obtaining Medicaid eligibility for home care options for those who qualify. The Plan, to be formulated by the end of December 2004, must address cutting the "red tape" so that seniors are not automatically directed to nursing homes because it takes too long to do the paperwork for home care options.

4. The Department of Health and Senior Services shall create an action plan by October 2004 that expands the Adult Family Care program in New Jersey.

5. The Department of Health and Senior Services shall develop a home and community health care "bill of rights" to support New Jersey's aging population by May 31, 2004.

6. This Order shall take effect immediately.

Dated March 23, 2004.

EXECUTIVE ORDER No. 101

WHEREAS, Army Private First Class Bruce Miller, Jr., a resident of Orange, New Jersey, graduated from Teaneck Community School in 1999 and received a diploma from Orange High School; and

WHEREAS, Private First Class Miller subsequently enlisted in the U.S. Army in 2003, and hoped to study law after completing his Army enlistment tour; and

WHEREAS, Private First Class Miller served proudly as a member of the U.S. Army Second Infantry Battalion, 3rd Infantry Regiment, which is part of the Stryker Brigade and was deployed to Iraq in the service of his country, where he earned the Army Service Ribbon and the Global War on Terrorism Medal; and

WHEREAS, Private First Class Miller was a courageous soldier and a loving son and brother; and

WHEREAS, Private First Class Miller has made the ultimate sacrifice, giving his life while serving our country; and

WHEREAS, Private First Class Miller's patriotism and dedicated service to his country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices,

agencies and instrumentalities during appropriate hours on Friday, April 2, 2004, in recognition and mourning of Army Private First Class Bruce Miller, Jr.

2. This Order shall take effect immediately.

Dated April 1, 2004.

EXECUTIVE ORDER No. 102

WHEREAS, Army Specialist Adam D. Froehlich, a resident of Pine Hill, New Jersey, graduated from Overbrook High School in 2001, where he was a high school wrestler; and

WHEREAS, Army Specialist Froehlich subsequently enlisted in the U.S. Army in 2002, where he hoped to earn money for college and eventually teach physical education and history; and

WHEREAS, Army Specialist Froehlich served proudly as a member of the U.S. Army First Battalion, Sixth Field Artillery, and was deployed to Iraq in the service of his country; and

WHEREAS, Army Specialist Froehlich was a courageous soldier and a loving son and brother; and

WHEREAS, Army Specialist Froehlich has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Army Specialist Froehlich's patriotism and dedicated service to his country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Saturday, April

3, 2004, in recognition and mourning of Army Specialist Adam D. Froehlich.

2. This Order shall take effect immediately.

Dated April 1, 2004.

EXECUTIVE ORDER No. 103

WHEREAS, U.S. Marine Lance Corporal Phillip E. Frank, a native of the State of New Jersey, graduated from Matawan Regional High School in 2002, before moving to Illinois; and

WHEREAS, Lance Corporal Frank subsequently enlisted in the U.S. Marines, in order to serve and defend his country; and

WHEREAS, Lance Corporal Frank served proudly as a member of the Second Battalion, 1st Marine Regiment, First Marine Division, First Marine Expeditionary Force, and was deployed to Iraq in the service of his country; and

WHEREAS, Lance Corporal Frank was a courageous soldier and a loving husband, son and brother; and

WHEREAS, Lance Corporal Frank has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Lance Corporal Frank's patriotism and dedicated service to his country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Tuesday, April 20, 2004, in recognition and mourning of U.S. Marine Lance Corporal Phillip E. Frank.

2. This Order shall take effect immediately.

Dated April 19, 2004.

EXECUTIVE ORDER No. 104

WHEREAS, Assemblyman Thomas J. Shusted, a devoted family man, served honorably with the United States Army during World War II, graduated from LaSalle College in 1950 and from Rutgers Law School-Camden in 1953 and thereafter dedicated many years in public service to the people of the State of New Jersey; and

WHEREAS, Assemblyman Shusted held several important public offices in the State of New Jersey, including serving as Camden County's first full-time Prosecutor, Camden County Counsel, Municipal Judge in Laurel Springs, a member of the State Commission of Investigation, and as a Camden County Freeholder for four years, including two years as Director; and

WHEREAS, Assemblyman Shusted was elected to the General Assembly in 1968, where he served until 1972, and returned to the Assembly from 1980 to 1991; and

WHEREAS, Assemblyman Shusted served as Chairman of the Assembly Judiciary Committee; and

WHEREAS, It is with deep sadness that we mourn the loss of Assemblyman Shusted and extend our sincerest sympathy to his family and friends; and

WHEREAS, It is fitting and appropriate to honor the memory and the passing of Assemblyman Shusted;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Wednesday,

April 21, 2004 in recognition and mourning of the passing of Assemblyman Shusted.

2. This Order shall take effect immediately.

Dated April 19, 2004.

EXECUTIVE ORDER No. 105

WHEREAS, Marine Lieutenant John Thomas "J.T." Wroblewski, a native of the State of New Jersey, graduated from Jefferson High School and Rutgers University; and

WHEREAS, Fulfilling a life-long interest in the military and in becoming a Marine, Lieutenant Wroblewski subsequently enlisted in the U.S. Marine Corps, where he completed Officer Candidate School; and

WHEREAS, Lieutenant Wroblewski served proudly as a member of the Second Battalion, Fourth Marine Regiment, First Marine Division, First Marine Expeditionary Force, and was deployed to Iraq in the service of his country; and

WHEREAS, Lieutenant Wroblewski was a courageous soldier and a loving husband, son and brother; and

WHEREAS, Lieutenant Wroblewski has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Lieutenant Wroblewski's patriotism and dedicated service to his country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Friday, April 23,

2004, in recognition and mourning of Marine Lieutenant John Thomas "J.T." Wroblewski.

2. This Order shall take effect immediately.

Dated April 19, 2004.

EXECUTIVE ORDER NO. 106

WHEREAS, Military and Coast Guard installations, infrastructure, and personnel in the State of New Jersey make important contributions to national security and our State's economy; and

WHEREAS, The State of New Jersey welcomes Military and Coast Guard installations and has a long history of active support for its Military and Coast Guard installations, the individuals serving in those Services, their families, retirees and veterans; and

WHEREAS, New Jersey's public and private research universities, government agencies and private sector research industries are valuable assets providing the Military and the Coast Guard with access to leading edge technologies and skilled personnel that enhance their capability to accomplish missions more effectively and efficiently; and

WHEREAS, New Jersey has a highly educated work force with more engineers, scientists and technologists per capita than any of the other 49 States; and

WHEREAS, New Jersey is a national leader in research and development of electronics innovations and home to thousands of electronics and high technology companies; and

WHEREAS, New Jersey is a strategic location centrally located in the Boston to Washington Corridor with reliable mass transportation systems and Interstate Highways, sharing major Ports with Philadelphia and New York; and

WHEREAS, New Jersey is within close proximity to twenty five percent of the population of the United States; and

WHEREAS, Local officials, community organizations, the business community, and concerned individuals are committed not only to maintaining our military and Coast Guard installations but also to enhancing those installations to the benefit of our nation and State; and

WHEREAS, National security and the nation's economy would benefit from enhanced military and Coast Guard missions in New Jersey; and

WHEREAS, In order to maximize the effectiveness of Military and Coast Guard installations in New Jersey, it is necessary now to focus, streamline, and coordinate the activities of various State agencies involved in this vital and most important effort;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established The Governor's Commission to Support and Enhance New Jersey's Military and Coast Guard Installations that shall have the following purposes:

a. To gather information about the status of ongoing initiatives of the U.S. Department of Defense, the Military Services, the U.S. Department of Homeland Security and other federal departments and agencies that could impact the State of New Jersey;

b. To communicate with Members of New Jersey's Congressional Delegation regarding efforts to support and enhance Military and Coast Guard installations in New Jersey;

c. To act as liaison between communities and businesses that can assist and support New Jersey's Military and Coast Guard installations;

d. To advise the Governor on proactive strategies that could assist the State in strengthening New Jersey's Military and Coast Guard installations;

e. To assist in the coordination of State responses to national security and homeland security challenges;

f. To promote partnerships between New Jersey Military and Coast Guard installations and educational institutions, research universities, state and local government, businesses, nonprofit organizations, and industries that could support and enhance military and Coast Guard operations;

g. To advise the Governor and Members of Congress regarding opportunities to enhance, expand, add or otherwise improve missions, programs, facilities, and operations on or affecting Military and Coast Guard installations in New Jersey;

h. To undertake other activities consistent with the purposes of this Executive Order.

2. The membership of the Commission shall consist of the following 25 members: The Secretary of Commerce, the Commissioners of the Departments of Community Affairs, Education, Health and Senior Services, and Transportation, ex-officio voting members, or their designees; one representative of the Governor's Executive Staff; and 19 public members appointed by the Governor, including at least one community representative for each of the major military installations in the State.

3. The Chair of the Commission shall be appointed by the Governor. The Commission shall meet at least quarterly and conduct itself pursuant to a set of operating principles approved by the full Commission. The Commission shall report quarterly to the Governor and shall expire December 31, 2005.

4. The Commission is authorized to call upon any department, office or agency of State government to provide such information, resources or other assistance deemed necessary to discharge its responsibilities under this Order. Each department, officer, division and agency of this State is required to cooperate with the Commission and to furnish it with assistance necessary to accomplish the purposes of this Order.

5. This Order shall take effect immediately.

Dated May 3, 2004.

EXECUTIVE ORDER No. 107

WHEREAS, Over twelve thousand citizens from New Jersey lost their lives fighting for their country during World War II, and countless others were wounded in or endured the hardships of the conflict; and

WHEREAS, It is proper that the citizens of this State honor the men and women who made sacrifices from New Jersey while serving in the Armed Forces of the United States and in the American Merchant Marine during World War II; and

WHEREAS, A State memorial is a fitting tribute and acknowledgment of the courage and patriotism displayed by our men and women in the military; and

WHEREAS, The memorial will stand as a timeless reminder of the heroism, spirit, sacrifice, patriotism and commitment of those who defended this country and of the moral strength and power of a free people who are united in a common and just cause; and

WHEREAS, Through the enactment of P.L.1999, Joint Resolution No. 14, the Legislature created a prior Commission known as the World. War II Veterans' Memorial Advisory Commission, to make recommendations regarding the location and design of a World War II Memorial, but such Commission expired prior to the completion of its task;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established in, but not of, the Department of Military and Veterans' Affairs the World War II Memorial Commission (hereinafter referred to as the Commission).

2. The Commission shall consist of up to twenty (20) members as follows:

a. Two ex-officio representatives of the Department of Military and Veterans' Affairs, including the Deputy Commissioner of Veterans' Affairs, and one ex-officio representative from the Attorney General's Office, all of whom shall serve as non-voting members: and

b. Up to seventeen (17) public members to be appointed the Governor. In appointing the public members to the Commission, the Governor shall select representatives of recognized veterans groups

c. The Governor shall appoint the Chair, Vice-Chair and Honorary Chair from among the public members of the Commission, and shall appoint one of the ex-officio non-voting representatives to serve as Secretary of the Commission.

d. The public members of the Commission shall serve without compensation, but may be reimbursed for necessary and reasonable expenses incurred in the performance of their duties.

e. The Department of Military and Veterans' Affairs shall provide a staff member to serve as a non-voting Recording Secretary for the Commission.

3. The Commission shall organize and meet as soon as practicable after the appointment of a majority of its members.

4. Utilizing, wherever appropriate, the work done by the prior WWII Veterans' Memorial Advisory Commission, the Commission shall :

a. Advise the Governor on a 'suitable memorial to the veterans of World War II.

b. Discuss and make recommendations as to the location for a memorial, the process for selecting the style, type or design for the memorial, and the appropriate method for financing the construction and maintenance of the memorial.

c. Formulate and recommend any legislation the Commission determines to be essential to the furtherance of the World War II Memorial.

5. The Commission shall establish a regular schedule of meetings and report periodically to the Governor on its activities and recommendations. An initial report to the Governor shall be made within six months from the date of the first meeting.

6. The Commission is authorized to call upon any department, office or agency of State government to provide such information, resources or other assistance deemed necessary to discharge its responsibilities under this Order. Each department, officer, division and agency of this State is hereby required to cooperate with the Commission and to furnish it with such information, personnel and assistance as is necessary to accomplish the purposes of this Order.

7. The Commission may solicit and accept donations or grants of money, property or personal services from any source and may distribute appropriations made by law.

8. This Order shall take effect immediately and expire thirty (30) days after the dedication of the World War II Memorial.

Dated May 4, 2004.

EXECUTIVE ORDER No. 108

WHEREAS, Senator Sido L. Ridolfi, a devoted family man, graduated from Princeton University in 1936 and from Harvard Law School in

1939 and thereafter served honorably in the Armed Forces during World War II; and

WHEREAS, Senator Ridolfi dedicated many years in public service to the people of the State of New Jersey; and

WHEREAS, Senator Ridolfi held several important public offices in the State of New Jersey, including serving as Mercer County Sheriff and Trenton City Commissioner; and

WHEREAS, Senator Ridolfi was elected to the State Senate in 1952, where he served until 1970; and

WHEREAS, Senator Ridolfi served as both Majority and Minority Leader in the Senate, as Senate President in 1967, and as Acting Governor on two occasions during that year; and

WHEREAS, It is with deep sadness that we mourn the loss of Senator Ridolfi and extend our sincerest sympathy to his family and friends; and

WHEREAS, It is fitting and appropriate to honor the memory and the passing of Senator Ridolfi;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Thursday, May 13, 2004 in recognition and mourning of the passing of Senator Ridolfi.

2. This Order shall take effect immediately.

Dated May 13, 2004.

EXECUTIVE ORDER No. 109

WHEREAS, Senator Glenn D. Cunningham, a devoted family man, served honorably with the United States Marine Corps and dedicated many years in public service to the people of the State of New Jersey; and

WHEREAS, Senator Cunningham was a member of the Jersey City Police Department for many years, rising from Patrolman to Captain over a career that commenced in 1967 through his retirement in 1991; and

WHEREAS, Senator Cunningham was appointed by President Bill Clinton to serve as U.S. Marshall for New Jersey for four years; and

WHEREAS, Senator Cunningham held several important elected offices in the City of Jersey City and in Hudson County, including Jersey City Council President, Hudson County Freeholder, Hudson County Director of Public Safety and Mayor of Jersey City; and

WHEREAS, Senator Cunningham was elected to the State Senate in November 2003, where he continued his service and contributions to the public with courage and determination; and

WHEREAS, It is with deep sadness that we mourn the loss of Senator Cunningham and extend our sincerest sympathy to his family and friends; and

WHEREAS, It is fitting and appropriate to honor the memory and the passing of Senator Cunningham;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Wednesday, May 26, 2004 through the date of his burial in recognition and mourning of the passing of Senator Cunningham.

2. This Order shall take effect immediately.

Dated May 26, 2004.

EXECUTIVE ORDER No. 110

WHEREAS, U.S. Army Specialist Philip I. Spakosky, a native of the State of New Jersey, graduated from Pemberton Township High School; and

WHEREAS, Army Specialist Spakosky subsequently enlisted in the U.S. Army in January 2002; and

WHEREAS, Army Specialist Spakosky served proudly as a member of the First Battalion, 37th Armor Regiment, First Armored Division, and was deployed to Iraq in the service of his country; and

WHEREAS, Army Specialist Spakosky was a courageous soldier and a loving husband, father, son and brother; and

WHEREAS, Army Specialist Spakosky has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Army Specialist Spakosky's patriotism and dedicated service to his country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Wednesday, June 2, 2004, in recognition and mourning of U.S. Army Specialist Philip I. Spakosky.

2. This Order shall take effect immediately.

Dated June 1, 2004.

EXECUTIVE ORDER No. 111

WHEREAS, New Jersey, the most densely populated State in the nation, has an unmatched array of critical transportation, utility, petrochemical, pharmaceutical, manufacturing and entertainment infrastructure; and

WHEREAS, The State's industrial and civil infrastructure commingles with dense population centers and high traffic transportation corridors; and

WHEREAS, New Jersey functions as a global gateway for people and products with tens of millions of people passing through New Jersey on their way to global destinations and vast quantities of goods moving through the State to and from markets throughout the nation, Canada, Europe, Africa and the Far East; and

WHEREAS, A terrorist incident disrupting New Jersey's industrial and transportation infrastructure or critical utilities would severely affect both national and international economic stability as well as public safety and international travel resulting in the loss of billions of dollars to the world economy; and

WHEREAS, Numerous analyses have indicated that Port Newark-Port Elizabeth, the most active port on the eastern seaboard with plans to further increase throughput, is vulnerable to terrorist actions including attacks from weapons of mass destruction concealed in containers; and

WHEREAS, Safeguarding freight shipments will require a comprehensive array of integrated technologies ranging from radio frequency identification (RFID) tagging at the item level, through wireless container tracking, to advanced sensory technology for inspection; and

WHEREAS, Each day New Jersey's public transportation system including buses, light rail, passenger trains and ferries transports millions of people; and

WHEREAS, These transportation systems are likely targets for terrorist attacks and as such demand creative solutions to the challenge of safeguarding passengers; and

WHEREAS, The scale of response that is required to protect New Jersey and the nation against the threat of domestic terrorism will require all of the efficiencies and effectiveness of modern information, communications, materials technology and systems integration; and

WHEREAS, The challenge of utilizing science and technology to reduce New Jersey's and the nation's vulnerability to terrorist attacks is complex and demands expedited development, adaptation, modification, and merging of new and existing technologies; and

WHEREAS, New Jersey and the nation need an unbiased, expert and effective systematic process for testing and evaluating proposed technology-based solutions and approaches based on performance, not marketing or speculation, in order to select the most appropriate technology, process or approach from among the competing entities with a high degree of confidence as to effectiveness and interoperability; and

WHEREAS, At present there is no way to assure that individual pieces of technology purchased at municipal, county, State and federal levels will be able to be integrated to create a comprehensive web of protection; and

WHEREAS, New Jersey Institute of Technology is the State's Public Technological Research University and ranks among the top 10 nationally in research volume among universities of engineering and science; and

WHEREAS, New Jersey Institute of Technology (NJIT) has a proven record of State service, responding in an effective manner to public policy needs; and

WHEREAS, NJIT has demonstrated an ability to partner with all relevant entities, including other higher education institutions, State military bases, and State agencies, including the Domestic Security Preparedness Task Force for which NJIT chairs the Infrastructure Advisory Committee's College and University Research Facilities Sector; and

WHEREAS, NJIT has already executed working agreements with Picatinny Arsenal and Fort Monmouth, installations that I have previously designated as "New Jersey Centers for Homeland Defense Technologies and Security Readiness"; and

WHEREAS, NJIT is teaming with New Jersey City University to support first responder training as well as with the University of Medicine and Dentistry of New Jersey (UMDNJ) that is home to the Center for Biodefense, and Rutgers-Newark that hosts the Rutgers Center for the Study of Public Security, researching the areas of terrorism, policing, international crime, globalization, constitutional rights, law, environmental safety, business;

NOW, THEREFORE, I, James E. McGreevey, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT that:

1. The Homeland Security Technology Systems Center is created at NJIT to work in collaboration with State government, serving as consultant for technology evaluation against objective performance standards and engaging in prototype deployment of integrated systems for testing, demonstration and training.

2. The Center will direct its activities toward the federally identified areas of Intelligence and Warning, Border and Transportation Security, Protecting Critical Infrastructure and Key Assets, Emergency Preparedness and Response, Defending against Catastrophic Threats and Domestic Counter-terrorism.

3. Working in collaboration with the State, and in coordination with the Office of the Attorney General and the Domestic Security Preparedness Task Force, the Center will:

a. Conduct real-world, in-use tests to find the best technology to protect critical State assets.

b. Evaluate and prototype commercial technology products against performance standards as advisors for State, county, municipal, federal and interstate agencies.

c. Formulate objective performance and interoperability standards consistent with long-range opportunities for technology development.

d. Develop comprehensive demonstration and training programs to ensure rapid uptake of systems technology by all relevant users.

e. Assemble teams to address specific technology development needs that are local to New Jersey and needs that may not receive adequate attention at a national level.

f. Foster collaboration, coordination and management of multi-organizational grant applications and partnerships involving technology development programs that engage State agencies, New Jersey colleges and universities, military installations and private sector firms.

g. Enter into Cooperative Research Agreements with interstate agencies, military installations including Fort Monmouth, Picatinny Arsenal, Lakehurst Naval Air Base, Fort Dix, McGuire Air Force Base and other federal installations as appropriate to share facilities, equipment, services, personnel resources and other cooperation in order to maximize

the effectiveness and timeliness of the evaluation of the effectiveness and efficiency of technologies and processes for domestic security.

4. The Center will have an Advisory Board of nine members including the Attorney General, the Commissioner of the Department of Environmental Protection, the Commissioner of the Department of Health and Senior Services, the Commissioner of the Department of Transportation, the Adjutant General, the President of the Board of Public Utilities, the Director of the Office of Counter Terrorism, the Executive Director of the Commission on Science and Technology and the Executive Director of the Commission on Higher Education. The Chair shall be elected by the Board from among the members of the Board.

5. The Center is authorized to call upon any department, office or agency of State government to provide such information, resources or other assistance deemed necessary to discharge its responsibilities under this Order. Each department, officer, division and agency of this State is required to cooperate with the Center and to furnish it with assistance necessary to accomplish the purposes of this Order.

6. This Order shall take effect immediately.

Dated June 7, 2004.

EXECUTIVE ORDER No. 112

WHEREAS, Ronald W. Reagan served as the Governor of California and as the 40th President of the United States; and

WHEREAS, President Reagan's eternal optimism, strength, humility and humor provided inspiration to Americans during a difficult time in this country's history; and

WHEREAS, President Reagan made the world a better place with his leadership in the fall of Communism and the Berlin Wall; and

WHEREAS, President Reagan's patriotism, faith, courage and dignity are an enduring example for all citizens; and

WHEREAS, It is fitting and proper for the State of New Jersey to mourn the passing and honor the memory of President Reagan;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours beginning Monday, June 7, 2004 and through and including Friday, June 11, 2004, in recognition and mourning of the passing of President Ronald W. Reagan.

2. This order shall take effect immediately.

Dated June 7, 2004.

EXECUTIVE ORDER No. 113

WHEREAS, New Jersey Army National Guard Sergeant Frank T. Carvill, a resident of the State of New Jersey, joined the New Jersey Army National Guard in April 1984;

WHEREAS, Sergeant Carvill worked as a paralegal for the Port Authority of New York and New Jersey and had helped in the recovery efforts at Ground Zero following the terrorist attacks; and

WHEREAS, Sergeant Carvill served proudly as a member of the Third Battalion of the 112th Field Artillery, and was deployed to Iraq in the service of his country; and

WHEREAS, Sergeant Carvill was a courageous soldier and a loving son and brother; and

WHEREAS, Sergeant Carvill has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Sergeant Carvill's patriotism and dedicated service to his country make him a hero and a true role model for all Americans and,

therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Saturday, June 12, 2004, in recognition and mourning of New Jersey Army National Guard Sergeant Frank T. Carvill.

2. This Order shall take effect immediately.

Dated June 11, 2004.

EXECUTIVE ORDER No. 114

WHEREAS, New Jersey Army National Guard Specialist Christopher Duffy, a resident of the State of New Jersey, enlisted in the New Jersey Army National Guard in September 2000; and

WHEREAS, Specialist Duffy served proudly as a member of the Third Battalion of the 112th Field Artillery; and

WHEREAS, Specialist Duffy was a youth basketball coach and fantasy baseball fanatic who married his wife in February 2004, a month before he was deployed to Iraq in the service of his country; and

WHEREAS, Specialist Duffy was a courageous soldier and a loving husband, father and son; and

WHEREAS, Specialist Duffy has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Specialist Duffy's patriotism and dedicated service to his country make him a hero and a true role model for all Americans and,

therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Sunday, June 13, 2004, in recognition and mourning of New Jersey Army National Guard Specialist Christopher Duffy.

2. This Order shall take effect immediately.

Dated June 11, 2004.

EXECUTIVE ORDER No. 115

WHEREAS, New Jersey Army National Guard Sergeant Humberto F. Timoteo emigrated with his family from Portugal and grew up in the City of Newark, graduating from East Side High School;

WHEREAS, Sergeant Timoteo subsequently joined the U.S. Army in 1996 and enlisted in the New Jersey Army National Guard in November 2000; and

WHEREAS, Sergeant Timoteo served proudly as a member of the Third Battalion of the 112th Field Artillery, and was deployed to Iraq in the service of his country; and

WHEREAS, Sergeant Timoteo was a courageous soldier and a loving husband, father and son; and

WHEREAS, Sergeant Timoteo has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Sergeant Timoteo's patriotism and dedicated service to his

country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Monday, June 14, 2004, in recognition and mourning of New Jersey Army National Guard Sergeant Humberto F. Timoteo.

2. This Order shall take effect immediately.

Dated June 11, 2004.

EXECUTIVE ORDER No. 116

WHEREAS, New Jersey Army National Guard Specialist Ryan Doltz, a resident of the State of New Jersey, graduated from Dover High School, and was a dedicated member of the Mine Hill First Aid Squad; and

WHEREAS, Specialist Doltz joined the Virginia National Guard in 1998 while a student at the Virginia Military Institute, and subsequently enlisted in the New Jersey Army National Guard in 2003; and

WHEREAS, Specialist Doltz served proudly as a member of the Third Battalion of the 112th Field Artillery, and was deployed to Iraq in the service of his country; and

WHEREAS, Specialist Doltz was a courageous soldier and a loving son and brother; and

WHEREAS, Specialist Doltz has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Specialist Doltz's patriotism and dedicated service to his country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Wednesday, June 16, 2004, in recognition and mourning of New Jersey Army National Guard Specialist Ryan Doltz.

2. This Order shall take effect immediately.

Dated June 15, 2004.

EXECUTIVE ORDER No. 117

WHEREAS, In order to succeed, children can benefit from additional opportunities for learning and enrichment beyond that which can be provided during the regular school day; and

WHEREAS, Working parents need safe, affordable, and accessible child care options; and

WHEREAS, Research has shown that school-age children are at great risk during the after-school hours of between 2:30 p.m. and 6 p.m., in that children who spend these after-school hours unsupervised are at an increased risk for engaging in delinquency, substance abuse, and other destructive behaviors; and

WHEREAS, New Jersey After 3, Inc., a private, non-profit organization, has been established to develop, enhance, provide, and sustain a comprehensive system of quality after-school programs that promote the health, emotional, social, and intellectual development of New Jersey children during after-school hours; and

WHEREAS, New Jersey After 3, Inc. seeks to form a partnership with the State of New Jersey and the private sector to ensure the availability and accessibility of quality after-school programs in the State of New Jersey; and

WHEREAS, It is in the public interest for the State of New Jersey to cooperate with and assist New Jersey After 3, Inc. and non-profit entities with similar purposes in their efforts, the State of New Jersey seeks to cooperate with and assist New Jersey After 3, Inc. in its efforts to strengthen and expand quality after-school programs throughout the State of New Jersey; and

WHEREAS, The citizens of the State of New Jersey would benefit from an increase in, and the enhancement of, after-school programs in the State that provide safe places for children to spend their after-school hours while their parents are working, an opportunity for children to participate in activities that will enrich their educational experience and enhance their overall development, caring adults to nurture, mentor, and guide children, and a resource for children to obtain help in reviewing their class work and completing their homework, additional support and time to build their English skills, if they are English language learners, and increased access to libraries, art materials, musical instruments, science labs, and gyms;

NOW, THEREFORE, I, JAMES E. MCGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and the statutes of this State, do hereby ORDER and DIRECT:

1. There is created in, but not of, the Department of Education, the New Jersey After 3 Advisory Committee (the "Committee").

2. The Committee is charged to the extent permitted by law with cooperating with and assisting New Jersey After 3, Inc. in furthering its efforts to strengthen and expand quality after-school programs in New Jersey. The Committee shall also periodically advise the Governor of the progress made in strengthening and expanding quality after-school programs in New Jersey.

3. The Committee shall be composed of the following members, all of whom shall serve ex-officio:

a. The Commissioner of Education, or a designee;

b. The State Treasurer, or a designee;
c. The Commissioner of Human Services, or a designee;
d. The Counselor to the Governor, or a designee;
e. The Director of the Office of Program Support Services at the Department of Education;
f. The Attorney General, or a designee.

4. The Commissioner of Education shall serve as Chair of the Committee, and shall appoint a Vice-Chair from among the members of the Committee. The Chair may appoint a secretary who need not be a member of the Committee.

5. The Committee shall organize and meet as soon as possible after its formation and may hold joint meetings with New Jersey After 3, Inc.

6. The Committee is authorized to call upon any department, office, division or agency of this State to supply it with the data and other information, personnel or assistance it deems necessary to discharge its duties under this Order. Each department, office, division or agency is hereby directed, to the extent not inconsistent with the law, to furnish it with such information, personnel and assistance as are necessary to accomplish the purposes of this Order.

7. This Order shall take effect immediately.

Dated June 25, 2004.

EXECUTIVE ORDER No. 118

WHEREAS, Executive Order No. 59 (2003) established the Billboard Policy and Procedure Review Task Force (hereinafter Task Force); and

WHEREAS, Executive Order No. 59 (2003) imposed a 120-day moratorium on the approval of any permit application, contract, sale or lease for billboards on State-owned property or property of any State department, agency or independent authority; and

WHEREAS, Executive Order No. 66 (2003) continued that moratorium until the end of the 2002-2003 legislative session of the New Jersey

Legislature, to allow time to convert the recommendations of the Task Force into proposed legislation and to achieve its enactment; and

WHEREAS, Executive Order No. 66 (2003) also directed the New Jersey Department of Transportation and New Jersey Department of Environmental Protection to jointly make recommendations on increasing the number of billboard-free roadways in scenic locations; and

WHEREAS, The moratorium on the approval of any permit application or contract for the design, construction or erection of any new billboards on State-owned property or property owned by any State department, agency or independent authority established by Executive Order No. 59 (2003) and continued by Executive Order No. 66 (2003) was continued until June 30, 2004 by Executive Order No. 92 (2004), to allow the 211th Legislature an opportunity to enact appropriate legislation and to allow the Departments of Transportation and Environmental Protection to complete their joint recommendations; and

WHEREAS, The Report of the New Jersey Departments of Transportation and Environmental Protection has been issued and contains recommendations that require regulatory action to designate specified areas as "scenic corridors" in an effort to reduce the impact of billboards on the aesthetic environment of our State within an appropriate timeframe; and

WHEREAS, There remains a compelling need to stop the siting and construction of new billboards in "scenic corridors" beyond June 30, 2004, while the regulatory process continues, as recommended by the New Jersey Department of Transportation and the New Jersey Department of Environmental Protection;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Effective immediately, for those roadway sections identified as "scenic corridors" in Table 1 of the June 21, 2004 report by the New Jersey Department of Transportation and the New Jersey Department of Environmental Protection, there is a moratorium on the approval of any permit application or contract for the design, construction or erection of any new billboards until such time as the Department of Transportation adopts

regulations to effectuate the recommendations issued in the report concerning these scenic corridors.

2. This Order shall take effect immediately.

Dated June 30, 2004.

EXECUTIVE ORDER No. 119

WHEREAS, Sergeant Alan D. Sherman, a resident of the State of New Jersey, graduated from Ocean Township High School in 1986, where he was a member of the track team; and

WHEREAS, Sergeant Sherman enlisted in the United States Marine Reserves in 1994, fulfilling a lifelong dream of being a U.S. Marine; and

WHEREAS, Sergeant Sherman served proudly as a member of Bridge Company B of the 6th Engineer Support Battalion, and was deployed to Iraq in the service of his country in February 2004; and

WHEREAS, Sergeant Sherman was a courageous soldier, and a loving son, husband, father and brother; and

WHEREAS, Sergeant Sherman has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Sergeant Sherman's patriotism and dedicated service to his country makes him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory.

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of

New Jersey shall be flown at half staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Sunday, July 4, 2004 in recognition and mourning of U.S. Marine Sergeant Alan D. Sherman.

2. This Order shall take effect immediately.

Dated July 2, 2004.

EXECUTIVE ORDER No. 120

WHEREAS, Assemblyman Ronald A. Dario, a devoted family man, dedicated many years in public service to the people of the State of New Jersey; and

WHEREAS, Assemblyman Dario was an educator who served the students and residents of Hoboken and Union City as a teacher, principal and coach; and

WHEREAS, Assemblyman Dario held public office as a member of the Union City Commission, where he served as Recreation and Public Properties Commissioner; and

WHEREAS, Assemblyman Dario was elected to the General Assembly in 1985 and was a respected member of that House; and

WHEREAS, Assemblyman Dario sponsored legislation authorizing the State to take over failing school districts and legislation that prevented the warehousing of empty apartments by landlords during a Statewide wave of condominium conversions that saw tenants forced out of homes; and

WHEREAS, It is with deep sadness that we mourn the loss of Assemblyman Dario and extend our sincerest sympathy to his family and friends; and

WHEREAS, It is fitting and appropriate to honor the memory and the passing of Assemblyman Dario;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Thursday, July 8, 2004 in recognition and mourning of the passing of Assemblyman Dario.

2. This Order shall take effect immediately.

Dated July 8, 2004.

EXECUTIVE ORDER No. 121

WHEREAS, Localized heavy rainfall on July 12, 2004 has resulted in severe weather conditions, flooding and power outages, that now threaten homes, dams, bridges and other structures and the flow of traffic in areas of Burlington and Camden Counties in the State; and

WHEREAS, The aforesaid weather conditions constitute an imminent hazard which threatens and presently endangers the health, safety and resources of the residents of one or more municipalities or counties of this State; and which is in some parts of the State and may become in other parts of the State too large in scope to be handled by the normal municipal operating services; and

WHEREAS, The Constitution and Statutes of the State of New Jersey, particularly the provisions of N.J.S.A.App.A:9-33 et seq. and N.J.S.A.38A:3-6.1 and N.J.S.A.38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, JAMES E. MCGREEVEY, Governor of the State of New Jersey, in order to protect the health, safety and welfare of the people of the State of New Jersey do declare and proclaim that a State of Emergency presently exists in Burlington and Camden Counties and hereby ORDER and DIRECT:

1. In accordance with N.J.S.A.38A:2-4 and N.J.S.A.38A:3-6.1, that the Adjutant General order to active duty such members of the New Jersey National Guard that, in the Adjutant General's judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety and welfare and to authorize the employment of any supporting vehicles, equipment, communications or supplies as may be necessary to support the members so ordered.

2. The State Director of Emergency Management to implement the State Emergency Operations Plan and to direct the activation of county and municipal emergency operations plans as necessary.

3. In accordance with N.J.S.A.A:9-33 et seq. as supplemented and amended, that the State Director of Emergency Management, who is the Superintendent of State Police, through the police agencies under his control, to determine the control and direction of the flow of such vehicular traffic on any State Highway, municipal or county road, including the right to detour, reroute or divert any or all traffic and to prevent ingress or egress from any area, that, in the State Director's discretion, is deemed necessary for the protection of the health, safety and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.

4. In accordance with N.J.S.A.App.A:9-33 et seq. as supplemented and amended, that the Attorney General, pursuant to the provisions of N.J.S.A.39:4-213, acting through the Superintendent of the Division of State Police, determine the control and direction of the flow of vehicular traffic on any State or Interstate highway, and its access roads, including the right to detour, reroute or divert any or all traffic, and to prevent ingress or egress from any area to which the declaration of emergency applies. I further authorize all law enforcement officers to enforce any such orders of the Attorney General and Superintendent of State Police within their respective municipalities.

5. The State Director of Emergency Management to order the evacuation of all persons, except for those emergency and governmental personnel whose presence the State Director deems necessary, from any area where their continued presence would present a danger to their health, safety or welfare because of the conditions created by this emergency.

6. The State Director of Emergency Management to utilize all facilities owned, rented, operated and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from their residences during the course of this emergency.

7. That the executive head of any agency or instrumentality of the State government with authority to promulgate rules may, for the duration of this Executive Order, subject to my prior approval and in consultation with the State Director of Emergency Management, waive, suspend or modify any existing rule the enforcement of which would be detrimental to the public welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Any such waiver, modification or suspension shall be promulgated in accordance with N.J.S.A.App.A:9-45.

8. That in accordance with N.J.S.A.App.A:9-34 and N.J.S.A.App. A:9- 51, as supplemented and amended, I reserve the right to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether of persons, properties or instrumentalities, and to commandeer and utilize any personal services and any privately owned property necessary to protect against this emergency.

9. In accordance with N.J.S.A. App. A:9-40, no municipality, county or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance or resolution which will or might in any way conflict with any of the provisions of this Order, or which will in any way interfere with or impede the achievement of the purposes of this Order.

10. That it shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies authorities in this State of any nature whatsoever, to cooperate fully with the State Director of Emergency Management in all matters concerning this state of emergency.

11. In accordance with N.J.S.A.App.A:9-34, N.J.S.A.App.A:9-40.6 and 40A:14-156.4, that no municipality or public or semipublic agency send public works, fire, police, emergency medical or other personnel or equipment into any non-contiguous disaster-stricken municipality within

this State nor to any disaster-stricken municipality outside this State unless and until such aid has been directed by the county emergency management coordinator or his deputies in consultation with the State Director of Emergency Management.

12. This Order shall take effect immediately and shall remain in effect until such time as it is determined by me that an emergency no longer exists.

Dated July 13, 2004.

EXECUTIVE ORDER No. 122

WHEREAS, Public authorities, agencies and commissions ("authorities") of the State of New Jersey oversee billions of dollars in public funds; and

WHEREAS, The independent auditing process is fundamental to the ability of those state authorities to oversee the public funds, to set appropriate financial policies, to ensure that management maintains effective internal controls and to ensure that financial statements are free from material misstatements; and

WHEREAS, Boards of directors, management, internal auditors, and independent auditors each have an important role in the authorities' financial reporting and audit processes; and

WHEREAS, Management is responsible for the financial reporting process and internal controls; and

WHEREAS, Internal auditors are responsible for assessing whether internal controls established by management are functioning and effective; and

WHEREAS, Independent auditors are responsible for publicly attesting to the fairness of financial statements, evaluating the effectiveness of internal controls and, through the issuance of management letters, making comments and recommendations which, when implemented, may improve the design or operation of internal control systems; and

WHEREAS, An audit committee is a fundamental component of an effective financial reporting and audit process, responsible for oversee-

ing the other participants in the process, for proactively ensuring the quality and integrity of the authority's financial reports, and for reporting any audit findings and recommendations to the board of directors for appropriate corrective action; and

WHEREAS, As Governor, I have a responsibility to manage the operations of State government and its various authorities efficiently and effectively to secure public confidence;

NOW, THEREFORE, I, JAMES E. MCGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. For the purpose of this Order, "audit" shall mean an examination of the financial statements of each Authority by a certified public accounting firm in compliance with the generally accepted government auditing standards (GAGAS), issued by the Comptroller General of the United States, as may be periodically revised, and in accordance with all applicable federal rules, regulations, and circulars. Furthermore, for purposes of this Order, "Board of Directors" or "Board" shall mean the governing body of an Authority, and "relative" shall mean a person's spouse, child, parent or sibling residing in the same household or a person's domestic partner as defined in P.L.2003, c.246 (N.J.S.A.26:8A-3).

2. The Board of Directors of each Authority shall create an Audit Committee of no less than three members to assist in the oversight of the financial reporting and audit processes of the Authority. At least two of the members shall be members of the Board. At no time shall a member of the Authority's staff be a member of the Audit Committee.

3. Each of the members of the Audit Committee shall be independent of the Authority. Independence of a member is satisfied only under the following circumstances:

a. the member has no financial relationship with the Authority, nor is the member a partner, shareholder or officer of an organization that has a financial relationship with the Authority;

b. neither the member nor any member's relative is an employee of the Authority;

c. neither the member nor any member's relative is currently employed by, or has in the past three years been affiliated with or employed by, a present or former auditor of the Authority;

d. neither the member nor any member's relative receives or has received in any of the past three years direct or indirect compensation from the Authority for consulting, legal or financial services, regardless of the amount received and regardless of whether it is or was paid to the member or to a firm with which the member or any member's relative was associated; and

e. the member is in compliance with all standards regarding independence of auditors as may appear in GAGAS or may be established by the United States General Accounting Office.

4. At least one of the Audit Committee members shall have accounting or related financial expertise. All of the members should have knowledge of the Authority's governmental functions, and sufficient time to accomplish the responsibilities of the Audit Committee. In the event the Board does not have sufficient members qualified or available to serve on the Audit Committee, or wishes to broaden the expertise on the Audit Committee, the Board may request that the State Treasurer recommend one or more qualified individuals to sit on the Committee.

5. The Audit Committee shall assist the Board in retaining an independent auditor to conduct an audit of the Authority's financial statements by making a recommendation to the Board after engaging in an auditor selection process described below. The auditor selection process shall be based upon public, competitive bidding principles and shall take place no less than once every five years. The Board shall award the contract based upon the Authority's governing statute and regulations.

6. In order to ensure the independence of the auditor selection process, the Audit Committee shall adhere to the following procedures when making a recommendation to the Board to award a contract to an auditor:

a. An evaluation committee shall be established by the Board to conduct the solicitation and evaluation of eligible auditors. The evaluation committee shall consist of no less than three Board members.

b. The evaluation committee shall be responsible for drafting requests for proposals (RFPs), soliciting responses to such RFPs, accepting and evaluating proposals, and providing a final written report to the Audit Committee. The evaluation committee may draw upon the expertise of the Division of Purchase and Property to assist it in the drafting of the RFP,

soliciting responses to the RFPs, and evaluating proposals. The role of staff of the Authority shall be limited to providing assistance with the RFP design.

c. The evaluation committee shall review all responses to RFPs for responsiveness and responsibility and shall evaluate such responses pursuant to criteria established by the Audit Committee, as described below, and shall rank the responses with respect to such criteria. The evaluation committee shall prepare a written report of such evaluation and shall forward the report to the Audit Committee.

d. Prior to the solicitation of the engagement of any auditor, the Audit Committee shall establish criteria for the selection of an auditor and may weigh the criteria established. The weighted criteria shall be used by the evaluation committee during the evaluation of proposals. In developing the criteria to be used by the evaluation committee, the Audit Committee shall include the following:

i. proposed fee for services;
ii. quality of response to RFP package;
iii. demonstrated ability and qualifications to conduct governmental audits;
iv. quality of relevant service to the governmental entities in previous transactions; and
v. familiarity with federal laws, rules and regulations relevant to governmental audits.

e. Upon receipt of the evaluation committee's report, the Audit Committee shall review the report and determine whether to re-rank the responses based upon interviews. In such event, the Audit Committee shall interview the firms responding to the RFP and rank the candidates after such interviews based upon the established evaluation criteria.

f. The Audit Committee shall make a recommendation to the Board for award of an audit contract.

g. The Board of Directors shall review the recommendation and make an award to a firm.

h. The Audit Committee shall also issue a report to the State Treasurer within six months of making the recommendation to the Board that sets forth the steps taken to comply with these procedures for selection of an auditor.

7. The auditor selected shall report directly to the Audit Committee or the Board. At no time shall the auditor report to any staff member of the Authority.

8. At least twice each year, the Audit Committee shall hold a private meeting with the auditor. One of these meetings shall be held prior to commencement of the audit and the other upon issuance of the final audit report. If the Authority also has an internal auditor, the internal auditor shall meet with, and report to, the Audit Committee at least once a year. Additional meetings shall be held upon the request of an Audit Committee member, a Board member, or the auditor, and may include such staff members as the Audit Committee or Board determines necessary.

9. In carrying out its duties, the Audit Committee shall proactively assist the Board in overseeing: (i) the integrity and quality of the Authority's financial statements; (ii) the Authority's compliance with legal, regulatory, and ethical requirements; (iii) the auditor's performance and ability to perform; and (iv) the performance of the Authority's own internal audit and internal control functions. In addition, the Audit Committee shall:

a. review and evaluate audit fees;

b. where the Committee believes that the auditor's performance is not adequate in quality or independence, recommend such steps as may be necessary to elicit appropriate performance, including replacement of the auditor;

c. review the annual management letter with the independent auditor;

d. review and approve all engagements of the auditor with the Authority, including non-audit engagements, giving specific consideration to their effect on the independence of the auditor;

e. at least once every three years, obtain and review a report of the independent auditor describing for the preceding year: (1) the independent auditor's internal quality control procedures; (2) any material issues raised by the most recent internal quality control peer review, or by reviews conducted by governmental or professional authorities; and (3) steps taken by the auditor to address such issues;

f. regularly review with the independent auditor any audit problems, any risks of material statements due to fraud, difficulties with management's response (including restrictions or attempts to restrict the auditor's activities, restrictions on access to information, and significant disagreements with management) and responsibilities, budget and staffing of the Authority's internal audit and control functions;

g. review the audited financial statements and interim statements and discuss them with management and internal auditors. These discussions should include a review of particularly sensitive accounting estimates, reserves and accruals, judgmental areas, audit adjustments (recorded or not)

and other such matters as the Audit Committee or independent auditor shall deem appropriate;

h. review internal control functions such as the planned scope of internal audit reviews; adequacy of staffing; actions to be taken as a result of internal audit findings; the adequacy of compliance with the Authority's Code of Ethics; the effectiveness of electronic data processing procedures and controls and related security programs; and

i. recommend policies with respect to risk assessment and risk management.

10. This Order shall apply to all State authorities, commissions, boards, and councils that utilize external auditors to assist them in overseeing public funds.

11. This Order shall take effect immediately, and shall supersede Executive Order No. 26 (Whitman) to the extent that the provisions of that Order governing the selection of accountants are inconsistent with this Order.

Dated July 23, 2004.

EXECUTIVE ORDER No. 123

WHEREAS, U.S. Marine Lance Corporal Vincent Sullivan, a native of the State of New Jersey, graduated from Chatham High School in 1999, where he was a member of the wrestling and track teams; and

WHEREAS, Lance Corporal Sullivan subsequently enlisted in the United States Marines following the September 11, 2001 terrorist attacks; and

WHEREAS, Lance Corporal Sullivan served proudly as a member of the U.S. Marines, and was deployed to Iraq in the service of his country in 2003; and

WHEREAS, Lance Corporal Sullivan returned home on leave and was married to his high school sweetheart Erika in December 2003, before being sent back to Iraq to help counter a growing insurgency; and

WHEREAS, Lance Corporal Sullivan was a courageous soldier, and a loving son, husband, and brother; and

WHEREAS, Lance Corporal Sullivan has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Lance Corporal Sullivan's patriotism and dedicated service to his country makes him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory.

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Tuesday, August 3, 2004 in recognition and mourning of U.S. Marine Lance Corporal Vincent Sullivan.

2. This Order shall take effect immediately.

Dated August 3, 2004.

EXECUTIVE ORDER No. 124

WHEREAS, Army Specialist Anthony J. Dixon, a resident of Lindenwold, New Jersey, graduated from Overbrook High School, where he was a high school wrestler; and

WHEREAS, Army Specialist Dixon subsequently enlisted in the U.S. Army in 2002, where he hoped to earn money for college and eventually work as a Secret Service agent or as a police officer; and

WHEREAS, Army Specialist Dixon served proudly as a member of the U.S. Army 1st Squadron, 4th Cavalry, 1st Infantry Division, and was deployed to Iraq in the service of his country; and

WHEREAS, Army Specialist Dixon was a courageous soldier and a loving son and brother; and

WHEREAS, Army Specialist Dixon has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Army Specialist Dixon's patriotism and dedicated service to his country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Monday, August 9, 2004, in recognition and mourning of Army Specialist Anthony J. Dixon.

2. This Order shall take effect immediately.

Dated August 8, 2004.

EXECUTIVE ORDER No. 125

WHEREAS, U.S. Army Captain Michael Y. Tarlavsky, a resident of the State of New Jersey, graduated from Clifton High School, where he was captain of the high school swim team and attained the rank of Eagle Scout; and

WHEREAS, Captain Tarlavsky graduated from Rutgers University in 1996, earning a degree in Exercise Science while participating in the ROTC Program and serving with the National Guard to help pay for college; and

WHEREAS, Captain Tarlavsky subsequently enlisted in the U.S. Army, where he rose to become a Captain in the Special Forces; and

WHEREAS, Captain Tarlavsky served proudly as a member of the U.S. Army 1st Battalion, 5th Special Forces Group, and was deployed to Iraq in the service of his country; and

WHEREAS, Captain Tarlavsky was a courageous soldier and a loving son, husband and brother; and

WHEREAS, Captain Tarlavsky has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Captain Tarlavsky's patriotism and dedicated service to his country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Tuesday, August 24, 2004, in recognition and mourning of U.S. Army Captain Michael Y. Tarlavsky.

2. This Order shall take effect immediately.

Dated August 23, 2004.

EXECUTIVE ORDER No. 126

WHEREAS, Former Senator and Assemblyman Thomas P. Foy, a devoted family man, graduated from Duke University and from Rutgers Law School-Camden and thereafter dedicated many years in public service to the people of the State of New Jersey; and

WHEREAS, Senator Foy held several important public offices in the State of New Jersey, including serving as a member of the Burlington Township Council; and

WHEREAS, Senator Foy was elected to the General Assembly in 1984, where he served until 1990, when he was appointed to the State Senate, where he served until January 1992; and

WHEREAS, Senator Foy also served as General Counsel for the State AFL-CIO and as Chairman of the State Democratic Leadership Council, and was active in numerous charities; and

WHEREAS, It is with deep sadness that we mourn the loss of Senator Foy and extend our sincerest sympathy to his family and friends; and

WHEREAS, It is fitting and appropriate to honor the memory and the passing of Senator Foy;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Wednesday, September 8, 2004 in recognition and mourning of the passing of Senator Foy.

2. This Order shall take effect immediately.

Dated September 7, 2004.

EXECUTIVE ORDER No. 127

WHEREAS, James D'heron, a loving husband and father and resident of the City of New Brunswick, joined the New Brunswick Fire Department in 1980, and rose through the ranks to become Deputy Fire Chief; and

WHEREAS, Deputy Chief D'heron served the Fire Department and the citizens of New Brunswick as a firefighter and officer with exceptional courage, dedication and professionalism, genuine courtesy and abiding commitment to the finest humanitarian traditions; and

WHEREAS, Deputy Chief D'heron proudly served in the Department for 24 years, and was cited three times for rescuing people from burning buildings; and

WHEREAS, Deputy Chief D'heron has made the ultimate sacrifice, giving his life in the line of duty to help New Jersey's citizens and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory.

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Thursday, September 9, 2004, in recognition and mourning of Deputy Fire Chief James D'heron.

2. This Order shall take effect immediately.

Dated September 7, 2004.

EXECUTIVE ORDER No. 128

WHEREAS, New Jersey's historic legacy of innovation and invention has resulted in an economy that is currently leading the nation out of recession and has contributed to its national reputation as the home of numerous advanced technology industries; and

WHEREAS, New Jersey must continue to meet the challenges and opportunities of the global marketplace by fostering the creation of high-quality jobs that will sustain a knowledge-based economy that thrives on innovation and entrepreneurship in order to bring advanced technologies to market; and

WHEREAS, New Jersey should capitalize on its competitive advantage through economic development initiatives that support the State's world-class academic research universities and science and technology industries; and

WHEREAS, Relationships between industrial and academic research in the

State must be strengthened to sustain New Jersey's economy and to propel it to an even higher level of performance; and

WHEREAS, the State of New Jersey and the New Jersey Economic Development Authority (hereinafter referred to as the EDA or the Authority) has supported research and development efforts of technology companies by developing financial assistance programs and laboratory space in commercialization centers underway in Newark, Camden, North/New Brunswick; and

WHEREAS, The EDA has the ability to acquire land and develop shared infrastructure that is specialized to the focus needs of later stage businesses such as pilot scale production centers; and

WHEREAS, The New Jersey Commission on Science and Technology's (hereinafter referred to as the Commission) mission is to promote further development of the State's academic research capabilities in fields of strategic importance to New Jersey's technology industry, to enhance the transfer of technology from the academic research environment to commercialization in the marketplace, and to encourage entrepreneurism and the establishment of new enterprises in science and new technology fields; and

WHEREAS, The New Jersey Life Sciences Cluster Initiative commissioned by Prosperity New Jersey, and conducted by Professor Michael E. Porter, to assess the current competitive position of New Jersey's life sciences clusters recommends that clusters will be enhanced by increased interaction by cluster participants in a concentrated geographic location; and

WHEREAS, In my 2004 State of the State Address, I proposed the creation of three Innovation Zones that will stimulate industry clusters around our public research universities; and

WHEREAS, The goal of the Innovation Zones is to attract high-technology businesses and research scientists to these defined areas, where proximity to universities and research hospitals will increase collaborative research effort between the academic communities and New Jersey's technology industry, resulting in business and job growth; and

WHEREAS, These Innovation Zones will serve to spur partnerships between our universities and our industries, and will encourage the more rapid transfer of discoveries from our laboratories to the marketplace; and

WHEREAS, The creation of the Innovation Zones will require the focusing of resources on geographic areas where research clusters presently exist, or have the potential to form because of the location of universities and/or research hospitals; and

WHEREAS, These geographic areas will also be made more attractive to businesses, entrepreneurs and researchers by the availability of alternative housing opportunities, access to public transportation and workforce development initiatives that provide customized training for all level of employees;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There are hereby created three Innovation Zones surrounding New Jersey's research universities, to be located in the City of Newark, the City of Camden, and the North Brunswick/New Brunswick area.

2. The Chief Executive Officer of the Authority shall recommend the precise geographic boundaries of the Innovative Zones to the EDA Board, which shall give its final approval to the geographic boundaries.

3. The EDA shall modify its existing programs to give bonuses or other enhanced incentives to businesses that locate in Innovation Zones. Programs to be utilized in this regard shall include BEIP, Seed Capital and Technology Funding programs, Springboard Fund, Technology Tax Certificate Transfer program and the new Garden State Life Sciences Venture Fund.

4. The Commission shall modify its programs to promote and support networks and collaboration between the local technology industry and university researchers in the Innovation Zones, to increase federal funding to universities in areas of strategic importance to New Jersey's technology

industry, to promote the transfer of technology and commercialization of new ideas in the Innovation Zones, and to further develop support for technology companies in the Innovation Zones by means including, but not limited to, incubation and grant writing assistance.

5. The EDA and the Commission shall work cooperatively with other State departments, agencies and authorities to explore and implement opportunities to direct resources to the Innovation Zones that may provide technology, financial and workforce development opportunities, infrastructure and housing. With the assistance of these partners, the EDA and Commission may recommend potential future Innovation Zones to enhance cluster-based economic development strategies anchored by public higher education research universities.

6. The EDA and the Commission are authorized to call upon any department, office or agency of State Government to provide such information, resources or other assistance deemed necessary to discharge its responsibilities under this Order. This will include, but not be limited to, the Department of the Treasury for assistance with the BEIP, Technology Tax Certificate Transfer program, and other programs; the Department of Labor and Workforce Development for assistance in developing workforce development strategies; the Departments of Transportation and NJ Transit for assistance in enhancing public transportation networks and infrastructure; the New Jersey Commerce and Economic Growth Commission to assist in business attraction efforts and the coordination of Urban Enterprise Zone programs; the Department of Community Affairs for assistance in expanding housing opportunities and advising on smart growth development strategies; and the Commission on Higher Education to facilitate and promote partnerships and programs to address workforce needs and enhance research and development. Each department, office, division and agency of this State is hereby required to cooperate with the Authority and to furnish it with such information, personnel and assistance as is necessary to accomplish the purposes of this Order.

7. An Advisory Committee consisting of local technology business leaders and representatives from the research community will be created in each Innovation Zone by the Authority and will meet quarterly to advise the EDA and the Commission with respect to the functioning of the Innovation Zones and the needs of the local technology industry.

8. This Order shall take effect immediately.

Dated September 8, 2004.

EXECUTIVE ORDER No. 129

WHEREAS, The State of New Jersey, with the fourth highest job growth rate in the United States over the last twelve months, is among the nation's leaders in economic recovery; and

WHEREAS, In order to continue this economic prosperity, the State of New Jersey supports every opportunity to attract and retain businesses, strengthen its workforce, and build vibrant cities; and

WHEREAS, The act of corporate off-shoring can result in the relocation of New Jersey jobs overseas; and

WHEREAS, New Jersey State departments and agencies (State contracting agencies) procure annually billions of dollars worth of goods and services, by contract, through public and private vendor corporations and businesses; and

WHEREAS, New Jersey State government awards contracts based on a determination of "best value," which includes an evaluation of price and may include other factors, including, but not limited to, environmental considerations, quality, and vendor performance; and

WHEREAS, The State of New Jersey should be aware of how and where State procurement tax dollars are spent;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Consistent with State law, the State contracting agencies shall develop policies and procedures to ensure that all vendors seeking to enter into any contract in which services are procured on behalf of the State of New Jersey must disclose:

a. The location by country where services under the contract will be performed; and

b. Any subcontracting of services under the contract and the location by country where any subcontracted services will be performed.

The State of New Jersey shall not award a contract to a vendor that does not provide all disclosures required above.

2. The State of New Jersey shall not award a contract to a vendor that submits a bid proposal to perform services, or have a subcontractor perform services, pursuant to the contract at a site outside the United States, unless one of the following conditions is met:

a. The vendor or its subcontractor provides a unique service, and no comparable domestically-provided service can adequately duplicate the unique features of the service provided by the vendor or its subcontractor; or

b. A significant and substantial economic cost factor exists such that a failure to use the vendor's or subcontractor's services would result in economic hardship to the State of New Jersey; or

c. The Treasurer determines that a failure to use the vendor's or subcontractor's services would be inconsistent with the public interest.

3. If, during the term of the contract, the contractor or subcontractor has declared that services will be performed in the United States and proceeds to shift services outside of the United States, the contractor shall be deemed in breach of contract, unless the State contracting agency shall first have determined in writing that extraordinary circumstances require the shift of services or that a failure to shift the services would result in economic hardship to the State of New Jersey.

4. In developing the policies and procedures directed under this Order, the State contracting agencies must consider the requirements of New Jersey's contracting laws, the best interests of the State of New Jersey and its citizens, as well as applicable federal and international requirements.

5. The provisions of this Order do not apply to contracts for academic instruction, educational or research services entered into by the State's public institutions of higher education.

6. If any section, subsection, sentence, clause, phrase or other portion of this Order is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

7. This Order shall take effect immediately.

Dated September 9, 2004.

EXECUTIVE ORDER No. 130

WHEREAS, Assault weapons like Uzis and AK-47s have no legitimate civilian uses and, instead, are used by drug dealers, gun-runners, and other violent criminals; and

WHEREAS, Recognizing that the easy availability of assault weapons would pose a serious threat to law enforcement and to the safety of the citizens of New Jersey, in 1990 New Jersey enacted the toughest and most comprehensive assault weapons ban in the United States; and

WHEREAS, The New Jersey assault weapons ban has proven to be highly effective and has served as a model for other states and for the federal government; and

WHEREAS, In 1994 a federal assault weapons ban was enacted that prohibited 19 specific types of assault weapons, including Uzis and AK-47s; and

WHEREAS, The federal assault weapons ban is set to expire on September 13, 2004, and there is no indication that the current Congress will move to reinstate the ban; and

WHEREAS, While assault weapons still will be banned in New Jersey under New Jersey's assault weapons ban, the expiration of the federal ban will mean that assault weapons will once again be readily available nearly everywhere in the United States because few states have their own laws banning such weapons; and

WHEREAS, Gun manufacturers can be expected to immediately begin marketing and selling assault weapons in states where they are not otherwise banned; and

WHEREAS, New Jersey law enforcement officials have expressed concern that assault weapons that will now be readily available in other states will end up in the hands of criminals on the streets of New Jersey;

NOW, THEREFORE, I, JAMES E. MCGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Attorney General shall promptly convene a task force, consisting of representatives from all of the relevant segments of the law enforcement community, including but not limited to the county prosecutors offices, the Division of Criminal Justice, the State Police, sheriff's departments, and county and local police departments, to provide assistance to the Attorney General in developing a plan to respond to the issues raised by the expiration of the federal assault weapons ban.

2. In developing the plan, the Attorney General, with the assistance of the task force, shall review New Jersey statutes and law enforcement regulations, guidance, and policies to determine whether any changes are necessary to address the increased threat to law enforcement and public safety created by the expiration of the federal assault weapons ban, and specifically the problem of assault weapons being purchased out-of-State and brought to New Jersey.

3. The plan also shall include recommendations to the Governor for any legislative changes that should be made, such as enhanced penalties or other measures directed against gun smuggling.

4. This Order shall take effect immediately.

Dated September 13, 2004.

EXECUTIVE ORDER No. 131

WHEREAS, Hurricane Ivan has created severe weather conditions, including heavy rains, high winds, main stream river flooding, particularly along the Delaware river in the counties of Sussex, Warren, Hunterdon and Mercer, that now threatens homes and other structures and the flow of traffic in the northwestern areas of the State and may affect other counties as the runoff progresses; and

WHEREAS, The aforesaid weather conditions constitute an imminent hazard which threatens and presently endangers the health, safety and resources of the residents of one or more municipalities and counties of this State; and which may become too large in scope to be handled by the normal county and municipal operating services; and

WHEREAS, The Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, JAMES E. MCGREEVEY, Governor of the State of New Jersey, in order to protect the health, safety and welfare of the people of the State of New Jersey:

1. Do declare and proclaim that a State of Emergency exists in the northwestern area of the State of New Jersey and in the counties of Sussex, Warren, Hunterdon and Mercer, and may come to exist in other areas of the State.

2. Empower, in accordance with N.J.S.A. A:9-33 et seq. as supplemented and amended, the State Director of Emergency Management, who is the Superintendent of State Police, through the police agencies under his control, to determine the control and direction of the flow of such vehicular traffic on any State Highway, municipal or county road, including the right to detour, reroute or divert any or all traffic and to prevent ingress or egress from any area, that, in the State Director's discretion, is deemed necessary for the protection of the health, safety and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.

3. Authorize, in accordance with N.J.S.A. App. A:9-33 et seq. as supplemented and amended, the Attorney General, pursuant to the provisions of N.J.S.A. 39:4-213, acting through the Superintendent of the Division of State Police, to determine the control and direction of the flow of vehicular traffic on any State or Interstate highway, and its access roads, including the right to detour, reroute or divert any or all traffic, and to prevent ingress or egress from any area to which the declaration of emergency applies. I further authorize all law enforcement officers to enforce any such orders of the Attorney General and the Superintendent of State Police, within their respective municipalities.

4. Authorize the State Director of Emergency Management to order the evacuation of all persons, except for those emergency and governmental personnel whose presence the State Director deems necessary, from any

area where their continued presence would present a danger to their health, safety or welfare because of the conditions created by this emergency.

5. Authorize and empower the State Director of Emergency Management to utilize all facilities owned, rented, operated and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from a residence, dwelling, building, structure or vehicle during the course of this emergency.

6. Authorize, in accordance with N.J.S.A. 38A:2-4 and N.J.S.A. 38A:3-6.1, the Adjutant General to order to active duty such members of the New Jersey National Guard that, in the Adjutant General's judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety and welfare and to authorize the employment of any supporting vehicles, equipment, communications or supplies as may be necessary to support the members so ordered.

7. Reserve, in accordance with N.J.S.A. App. A:9-34, as supplemented and amended, the right to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether of persons, properties or instrumentalities, and to commandeer and utilize any personal services and any privately owned property necessary to protect against this emergency.

8. In accordance with N.J.S.A. App. A:9-34, N.J.S.A. App. A:9-40.6 and 40A:14-156.4, I direct that no municipality or public or semipublic agency send public works, fire, police, emergency medical or other personnel or equipment into any non-contiguous disaster-stricken municipality within this State nor to any disaster-stricken municipality outside this State unless and until such aid has been directed by the county emergency management coordinator or his deputies in consultation with the State Director of Emergency Management.

9. This Order shall take effect immediately and shall remain in effect until such time as it is determined by me that an emergency no longer exists.

Dated September 18, 2004.

EXECUTIVE ORDER No. 132

WHEREAS, The New Jersey Commerce and Economic Growth Commission (Commission) coordinates economic development activities for the State with all related agencies and entities, including, but not limited to, the New Jersey Economic Development Authority, the New Jersey Commission on Science and Technology, the New Jersey Urban Enterprise Zone Authority, the Motion Picture and Television Development Commission, and the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises; and

WHEREAS, The role of the Commerce Commission, which includes assisting businesses and individuals for the economic growth and prosperity of our State, is vitally important; and

WHEREAS, There is a need to maintain strict internal controls and fiscal practices of the Commerce Commission and new procedures have been and are being implemented at the Commission to address these concerns; and

WHEREAS, As Governor, I have a responsibility to manage the operations of State government and its various agencies efficiently and effectively to ensure public confidence; and

WHEREAS, Executive Order No. 122, issued by me on July 23, 2004, requires certain governmental entities to develop audit committees to proactively ensure the quality and integrity of the financial operations of these entities;

NOW, THEREFORE, I, JAMES E. MCGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Commission shall expeditiously establish and fill the position of Chief Financial Officer (CFO), who shall report directly to the Commission's Secretary or her designee, and who shall be responsible for overseeing all budget, procurement, accounting, internal controls and fiscal administration functions of the Commission, and who shall approve all procurement activities of the Commission.

2. The budget and accounting activities of the Commerce Commission, including all Commission committees and units, shall be centralized and shall be supervised and under the immediate control and direction of the CFO.

3. The Commerce Commission shall expeditiously establish and fill the position of Controller, who shall report directly to the CFO, to assist in the development and implementation of internal controls of the Commission's accounting practices and activities, and supervise and monitor internal control procedures.

4. The Finance Committee of the Board of Directors shall review and approve all contracts to which the Commission is a party with a value over the public bidding threshold established by the Department of the Treasury.

5. The Audit Committee, established pursuant to the provisions of Executive Order 122, shall comply in all respects with the requirements of Executive Order 122, which are incorporated herein by reference, except that in addition to the requirements of that Order, the Committee shall undertake a comprehensive semi-annual internal review of the Commission's fiscal operations for the next three years with the assistance of a certified public accounting firm, qualified to conduct financial audits and make recommendations regarding procedures, which firm shall report directly to the Auditing Committee, not to the Commission staff.

6. The Commission's Board of Directors annually shall review and either approve, or modify or rescind in part or in whole, the Commission's policies and procedures, including therein procurement policies and procedures consistent with those prescribed by the Department of the Treasury, Division of Purchase and Property.

7. The Secretary shall disseminate the Sarbanes-Oxley Act, Executive Order No. 122 (2004) and this Executive Order, to the Commission's Board of Directors, which shall institute such measures as deemed necessary to implement the Executive Orders and the Act.

8. The Commission shall conduct annual procurement training for all Commission purchasing agents.

9. To ensure that Commission staff is fully cognizant of all Commission procedures and policies, the Commission shall annually disseminate said procedures and policies to all Commission staff.

10. The Secretary shall ensure that the percentage share of travel expenses that can be advanced to Commission staff for travel will be consistent with Treasury Circular Letter 04-05-OMB.

11. This Order shall take effect immediately.

Dated September 20, 2004.

EXECUTIVE ORDER No. 133

WHEREAS, Executive Order No. 131 (2004), declaring a State of Emergency, was issued on September 18, 2004; and

WHEREAS, It is necessary to amend Executive Order No. 131 to add a paragraph that was inadvertently omitted;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive Order No. 131 (2004) is amended to add the following paragraph:

9. The executive head of any agency or instrumentality of the State government with authority to promulgate rules may, for the duration of this Executive Order, subject to my prior approval and in consultation with the State Director of Emergency Management, waive, suspend or modify any existing rule the enforcement of which would be detrimental to the public welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Any such waiver, modification or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45.

2. This paragraph shall be retroactive to September 18, the date of the declaration of the Emergency.

Dated September 21, 2004.

EXECUTIVE ORDER No. 134

WHEREAS, 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

WHEREAS, 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

WHEREAS, 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

WHEREAS, 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

WHEREAS, 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 (see, e.g., *McConnell v. Federal Election Commission*, 540 U.S. 93, 124 S. Ct. 619 (2003); and

WHEREAS, 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

WHEREAS, 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

WHEREAS, 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

WHEREAS, It is essential that the public have confidence that the selection of State contractors is based on merit and not on the 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

WHEREAS, 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

WHEREAS, 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 (see, e.g., N.J.S.A. 52:34-12, 13; *Commercial Cleaning Corp v. Sullivan*, 47 N.J. 539 (1966)); and

WHEREAS, The Constitution of this State requires me, as Governor, to manage the operations of State government effectively and fairly, to uphold the law to ensure public order and prosperity, and to confront and uproot malfeasance in whatever form it may take; and

WHEREAS, As Governor, I 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;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The State 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 and/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 and/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 and/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.

2. 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 and/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.

3. For purposes of this Order, 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 Order.

4. For purposes of this Order, 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.

5. 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 N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. Such reporting shall be made in a manner and form to be developed by the Office of 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 Office of 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 8 of this Order, 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.

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 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 Order. 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 Office of 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.

7. 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 Order, 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.

8. 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 Order; (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 Order; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of this Order; 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 Order.

9. This Order 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.

10. This Order 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.

11. Every contract and bid application and specifications promulgated in connection therewith covered by this Order shall contain a provision describing the requirements of this Order and a statement that compliance with this Order shall be a material term and condition of said contract and/or bid application and binding upon the parties thereto upon the entry of all applicable contracts.

12. To the extent any term contained herein requires interpretation or definition resort shall be made to the relevant definition of said term contained in the "New Jersey Campaign Contributions and Expenditures Reporting Act." P.L.1973, c.83 (C.19:44A-1 et seq.) which definition shall be dispositive.

13. This Order shall take effect October 15, 2004, and is intended to have prospective effect only. This Order shall not affect any solicitation or contribution of money, or pledge of contribution, including in-kind contributions to a candidate committee and/or election fund of any candidate or holder of the public office of Governor, or to any State or county political party committee, that occurs prior to the effective date of this Order. The provisions of this Order shall supersede all prior Orders the provisions of which are inconsistent with this Order.

Dated September 22, 2004.

EXECUTIVE ORDER No. 135

WHEREAS, U.S. Army Specialist Yoe Manuel Aneiros, emigrated from Cuba to New Jersey and attended East Side High School in Newark; and

WHEREAS, Specialist Aneiros subsequently became a naturalized U.S. Citizen; and

WHEREAS, Specialist Aneiros enlisted in the U.S. Army in September 2002 where he hoped to earn money for college and eventually become a doctor; and

WHEREAS, Specialist Aneiros served proudly as a member of the U.S. Army 2nd Battalion, 70th Armor Regiment in the 3rd Brigade of the 1st Armored Division, and was deployed to Iraq in the service of his country; and

WHEREAS, Specialist Aneiros was a courageous soldier and a loving son, husband and brother; and

WHEREAS, Specialist Aneiros has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Specialist Aneiros' patriotism and dedicated service to his country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Tuesday, September 28, 2004, in recognition and mourning of U.S. Army Specialist Yoe Manuel Aneiros.

2. This Order shall take effect immediately.

Dated September 27, 2004.

EXECUTIVE ORDER No. 136

WHEREAS, New Jersey is a state where independence, dignity and choice is fostered to support residents as they age; and

WHEREAS, New Jersey must prepare to meet the individual and societal needs of our adult population and their families as they grow older; and

WHEREAS, Government, for too long, has denied older adults the right to choose where they receive services if public sector funding is paying for the needed care; and

WHEREAS, Policy changes are essential to support an expanding elderly population that desires to stay at home with supports in the caring community of New Jersey versus going into a nursing home; and

WHEREAS, Caregiving by unpaid family or friends has become an important issue because so many New Jerseyans are finding themselves or will find themselves in the role of caregiver for a loved one; and

WHEREAS, The State of New Jersey must support innovative and cost-effective initiatives for services and programs that are responsive to the unique needs of a growing corps of volunteer caregivers and a diminishing workforce of paid caregivers; and

WHEREAS, The State of New Jersey encourages a society free of ageism and the stereotyping and discrimination against people because they are old, specifically by protecting older adults' right to work, a decent retirement, protective services when vulnerable and end-of-life care with dignity; and

WHEREAS, The State of New Jersey recognizes that older adults are respected members of the community and provide an invaluable resource of social, cultural, historic and spiritual enrichment and leadership; and

WHEREAS, In Executive Order No. 100 (2004), I called upon the Department of Health and Senior Services to develop a home and community health care "bill of rights" to support New Jersey's aging population;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The State of New Jersey hereby recognizes a Bill of Rights and Responsibilities to support the independence, dignity and choice of citizens

as they age. This Bill of Rights and Responsibilities safeguards the following:

a. freedom, independence and individual initiative in planning and managing their own lives; and

b. full participation in the planning and operation of community-based services and programs for their benefit; and

c. access to viable, affordable and cost-effective services and programs that are molded by the principles of strengthening independence, affirming dignity and expanding choice; and

d. the ability to remain in their communities and in their homes with the support of community-based, long-term care services; and

e. a system where long-term care needs are met, regardless of income, in a culturally and linguistically sensitive way as they change over time; and

f. access to public and private services, allowing aging in place where possible, and the ability to transition between the various forms of long-term care with minimal disruption and maximum attention to quality of life; and

g. an opportunity to choose a healthy lifestyle, and be supported in this choice by effective, culturally appropriate programs designed to foster health and wellness without regard to economic status; and

h. support for family members and other persons providing voluntary care, known as caregiving, to older individuals needing long-term care services; and

i. a community where greater choice, control and flexibility are built into a progressive system of assistance for older and disabled individuals, families, friends and neighbors; and

j. protection against abuse, neglect and exploitation in the community and in health care settings; and

k. consumer empowerment to make informed quality of life decisions; and

l. a long-term care system that is visible, trusted and easy to access for both information and assistance by all communities in New Jersey.

2. This Order shall take effect immediately.

Dated September 27, 2004.

EXECUTIVE ORDER No. 137

WHEREAS, Deavlin Walker, joined the New Jersey State Police in April 1981, after having served in the United States Air Force and as an officer with the Galloway Township Police Department; and

WHEREAS, Detective Sergeant First Class (DSFC) Walker rose through the ranks of the State Police, initially serving at various Troop A stations and the Narcotics Bureau-South, before his present assignment as a Zone Supervisor with the Auto Unit-South; and

WHEREAS, DSFC Walker was promoted in August 2004 to the rank of Detective Sergeant First Class; and

WHEREAS, DSFC Walker's service with the State Police was characterized by loyalty, fearless performance of duty and faithful and honorable devotion to the principles of the New Jersey State Police; and

WHEREAS, DSFC Walker served proudly as part of the finest State Police force in the Nation; and

WHEREAS, DSFC Walker expired at his residence on October 3, 2004 of natural causes and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities on Saturday, October 9, 2004, in recognition and mourning of Detective Sergeant First Class Deavlin Walker, Badge No. 3599.

2. This Order shall take effect immediately.

Dated October 7, 2004.

EXECUTIVE ORDER No. 138

WHEREAS, Pursuant to N.J.S.A. 18A:26-2, any person employed as a teaching staff member by a district board of education is required to hold a valid and appropriate teaching certificate; and

WHEREAS, School districts throughout the State of New Jersey hired qualified individuals for teaching staff positions for the 2004-05 school year with the expectation that such individuals would receive a certificate in a timely manner so as to allow them to satisfy the requirements of N.J.S.A. 18A:26-2; and

WHEREAS, The Department of Education began implementing a new computerized system for the processing of applications for teaching certificates in 2004, which has resulted in excessive and unreasonable delays in the processing of such applications, in some cases as much as nine months; and

WHEREAS, Approximately 1000 such applications have yet to be processed by the Department; and

WHEREAS, Individuals who have met all of New Jersey's requirements for a teaching certificate but who have not yet received documentation from the Department of Education because of the aforementioned delays and who are currently employed by school districts throughout the State for the 2004-05 school year are utilizing a county substitute credential pending receipt of a certificate; and

WHEREAS, Pursuant to N.J.A.C.6A:9-6.5, the holder of a county substitute credential may serve in a teaching position for no more than 20 consecutive days in the same position in one school district during the school year; and

WHEREAS, School districts are concerned about the disruption that will ensue in classrooms throughout the state if individuals who are qualified to receive a New Jersey teaching certificate but who have not yet received it due to circumstances beyond their control are forced to leave their teaching positions; and

WHEREAS, Such disruption in the assignment of instructors, instruction of students and the completion of curriculum will endanger the health,

safety and resources of the State, and is too large in scope to be handled effectively by the school districts of the State; and

WHEREAS, The Constitution and Statutes of the State of New Jersey, particularly the provisions of the Laws of 1942, Chapter 251 (N.J.S.A. App.A:9-33 et seq.) and all amendments and supplements thereto confer upon the Governor of the State of New Jersey certain emergency powers; and

WHEREAS, It is necessary to invoke those emergency powers under the circumstances outlined above in order to protect the health, safety and welfare of the children of the State of New Jersey;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby DECLARE a State of Emergency and ORDER and DIRECT as follows:

1. I declare a State of Emergency exists in school districts throughout the State by reason of the facts and circumstances set forth above.

2. I invoke such emergency powers as are conferred upon me in accordance with N.J.S.A. App. A:9-33 et seq., and all supplements and amendments thereto.

3. Notwithstanding any other law or regulation to the contrary, school districts may allow teachers who had an application filed for a teaching certificate with the Department of Education as of August 1, 2004, as described above, to remain in the same position in the same school for an additional 30 school days, provided that the school district agrees to pay these individuals the agreed upon salary for teaching staff members retroactively to the beginning of the 2004-05 school year after they receive a New Jersey teaching certificate.

4. The Department of Education shall implement the following measures to ensure the timely processing of teaching certificate applications:

a. All telephone lines designated by the Department for inquiries related to the status of teaching certificate applications shall be open and fully staffed between the hours of 4 PM and 8 PM, Monday through Friday.

b. Mail containing applications for teaching certificates shall be

opened on the day in which it was received, and scanned into the Teacher Certification System no later than 48 hours thereafter.

c. Additional examiners shall be trained and shall supplement existing staff until the backlog in applications has been eliminated.

5. This Order shall take effect immediately, and it shall remain in effect until such time as I determine that an emergency no longer exists.

Dated October 12, 2004.

EXECUTIVE ORDER No. 139

WHEREAS, In New Jersey, infection by the human immunodeficiency virus (HIV) has resulted in 64,219 cumulative cases of HIV/AIDS as of June 30, 2004, and nearly 32,000 people have died of this disease in New Jersey alone since the beginning of this pandemic; and

WHEREAS, Approximately 51 percent of those cases can be attributed to injecting drug users, their partners or their children; and

WHEREAS, In comparison with other states in the nation, New Jersey has the highest rate of HIV infection among women, the third-highest pediatric HIV rate, the fifth-highest adult HIV rate and a rate of injection-related HIV infection that significantly exceeds the national average; and

WHEREAS, HIV has had an especially devastating impact on New Jersey's minority communities, in that (1) minorities account for 75 percent of the cumulative HIV/AIDS cases and the disparity is growing; (2) 86 percent of the children living with HIV/AIDS are minorities; and (3) women account for 35 percent of those persons living with the disease, and four of every five of those women are women of color; and

WHEREAS, Over 1 million people in the United States are frequent intravenous drug users at a cost to society in health care, lost productivity, accidents and crime that exceeds $50 billion annually; and

WHEREAS, 61 percent of the State's pediatric HIV/AIDS cases can be attributed to needle sharing on the part of the child's mother or her partner; and

WHEREAS, Sterile syringe access programs are designed to prevent the spread of HIV, Hepatitis C and other blood-borne pathogens, and to provide a bridge to drug abuse treatment and other social services for drug users; and

WHEREAS, Sterile syringe access programs have been proven effective in reducing the spread of HIV, Hepatitis C and other blood-borne pathogens without increasing drug abuse or other adverse social impacts; and

WHEREAS, Scientific, medical and professional agencies and organizations that have studied the issue, including the federal Centers for Disease Control and Prevention, the American Medical Association, the American Public Health Association, the National Academy of Sciences, the National Institutes of Health, the American Academy of Pediatrics, and the United States Conference of Mayors, have found sterile syringe access programs to be effective in reducing the transmission of HIV; and

WHEREAS, New Jersey remains one of only two states nationwide that do not provide access to sterile syringes in order to prevent the spread of disease; and

WHEREAS, The lack of sterile syringe access programs in certain New Jersey municipalities creates a threat to the health, safety and welfare of New Jersey residents, one that is too large in scope and unusual in type to be handled by regular municipal operating services, and one that poses a compelling need to act to protect the public interest;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby DECLARE a State of Emergency and ORDER and DIRECT as follows:

1. A State of Emergency exists with regard to the transmission of HIV/AIDS through intravenous drug use.

2. I invoke such emergency powers as are conferred upon me by the Laws of 1942, c. 251 (N.J.S.A. App. A:9-30 et seq.) and all amendments and supplements thereto.

3. To combat this Emergency, the Commissioner of Health and Senior Services is authorized to adopt guidelines for the establishment of a sterile syringe access program to provide for the exchange of hypodermic syringes and needles in up to three municipalities in New Jersey that have a high prevalence of HIV/AIDS cases attributable to intravenous drug use. In order to establish a sterile syringe access program, the eligible municipality shall enact an ordinance of its governing body establishing or authorizing establishment of a sterile syringe access program at a fixed location or through a mobile access component. The municipality may operate the program directly or contract with a hospital, a health care facility, a federally qualified health center, a public health agency, a substance abuse treatment program, an AIDS service organization or another non-profit entity designated by the municipality.

4. The Commissioner of Health and Senior Services shall have the authority to review and approve the request of the eligible municipality to establish the sterile syringe access program, based on the proposal's compliance with existing health-related guidelines. The Commissioner shall ensure that the sterile syringe access program proposed by the municipality is linked, to the maximum extent practicable, to such health care facilities and programs capable of providing appropriate health care services, including mental health, dental care, substance abuse treatment, housing assistance, employment counseling and education counseling to participants in any such program.

5. The Commissioner of the Department of Health and Senior Services shall have full authority to adopt such rules, regulations, guidelines, orders and directives as he shall deem necessary to implement such programs.

6. It shall be the duty of every person in this State or doing business in this State, and the members of each and every governing body, and of each and every official, agent or employee of every political subdivision in this State and of each member of all other governmental bodies, agencies and authorities in this State, to cooperate fully in all matters concerning this Emergency.

7. Any person who shall violate any of the provisions of this Order or shall impede or interfere with any action ordered or taken pursuant to this Order, shall be subject to the penalties provided by law under N.J.S.A. App. A:9-49.

8. This Order shall take effect immediately and shall remain in effect until December 31, 2005.

Dated October 26, 2004.

EXECUTIVE ORDER No. 140

WHEREAS, On July 9, 2004, legislation providing for the implementation of the State Development and Redevelopment Plan (March 1, 2001) (the "State Plan") through, inter alia, the establishment of a Smart Growth Ombudsman in the Department of Community Affairs ("DCA") and the creation of a Division of Smart Growth in each of the Departments of Environmental Protection ("DEP"), Transportation ("DOT") and DCA, as well as providing for the expediting of certain State permits in designated smart growth areas and other regulatory reforms, became law ("P.L.2004, c. 89") upon my signature; and

WHEREAS, New Jersey's Legislative and Executive branches of government have consistently sought to protect New Jersey's natural resources and the quality of life of its citizens from the effects of unrestrained and haphazard sprawl, while at the same time providing reasonable opportunities for growth, expansion, and development throughout the State, and have declared that New Jersey requires sound and integrated Statewide planning and coordination with interested parties at the local and regional levels; and

WHEREAS, The State Plan is currently the subject of a cross-acceptance process to better identify areas encompassing sensitive natural resources, including state and federally protected resources and species and wetlands; and

WHEREAS, The State of New Jersey is further committed to promoting the protection of human health and the environment, empowerment via public involvement, and the dissemination of relevant information to inform and educate; and

WHEREAS, The State has a paramount interest in protecting the integrity of government decisions, including the granting and denial of permits, and to ensure propriety, fairness and thoroughness in the decision-making process; and

WHEREAS, P.L.2004, c.89 requires DCA, DEP and DOT each to develop a program for the qualification and registration of professionals within 120 days of its enactment; and

WHEREAS, P.L.2004, c.89 authorizes DEP, DOT and DCA each to adopt rules and regulations in accordance with the New Jersey Administrative Procedure Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.) (the "APA") to implement the requirements of P.L.2004, c. 89; and

WHEREAS, P.L.2004, c.89 expressly provides that its provisions should not "be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program;" and

WHEREAS, The State of New Jersey presently receives considerable federal funding in grants and loans to implement federal laws and programs, and it is in the best interests of the State to ensure the continuation of this important partnership; and

WHEREAS, Representatives of the federal government have raised issues regarding the effects of P.L.2004, c.89 on federal programs; and

WHEREAS, It is imperative that DEP, DOT and DCA carefully develop rules to fully implement P.L.2004, c. 89 while simultaneously ensuring the continuation of all federal programs and financial arrangements, and the continuation of adequate opportunities for public notice and participation in the permitting process; and

WHEREAS, The pre-proposal process for administrative rulemaking pursuant to the APA has been used successfully by State agencies and the Office of Administrative Law in other contexts to ensure full public participation, thoroughness and due deliberation in rulemaking;

NOW, THEREFORE, I, JAMES E. McGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, hereby ORDER and DIRECT as follows:

1. Not later than November 8, 2004, the New Jersey Department of Environmental Protection, the Department of Transportation, and the

Department of Community Affairs shall file a notice of pre-proposal, in accordance with N.J.A.C. 1:30-5.3, with the Office of Administrative Law for publication in the New Jersey Register, pursuant to the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-4(e), in order to elicit the views of interested parties concerning rules for the program for qualification and registration of professionals and rules to implement the other provisions of P.L.2004, c. 89.

2. The public comment period on the pre-proposal shall be 90 days, and within 120 days of the close of the public comment period on the pre-proposal, the departments shall each file proposed rules governing the qualification and registration of professionals and proposed rules to implement the other provisions of P.L.2004, c. 89 with the Office of Administrative Law for public notice and comment pursuant to the APA.

3. Until such time as the rules described in the preceding paragraph are adopted in accordance with the APA, no expedited permit, permit-by-rule, or general permit under P.L.2004, c. 89 may be accepted for review by any division or department.

4. In setting standards for technical completeness of permit applications under P.L.2004, c.89, the departments shall include requirements for reasonable public notice and opportunities for public comment in order for a permit application to be eligible for processing under P.L.2004, c. 89.

5. In addition to the foregoing, with respect to the following programs, DEP shall conform implementation of the expedited permitting provisions of P.L.2004, c.89, to the extent those provisions are applicable, with the federal agencies' standards and protections to ensure that such regulations do not, directly or indirectly, modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program: Coastal Permit Program Rules (including the Waterfront Development Act, Wetlands Act of 1970, Freshwater Wetlands Protection Act., Flood Hazard Area Control Act, Endangered Non-game Species Conservation Act); Freshwater Wetlands Protection Act; Toxic Catastrophe Prevention Act; Spill Compensation Control Act; Transportation of Hazardous Liquids Act; Industrial Establishments Act; New Jersey Environmental Infrastructure Trust Act; New Jersey Safe Drinking Water Act; New Jersey Water Pollution Control Act; Water Supply Bond Act; Wastewater Treatment Bond Act of 1985; Water Quality Management Planning Act; Industrial Site Recovery Act; Underground

Storage of Hazardous Substance Act; and Brownfields and Contaminated Site Remediation Act.

6. This Order shall take effect immediately.

Dated November 5, 2004.

EXECUTIVE ORDER No. 1

WHEREAS, Population growth, economic stresses, emergency and disaster needs, and other factors have increased the demand for community-based mental health services and hospital treatment throughout New Jersey; and

WHEREAS, These demands have placed undue stress and strain on community-based mental health services for New Jersey citizens, increased the number of persons seeking inpatient treatment in local community hospitals and at county-operated facilities, and increased the census at State adult psychiatric hospitals; and

WHEREAS, There is a need for greater access to safe and affordable housing, community-based mental health services, and supportive social services that has resulted in increased lengths of stay in hospital settings, utilization of substandard community housing and homelessness; and

WHEREAS, It is in the best interests of the citizens of this State to provide a comprehensive mental health services system so as to assure the availability of, and access to, treatment, rehabilitation, and supportive services necessary to assist persons with mental illness reach and maintain their highest level of functioning in the least restrictive setting;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a Governor's Task Force on Mental Health (hereinafter "Task Force") which shall (a) undertake a comprehensive review of New Jersey's mental health system, and (b) make recommenda-

tions to the Governor and the Legislature concerning legislative, regulatory and administrative changes that are needed to improve the delivery of and access to mental health services in New Jersey.

2. The Task Force shall consist of 11 voting members, including 10 public members appointed by the Governor to serve at his pleasure, and the Commissioner of Human Services, or his designee, ex-officio. The Governor shall designate a Chair and Vice-Chair from among the members of the Task Force. The public members may be professionals or advocates experienced in the field of mental health or related services.

3. The Task Force shall organize as soon as practicable after the appointment of its members. Vacancies on the Task Force shall be filled by appointment by the Governor. The members of the Task Force shall serve without compensation.

4. For the purpose of assisting it in meeting its responsibilities under this Executive Order, the Task Force shall (a) convene a Statewide Mental Health Summit; (b) hold at least three regional public hearings; and (c) form advisory committees that may include non-members of the Task Force.

5. The following State Departments or agencies are authorized and directed, to the extent consistent with law and within budgetary constraints, (a) to appoint a liaison to the Task Force, (b) to cooperate with the Task Force and (c) to furnish it with such information, personnel and assistance as are necessary to accomplish the purposes of this Order:

- NJ Department of Corrections
- NJ Department of Health & Senior Services
- NJ Department of Community Affairs
- NJ Department of Transportation
- NJ Department of Labor & Workforce Development
- NJ Department of Education
- NJ Department of Law & Public Safety
- NJ Department of the Treasury
- NJ State Parole Board

In addition, the Department of Human Services shall furnish the Task Force with such staff, office space and supplies as are necessary to accomplish the purposes of this Order.

6. The Task Force is charged with the responsibility for reviewing and evaluating the following:

- the current effectiveness of the mental health system in New Jersey;
- the availability, accessibility and gaps in the mental health services and insurance provided;
- mental health housing needs;
- employment, training and education needs;
- community support services and inpatient services;
- the current State hospital system, including capital needs; and
- ways to redirect more services to the community and to divert hospitalizations.

7. The Task Force shall develop specific recommendations concerning the following:

- increasing bed capacity at the State psychiatric facilities;
- a strategy that addresses housing and services for people with mental illness;
- enhancing and correcting the Residential Health Care Facilities/boarding homes/single room occupancy serving the mental health population. In this regard the Task Force should consider (a) increasing licensing monitoring by the Departments of Community Affairs and Health & Senior Services; (b) creating a fund for maintenance for owners under determined criteria; (c) expanding case management services for residents; (d) expanding training for operators in areas such as substance abuse, nutrition, first aid and the like; and (e) increasing the SSI State supplement for homes meeting an established standard;
- increasing the community capacity for behavioral health services, which will include, but not be limited to, mobile outreach services;
- diversionary programs, outpatient services and outreach to the criminal justice system;
- "Wellness and Recovery" services in the community and in the hospital setting; and
- parity for mental health services.

8. The Council may meet and hold hearings at such place or places as it shall designate and shall report its findings and recommendations to the Governor and the Legislature by March 31, 2005.

9. This Order shall take effect immediately.

Dated November 16, 2004.

EXECUTIVE ORDER No. 2

WHEREAS, U.S. Army Reserve Major Charles Robert Soltes, was raised in Boonton Township and was graduated from Morris Catholic High School in 1986; and

WHEREAS, Major Soltes attended Norwich Military College in Northfield, Vermont, and, upon graduation, enrolled in the New England College of Optometry, where he met his wife Sally; and

WHEREAS, Major Soltes was a Major in the U.S. Army Reserve who proudly served as a preventive health specialist with the 426th Civil Affairs Battalion in Mosul, Iraq; and

WHEREAS, Major Soltes was a courageous soldier, and a loving husband, father, son and brother; and

WHEREAS, Major Soltes has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Major Soltes' patriotism and dedicated service to his country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Wednesday, November 17, 2004, in recognition and mourning of U.S. Army Reserve Major Charles Robert Soltes.

2. This Order shall take effect immediately.

Dated November 17, 2004.

EXECUTIVE ORDER No. 3

WHEREAS, It is critical that all public officials earn and maintain the respect and confidence of the people they represent; and

WHEREAS, Those in government hold positions of public trust that require adherence to the highest ethical standards of honesty, integrity and impartiality; and

WHEREAS, All public servants must avoid conduct which violates their public trust or which creates a justifiable impression among the public that such trust is being violated; and

WHEREAS, It is a priority of my Administration to restore the public trust and public confidence in State government; and

WHEREAS, A necessary first step in this process is to reassess the effectiveness of the ethical standards and training that guide the conduct of State officers and employees within the Executive Branch of government and the independent State authorities; and

WHEREAS, While the Executive Commission on Ethical Standards has performed a valuable role in interpreting and providing guidance on existing State ethics laws, it is important that the State of New Jersey seek additional independent review and analysis of existing ethical laws and standards;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The State of New Jersey shall engage Special Counsel for Ethics Review and Compliance (hereinafter "Special Counsel"). The Special Counsel shall be appointed by and report directly to the Acting Governor.

2. Within 120 days from the date of this Order, the Special Counsel shall conduct an Ethics Compliance Audit to identify potential improvements in ethics laws, regulations, codes, training, compliance monitoring and enforcement. The Special Counsel shall report the results of the Ethics Compliance Audit to the Acting Governor.

3. Within 120 days from the date of this Order, the Special Counsel shall present to the Acting Governor a comprehensive Ethics Report on improvements to existing ethics laws, regulations and codes and a Compliance Plan that will mandate measures that the Office of the Governor and each Executive Branch agency and independent authority must adopt in order to improve and strengthen compliance with State ethics laws.

4. The Special Counsel shall, in conjunction with the Executive Commission on Ethical Standards, develop and implement a mandatory Ethics Training Program for Executive Branch officers and employees and for the independent authorities.

5. The Special Counsel shall review the requirements of Executive Order No. 10 (2002), the Code of Conduct for the Governor and the Code of Conduct for the staff of the Office of the Governor and shall recommend any appropriate changes to the Acting Governor.

6. This Order shall take effect immediately.

Dated November 17, 2004.

EXECUTIVE ORDER No. 4

I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. November 26, 2004, the day following Thanksgiving, shall be granted as a day off to employees who work in the Executive Departments of State Government and who are paid from State funds or from federal funds made available to the State, whose functions, in the opinion of their appointing authority, permit such absence.

2. An alternate day shall be granted to the aforementioned category of employees whose functions, in the opinion of their appointing authority, precludes such absence on November 26, 2004.

Dated November 17, 2004.

EXECUTIVE ORDER No. 5

WHEREAS, U.S. Army Specialist Bryan L. Freeman, Jr., graduated from Rancocas Valley Regional High School in 1991 and attended Rowan University and the College of New Jersey, before leaving school to enlist in the U.S. Army, where he served for four and a half years; and

WHEREAS, Specialist Freeman continued his college studies in the Army and eventually earned his Criminal Justice degree from Rowan University in 1997; and

WHEREAS, Specialist Freeman worked as a drug and alcohol counselor, before resigning to re-enlist in the U.S. Army Reserves in 2004, with the hope of eventually becoming a New Jersey State Trooper; and

WHEREAS, Specialist Freeman served proudly as a member of the 404th Civil Affairs Battalion of Fort Dix, and then with A Company of the 443rd Civil Affairs Battalion, U.S. Army Reserve, Warwick, Rhode Island and was deployed to Iraq in the service of his country; and

WHEREAS, Specialist Freeman was a courageous soldier and a loving son and brother; and

WHEREAS, Specialist Freeman has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Specialist Freeman's patriotism and dedicated service to his country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Friday, November 19, 2004, in recognition and mourning of U.S. Army Specialist Bryan L. Freeman, Jr.

2. This Order shall take effect immediately.

Dated November 19, 2004.

EXECUTIVE ORDER No. 6

WHEREAS, U.S. Marine Corps Corporal Marc T. Ryan, a lifelong resident of the State of New Jersey, graduated from Gloucester City High School in 1998, where he was captain of the football team; and

WHEREAS, After attending Wesley College for two years, Corporal Ryan enlisted in the United States Marine Corps, following in the family tradition established by his father and grandfather; and

WHEREAS, Corporal Ryan served proudly as a member of the U.S. Marine Corps' 2nd Battalion, 5th Marine Regiment, 1st Marine Division, 1 Marine Expeditionary Force and was deployed to Afghanistan in the service of his country shortly after the September 2001 terrorist attacks; and

WHEREAS, Corporal Ryan subsequently was deployed to Iraq for two tours of duty before volunteering to return in September 2004 for a third tour of duty; and

WHEREAS, Corporal Ryan was a courageous soldier and a loving son and brother; and

WHEREAS, Corporal Ryan has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Corporal Ryan's patriotism and dedicated service to his country makes him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Tuesday, November 23, 2004, in recognition and mourning of U.S. Marine Corps Corporal Marc T. Ryan.

2. This Order shall take effect immediately.

Dated November 22, 2004.

EXECUTIVE ORDER No. 7

WHEREAS, The State of New Jersey expends more than $28 billion in taxpayer money each year, and agencies at other levels of government spend billions more; and

WHEREAS, It is fundamental that all government officials must be publicly accountable for such expenditures; and

WHEREAS, Promoting integrity in the administration and operations of government and improving public accountability will be cornerstones of my Administration; and

WHEREAS, One of the immediate remedial actions that can be taken to improve such accountability is to identify areas where State spending is wasteful or inefficient; and

WHEREAS, As Acting Governor, I have a 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; and

WHEREAS, N.J.S.A. 52:27B-31 and -26 empower the Governor to guard against extravagance, waste or fiscal mismanagement in the administration of any State appropriations; and

WHEREAS, 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 government's fiscal resources that have been entrusted to their care by the taxpayers; and

WHEREAS, 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,

boards of education, and private entities and individuals who receive State grant funds;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created an Office of the Inspector General, which shall be headed by the Inspector General.

2. The Inspector General shall be appointed by and shall report directly to the Governor. The Inspector General shall serve for the term of the Governor, and until his successor is appointed and has qualified, unless a longer term of office is established by the Legislature. During said term of office, the Inspector general shall be removable by the Governor for cause.

3. The Inspector General shall be precluded from being a candidate for or holding elected office for a period of two years following that individual's service as Inspector General.

4. 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 all State departments and agencies, independent authorities, county and municipal governments and boards of education. The Inspector General is granted all necessary powers to carry out this task, including the power to conduct investigations, audits, evaluations, inspections and other reviews in accordance with professional standards relating to such investigations and audits in government environments.

5. The Inspector General is further authorized to 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.

6. The Inspector General shall establish the internal organization structure appropriate to carrying out the responsibilities and functions of the Office. The Inspector General shall have the power to appoint, employ,

promote and remove such assistants, employees and personnel as deemed necessary for the efficient and effective administration of the Office. Within budget limitations, the Inspector General may obtain the services of Certified Public Accountants, qualified management consultants and other professionals necessary to independently perform the functions of the Office.

7. The State Treasurer is hereby directed to identify, from among existing resources, sufficient funds necessary to properly staff and operate the Office of Inspector General and to make such funds available to the Inspector General.

8. The Inspector General is authorized to receive and investigate complaints concerning alleged fraud, waste, abuse or mismanagement of State funds. The Inspector General shall refer complaints alleging criminal conduct to the Attorney General or other appropriate prosecutorial authority. The Inspector General is further authorized to cooperate and conduct joint investigations with other oversight or law enforcement authorities.

9. The Inspector General shall report the findings of such audits or investigations performed by the Office and to issue recommendations for corrective or remedial action to the Governor and to the entity at issue. The Inspector General shall further monitor the implementation of those recommendations. The Inspector General may also refer matters for further civil, criminal and administrative action to the appropriate authorities.

10. The Inspector General shall provide periodic reports to the Governor and shall issue a public annual report to the Governor and the Legislature.

11. The Inspector General is authorized to call upon any department, office or agency of State government to provide such information, resources or other assistance deemed necessary to discharge the responsibilities under this Order. Each department, officer, division and agency of this State is required to cooperate with the Inspector General and to furnish the Office with assistance necessary to accomplish the purposes of this Order.

12. This Order shall take effect immediately.

Dated November 29, 2004.

EXECUTIVE ORDER No. 8

WHEREAS, U.S. Army Private First Class Stephen C. Benish, was born in Rahway and raised in Linden and Clark Township and was graduated from Arthur L. Johnson High School and the Union County Vocational-Technical High School in 2002; and

WHEREAS, PFC Benish enlisted in the U.S. Army shortly after graduation, with the eventual hope of fulfilling his life-long ambition to become a firefighter; and

WHEREAS, PFC Benish served proudly as a member of the U.S. Army's First Battalion 503rd Infantry Regiment, Second Brigade Combat Team, Second Infantry Division and was deployed to Iraq in the service of his country in August 2004; and

WHEREAS, PFC Benish was a courageous soldier, and a loving son and brother; and

WHEREAS, PFC Benish has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, PFC Benish's patriotism and dedicated service to his country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Monday, December 6, 2004, in recognition and mourning of U.S. Army Private First Class Stephen C. Benish.

2. This Order shall take effect immediately.

Dated December 6, 2004.

EXECUTIVE ORDER No. 9

WHEREAS, It is essential that the citizens of the State of New Jersey have trust in the processes by which their taxpayer dollars are spent; and

WHEREAS, It is in the public interest for the State to monitor closely the activities of governmental affairs representatives, legislative agents, lobbyists and consultants with respect to their roles in influencing governmental processes, including the solicitation and retention of bond underwriters by the State of New Jersey, its departments, agencies and independent authorities, in order to ensure the integrity of government; and

WHEREAS, It is essential that the public have confidence that the selection of bond underwriters by the State is based on merit and not on political connections or political contributions made by, or on behalf of, such underwriters; and

WHEREAS, It has been a practice of some bond underwriting firms in recent years to engage consultants, other than firm principals or registered lobbyists, to solicit underwriting business from the State of New Jersey; and

WHEREAS, In some cases, these consultants are politically active, and also may be engaged in soliciting and providing campaign contributions; and

WHEREAS, In some cases, these consultants may receive from the underwriters, as compensation for their activities, a commission based on a percentage of the fees paid by the State for underwriting services; and

WHEREAS, It is imperative that, as we embark on a new administration, every effort be made to remove both the actual and perceived influence of money on government; and

WHEREAS, Current statutory law already prohibits registered legislative agents from accepting contingency fees to influence legislation or regulation; and

WHEREAS, All of the sound policy reasons that support the current statutory prohibition against contingency fees to influence legislation or

regulation certainly apply with equal, if not greater, force with respect to the solicitation and retention of bond underwriting business by the State; and

WHEREAS, It has long been the public policy of this State to secure for taxpayers the benefits of competition, to promote the public good by ensuring the honesty and integrity of bidders for public contracts, and to guard against favoritism, improvidence, extravagance and corruption, or the appearance thereof, in order to benefit the taxpayers; and

WHEREAS, The Constitution of this State requires me, as Acting Governor, to manage the operations of State government effectively and fairly, to uphold the law to ensure public order and prosperity, and to confront and address impropriety, or the appearance thereof, in whatever form it may take; and

WHEREAS, It is appropriate that I, as Acting Governor, expand the stringent policies and procedures that already apply generally with respect to government contracts for services, materials, supplies and equipment, by imposing additional restrictions concerning bond underwriting services; and

WHEREAS, Imposing such additional restrictions will promote efficiency by relieving the underwriting firms of an unnecessary expense and, more importantly, will remove an opportunity for political or monetary interference with the fiduciary responsibilities of State government;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and Statutes of this State, do hereby ORDER and DIRECT:

1. In all cases where bond underwriting services are or may be required by the State of New Jersey or any of its departments, agencies or independent authorities, the affected department, agency or independent authority shall deal directly with the principals of the involved underwriting firms or their registered lobbyists. The affected department, agency or independent authority shall not discuss, negotiate, or otherwise interact with any third-party consultant, other than principals of underwriting firms and their registered lobbyists, with respect to the possible engagement of the firm to provide bond underwriting services.

2. Additionally, it shall be the policy of the State to require any bond underwriting firm seeking to provide underwriting services to provide a certification stating that the firm has not employed or retained, directly or indirectly, any consultant who will be paid on a contingency basis if the State engages the firm to provide such underwriting services. Every contract and bid application and specifications promulgated in connection therewith covered by this Order shall contain a provision describing the requirements of this Order and a statement that compliance with this Order shall be a material term and condition of said contract and/or bid application and binding upon the parties thereto upon the entry of all applicable contracts.

3. This Order shall not prohibit the awarding of a contract for underwriting services when a public exigency requires the immediate performance of such services as determined by the State Treasurer.

4. This Order shall take effect immediately.

Dated December 6, 2004.

EXECUTIVE ORDER No. 10

WHEREAS, The rapid pace of change in both the increasingly interdependent global economy and the American workplace demands that students acquire far more rigorous mathematics skills; and

WHEREAS, Current data indicates that many children throughout the State of New Jersey are not acquiring the mathematics skills necessary to be successful in the future; and

WHEREAS, Results from the 2004 Statewide mathematics assessments at grades 4, 8 and 11 demonstrate that far too many students are not performing at the proficient level; and

WHEREAS, Results from the 2004 Special Review Assessment summer pilot project for students who did not pass the High School Proficiency Assessment during their junior year indicate that a short-term, intense math program may not provide students with the foundation they need to succeed at higher level math coursework; and

WHEREAS, There are too few qualified math teachers to fill existing vacancies throughout the State of New Jersey; and

WHEREAS, State teacher certification requirements now require standards based teacher preparation and current models for preparing math teachers need to be changed to reflect both the new certification rules and the needs of a complex global society; and

WHEREAS, The State of New Jersey has a compelling interest to take the necessary steps to address the problems of teacher shortages, teacher preparation and professional development and math achievement; and

WHEREAS, The State of New Jersey recognizes that efforts to improve math achievement must include a broad base of support from all stakeholders; and

WHEREAS, The State of New Jersey has a compelling interest to engage the talent and expertise of experts and practitioners throughout the State to help achieve these goals; and

WHEREAS, The State of New Jersey has a compelling interest to begin work immediately to prepare its children for success in the 21st century global economy;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Commissioner of Education shall form a Mathematics Task Force, which will include representatives from the K-12, higher education, business, and foundation communities, and the Legislature.

2. The Mathematics Task Force shall be charged with developing a collaborative plan that addresses the following:

a. Improving the preparation of teachers in the mathematics content area.

b. Improving professional development for teachers in the mathematics content area.

c. Improving mathematics instruction for grades K to 12.

d. Improving student achievement in mathematics for students in grades K to 12, including the gap in minority achievement.
e. Increasing recruitment and retention of mathematics teachers.
f. Aligning K-12 mathematics instruction with college admission.

3. The Task Force shall submit its report to the Governor no later than May 1, 2005.

4. This Order shall take effect immediately.

Dated December 10, 2004.

EXECUTIVE ORDER No. 11

WHEREAS, U.S. Army Specialist David Mahlenbrock, a resident of Maple Shade, graduated from Maple Shade High School in 2002, where he was a member of the football team and captain of the wrestling team; and

WHEREAS, Specialist Mahlenbrock enlisted in the U.S. Army shortly after graduation, and planned to make a career of his service in the Army; and

WHEREAS, Specialist Mahlenbrock served proudly as a member of the U.S. Army's 65th Engineer Battalion, 25th Infantry Division, and was deployed to Iraq in the service of his country in January 2004; and

WHEREAS, Specialist Mahlenbrock was a courageous soldier, and a loving husband, father, son and brother; and

WHEREAS, Specialist Mahlenbrock has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Specialist Mahlenbrock's patriotism and dedicated service to his country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the

Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Monday, December 13, 2004, in recognition and mourning of U.S. Army Specialist David Mahlenbrock.

2. This Order shall take effect immediately.

Dated December 10, 2004.

EXECUTIVE ORDER No. 12

WHEREAS, The marine and coastal environment is an important natural resource and the subject of a public trust administered by government for the benefit of all citizens; and

WHEREAS, The marine and coastal environment is also an important economic and recreational resource; and

WHEREAS, The protection of this resource is a primary responsibility of State government; and

WHEREAS, The protection of this resource requires adequate planning and regulation; and

WHEREAS, As part of a much-needed effort to reduce air pollution and other negative consequences of relying too heavily on fossil and nuclear fuels, the State of New Jersey has actively encouraged the use of renewable energy including solar and wind power; and

WHEREAS, There has been significant interest in the use of coastal waters for the development of wind turbine facilities; and

WHEREAS, The development of offshore wind turbine facilities has the potential to affect marine, recreational, avian and scenic resources and other offshore and onshore uses; and

WHEREAS, The State is committed to the use and production of electricity through renewable resources and through responsible planning and regulation; and

WHEREAS, The State has the authority to regulate activities occurring in the coastal zone, including its three nautical mile territorial sea, pursuant to the Submerged Lands Act of 1953, 43 U.S.C. 1301 et seq.; Coastal Area Facility Review Act, N.J.S.A. 13:19-1 et seq.; Waterfront Development Act, N.J.S.A. 12:5-3; Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq.; and State Tidelands law; and

WHEREAS, The State of New Jersey has Federal Consistency review authority pursuant to Section 307 of the Coastal Zone Management Act, 16 U.S.C. 1451 et seq., for activities occurring in its coastal zone and in Federal waters where there is a reasonably foreseeable effect on the uses and resources of New Jersey's coastal zone; and

WHEREAS, Prior to the construction of any offshore wind turbine facilities, there is a vital need for the State of New Jersey to identify and weigh the costs and benefits of such development and to determine if building such facilities is appropriate; and

WHEREAS, There is a vital need for the State to develop policies governing the development of offshore wind turbine facilities, if these facilities are found to be appropriate and in the public interest;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER AND DIRECT:

1. There is hereby created a Blue Ribbon Panel on Development of Wind Turbine Facilities in Coastal Waters (hereinafter "Blue Ribbon Panel"), which shall consist of 9 members, including 6 public members appointed by the Governor from among persons representing environmental, academic, tourism and local government interests, and 3 ex officio voting members, the Commissioner of the Department of Environmental Protection, the President of the Board of Public Utilities and the Chief Executive Officer and Secretary of the Commerce and Economic Growth Commission. The ex officio members may appoint a designee to serve on the Panel in their absence.

2. The Governor shall appoint one of the 6 public members to serve as Chair of the Blue Ribbon Panel. The members of the Panel shall serve at the pleasure of the Governor and shall not receive compensation for their service on the Panel.

3. The Blue Ribbon Panel is charged with identifying and weighing the costs and benefits of developing offshore wind turbine facilities, and considering both economic and environmental costs and benefits. The Blue Ribbon Panel shall also consider the need for offshore wind turbines and a comparison to other electric power sources, including fossil, nuclear and renewable fuels as part of the State's long-term electricity needs. The Blue Ribbon Panel shall submit to the Governor, within 15 months, a report providing policy recommendations regarding the appropriateness of developing offshore wind turbine facilities.

4. Prior to the issuance of its report, the Blue Ribbon Panel shall hold at least three public hearings to solicit input from the public and may hold meetings with stakeholders as necessary.

5. The Board of Public Utilities shall not fund, and the DEP shall not approve, the development of wind turbine facilities or supporting infrastructure in coastal waters for 15 months during the deliberations of the Blue Ribbon Panel.

6. The Department of Environmental Protection, the Board of Public Utilities and the Commerce and Economic Growth Commission shall provide staff assistance to the Blue Ribbon Panel. The Panel 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 its responsibilities under this Order. Each department, office, division and agency of this State is required to cooperate with the Commission and to furnish it with such information and assistance as is necessary to accomplish the purposes of this Order.

7. This Order shall take effect immediately.

Dated December 23, 2004.

EXECUTIVE ORDER No. 13

WHEREAS, The world's most powerful earthquake in over 40 years in the Indian Ocean and the resulting Tsunamis have resulted in the deaths of over 155,000 persons and massive destruction in South Asia; and

WHEREAS, The State of New Jersey recognizes the need to remember and honor the memory of the victims of this horrible tragedy;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours from Wednesday, January 5, 2005, through Friday, January 7, 2005 in recognition and mourning of the victims of the Tsunami disaster.

2. This Order shall take effect immediately.

Dated January 5, 2005.

EXECUTIVE ORDER No. 14

WHEREAS, U.S. Marine Lance Corporal Brian P. Parrello, a resident of New Jersey, graduated from West Milford High School in 2003, where he was a member of the football and ice hockey teams; and

WHEREAS, Lance Corporal Parrello postponed attending college and pursuing his goal of becoming a history teacher in order to enlist in the U.S. Marine Corps; and

WHEREAS, Lance Corporal Parrello served proudly as a member of the 2nd Marine Division's II Marine Expeditionary Force, and was deployed to Iraq in the service of his country in September 2004; and

WHEREAS, Lance Corporal Parrello was a courageous soldier, and a loving son and brother; and

WHEREAS, Lance Corporal Parrello has made the ultimate sacrifice, giving his life in the line of duty while fighting for our country; and

WHEREAS, Lance Corporal Parrello's patriotism and dedicated service to his country make him a hero and a true role model for all Americans and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Saturday, January 8, 2005 in recognition and mourning of U.S. Marine Lance Corporal Brian P. Parrello.

2. This Order shall take effect immediately.

Dated January 7, 2005.

REORGANIZATION PLANS

(1781)

REORGANIZATION PLAN NO. 001-2004
A PLAN FOR THE TRANSFER, CONSOLIDATION AND REORGANIZATION OF THE STATE'S WORKFORCE DEVELOPMENT SYSTEM INTO THE DEPARTMENT OF LABOR

PLEASE TAKE NOTICE that on January 13, 2004, Governor James E. McGreevey hereby issues the following Reorganization Plan No. 001-2004 ("the Plan"), to improve efficiency, coordination, and interaction of workforce development system components within the State of New Jersey. The Plan consolidates responsibility for all employment-directed and workforce development activities, as well as all or a portion of the organizational units responsible for such functions, from the Departments of Human Services and Education, to the Department of Labor. The Plan furthers ongoing efforts of the Executive Branch to improve qualitative and quantitative services to the public, improve efficiency, and meet the challenges of a changing workplace in a competitive economy.

GENERAL STATEMENT OF PURPOSE

New Jersey is committed to an efficient, innovative, and flexible integrated workforce system that promotes the development of labor market skills and provides employers with ready access to qualified workers. The development and maintenance of a skilled workforce is critical to preserve and improve the position of New Jersey in increasingly competitive regional, national, and world economies. A skilled workforce is also a necessary component of continued job growth, increased investment, and rising real incomes, factors that, in turn, improve the quality of life for all residents of the State.

The Departments of Education, Human Services, and Labor presently administer a variety of employment-directed and workforce development programs and activities. However, a single administrator of these related programs and services, as described herein, is necessary to respond more quickly, flexibly, and efficiently to challenges presented by a changing workplace.

The consolidation of all employment-directed and workforce development programs and activities in the Department of Labor will improve their efficiency and effectiveness, further strengthen the innovative One-Stop Career Center System, and improve cooperation between and among

Federal, State, and local governments. The unified, comprehensive workforce delivery system envisioned by this Plan will place New Jersey in the forefront of similar consolidation efforts throughout the United States.

The Plan consolidates responsibility in the Department of Labor, for all employment-directed and workforce development programs and activities of the Work First New Jersey Program (WFNJ) established pursuant to P.L. 1997, c.13, c.14, c.37 and c.38 (C.4:10-54 et seq., 44:10-53 et seq., 44:10-55 et seq.) and Federal Food Stamp Act of 1977, as amended, (P.L.95-113, September 29, 1977, 91 Stat. 913, 7 U.S.C. 2011 et seq.) (FSA) implemented through N.J.A.C.10:87-1.1 et seq. currently administered by the Department of Human Services. The Department of Labor will assume responsibility for all employment and job-readiness activities in WFNJ and FSA including career guidance, labor market information, employability assessment, employability plan development, employment-directed case management, subsidized and unsubsidized employment in the public and private sectors, on-the-job training, employment-directed outreach, Early Employment Initiative, Career Advancement Vouchers, the Community Work Experience Program, the Alternative Work Experience Programs, community service programs, job search and job readiness assistance, vocational educational training, employment-related education and job skills training, basic skills/literacy, work-related educational enhancements, employment and training related expenses and determination of need, access, and referral to the necessary work support services to ensure an individual can participate in the employment-directed and training activities prescribed in their employment development plan, including, but not limited to, child care, transportation, substance abuse and mental health initiatives. These activities are currently funded, in whole or in part, directly or indirectly, pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended (Pub.L. 104-93, August 22, 1996, 110 Stat. 2105, 42 U.S.C. 601), the Federal Food Stamp Act of 1977, as amended, (Pub.L. 95-113, September 29, 1977, 91 Stat. 913, 7 U.S.C. 2011 et seq.), and WFNJ (P.L. 1997,c.13, c.14, c.37, and c.38, (C.4:10-54 et seq., 44:10-53 et seq., 44:10-55 et seq.)). This Plan shall apply to any and all current or future employment-directed and workforce development programs and activities that are appropriate under these laws.

The Plan consolidates all responsibility in the Department of Labor, for the State-funded New Jersey Youth Corps program (P.L.1984, c.198, (C.9:25-1 et seq.)), currently administered under the Department of Human

Services. The New Jersey Youth Corps is a full-time instructional and community service program for school dropouts, with completion of a high school curriculum, continuing education, apprenticeship, and employment as the ultimate goal. Activities under the program include, but are not limited to, basic skills education, work readiness, employability skills, job development, career counseling, job placement and community-based service work. The program shall also provide support for Youth Corps participants, as needed, that include: independent living skills, development of self-esteem, mental health and wellness, access to childcare, pregnancy and violence prevention, parenting instruction, substance abuse counseling, housing and transportation assistance. The Department of Labor currently administers Title I of the Workforce Investment Act, (Pub.L. 105-220, August 7, 1998, 112 Stat. 936, 29 U.S.C. 2801 et seq.) which includes services for youth. In addition, the Department of Labor administers the At-Risk Mentoring Program under the Workforce Development Program to prevent youth from dropping out of high school.

The Plan consolidates responsibility in the Department of Labor, for Adult Basic Education/English as a Second Language (ABE/ESL) programs, authorized by Title II of the Workforce Investment Act (Pub.L. 105-220, August 7, 1998, 112 Stat. 936, 29 U.S.C. 2801 et seq.) and currently administered by the Department of Education. The Department of Labor currently administers the Supplemental Workforce Fund for Basic Skills, which provides coordinated occupational, English as a Second Language, basic skills training, and employability services through the One-Stop Career Center Systems and Customized Training Program. The Department of Labor also currently administers the labor exchange system which provides labor market information, employability assessment and development, resume writing, interviewing skills, job search assistance, and career counseling skills services as a core function. Not included in this reorganization are administration of General Equivalency Diploma testing and the Adult High School Program (P.L.1972, c.191 (C.18A:50-12 et seq.)) and the evening schools for the Foreign Born (P.L.1967, c.271 (C.18A:49-1 et seq.)), which shall remain at the Department of Education.

The Plan transfers responsibility from the Department of Education to the Department of Labor to: (1) approve private vocational schools that operate programs of trade and technical education, or which give pre-employment or supplementary training to the public, (2) establish and approve training providers' programs, and (3) enforce laws and regulations that govern the operation of such private vocational schools currently

codified at Chapter 18 of Title 6A of the Administrative Code, P.L.1981, c.531 (C.44:12-2), and P.L.1967, c.271 as amended by P.L.1987, c.375 (C.18A:69-2 et seq.).

The Plan transfers from the Department of Education to the Department of Labor, with the approval of the United States Department of Labor, the joint registration/approval of registered apprenticeship programs, currently codified at N.J.A.C.6A:19, Subchapter 9, in the State as part of an agreement with the United States Department of Labor, Bureau of Apprenticeship and Training. Curricula review shall remain under the authority of the local apprenticeship coordinator, as determined by the Department of Labor under authorization from the United States Department of Labor.

The State Employment and Training Commission will issue planning guidance for the consolidation of programs, services, and funds at the local level. The local Workforce Investment Board, in collaboration with all local One-Stop partners, will lead the local planning process. If local plans cannot be agreed upon, a panel consisting of the Commissioners of the Departments of Labor, Human Services, and Education, and the Executive Director of the State Employment and Training Commission, or their designees, shall review and resolve any outstanding issues.

NOW, THEREFORE, pursuant to the provisions of the Executive Reorganization Act of 1969, P.L.1969, c.203 (C.52:14C-1 et seq.), I find with respect to the reorganization, transfer, and consolidation provided for in this Plan, that each aspect of the Plan is necessary to accomplish the purposes set forth in Section 2 of the Act and will:

1. Promote the better execution of the laws, the more effective management of the Executive Branch and its agencies and functions of the expeditious administration of the public business;

2. Promote economy to the fullest extent consistent with the efficient operation of the Executive Branch;

3. Increase the efficiency of the operations of the Executive Branch to the fullest extent practicable;

4. Group, coordinate and consolidate agencies and functions of the Executive Branch, as nearly as may be practical, according to major purposes;

5. Eliminate overlapping and duplication of effort within the Executive Branch by reallocating certain functions and responsibilities and thereby better utilizing the resources of the Executive Branch.

PROVISIONS OF THE REORGANIZATION PLAN

THEREFORE, I hereby order the following reorganization:

1. All functions, powers and duties relating to employment-directed and workforce programs and activities of the Department of Human Services as described below are continued and are transferred to the Department of Labor, including, but not limited to, tracking, scheduling and reporting client activity to the Department of Human Services or its representative, which complies with all associated Federal requirements.

a. Subject to the provisions of paragraph 3 below, all employment-directed and workforce programs and activities of the Work First New Jersey Program established pursuant to P.L.1997, c.13, c.14, c.37 and c.38 (C.44:10-34 et seq., 44:10-53 et seq., 44:10-71 et seq., 44:10-55 et seq.).

b. To the extent not set forth in subsection (a), and subject to the provisions of paragraph 3 below, all employment-directed and workforce programs and activities of the Department of Human Services funded, in whole or in part, directly or indirectly, by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended. (Pub.L. 104-93, August 22, 1996, 110 Stat. 2105, 42 U.S.C. 601).

c. To the extent not set forth in subsection (a), and subject to the provisions of paragraph 3 below, all employment-directed and workforce programs and activities of the Department of Human Services funded, in whole or in part, directly or indirectly, by the Federal Food Stamp Act of 1977, as amended and codified in Title VII of the United States Code. (Pub.L. 95-113, September 29, 1977, 91 Stat. 913, 7 U.S.C. 2011 et seq.).

d. All employment-directed and workforce programs, activities, supplemental services and supports, funded in whole or in part, directly or indirectly by the New Jersey Youth Corps Program (P.L.1984, c.198 (C.9:25-1 et seq.) and the New Jersey Department of Human Services.

2. All functions, powers, and duties of the Department of Human Services not transferred to the Department of Labor by this Plan shall remain with the Department of Human Services.

3. Nothing in the Plan shall alter the role or authority of the Department of Human Services as the single State agency for the administration of Title

IV-A (Temporary Assistance for Needy Families), Title IV-D (Child Support), and Food stamp programs. The Departments of Labor and Human Services shall enter into such interagency agreements which outline roles, responsibilities, time frames for implementation, standards of service and performance, within 30 days of the effective date of this Plan, consistent with the foregoing.

4. The programmatic, administrative, support staff, and equipment presently comprising the employment-directed and workforce development programs and activities within the Department of Human Services are transferred to the Department of Labor, with all of their present functions, powers, and duties, along with a proportionate share of those resources to maintain such programs and activities. These transfers shall be made as determined by interagency agreement between the Departments of Human Services and Labor after considering the number and type of positions presently utilized for support of the transferred programs and activities within the Department of Human Services and the appropriateness of transferring personnel, positions, funding, and related equipment. The Commissioner of the Department of Labor and the Commissioner of the Department of Human Services shall, within 30 days of the effective date of this Plan, enter into any and all interagency agreements necessary to effectuate this Plan.

5. All functions, powers and duties relating to employment-directed and workforce programs and activities as described below assigned to the Department of Education are continued and are transferred to the Department of Labor.

a. The administration and provision of adult education and literacy as defined under Title II of the Workforce Investment Act of 1998 Sections 210 to 241. (Pub.L. 105-220, August 7, 1998, 112 Stat. 936, 29 U.S.C. 2801 et seq.).

b. Operational authority for the approval of private trade and vocational schools and those activities commonly referred to as Chapter 531 review. (P.L.1977, c.290 (C.18A:54-10.1), P.L.1981, c.520 (C.44:12-2) and P.L.1967, c.271 as amended by P.L.1987, c.375 (C.18A:69-2 et seq.)). This does not include responsibility for curriculum review and instructor certifications, which remains in the Department of Education.

c. Registration and approval of registered apprenticeship programs under a joint agreement to be negotiated with the United States Department of Labor, Bureau of Apprenticeship and Training.

6. All functions, powers and duties not transferred to the Department of Labor by this Plan remain with the Department of Education.

7. The programmatic, administrative, support staff, and equipment presently comprising the employment-directed and workforce development programs and activities within the Department of Education, as described herein, are transferred to the Department of Labor, with all of their present functions, powers, and duties, along with a proportionate share of those resources to maintain such programs and activities. These transfers shall be made as determined by agreement between the Departments of Education and Labor after considering the number and type of positions presently utilized for support of the transferred programs and activities within the Department of Education and the appropriateness of transferring personnel, positions, funding, and related equipment. The Commissioner of the Department of Labor and the Commissioner of the Department of Education, shall, within 30 days of the effective date of this Plan, enter into any and all interagency agreements necessary to effectuate this Plan.

GENERAL PROVISIONS

1. I find this reorganization is necessary to accomplish the purposes set forth in Section 2 of P.L.1969, c.203. Specifically, this reorganization will promote the more effective management of the Executive Branch and its agencies, and it will promote economy to the fullest extent consistent with the efficient operation of the Executive Branch according to major purposes. It will group, coordinate and consolidate functions in a more consistent and practical manner, improve services and service delivery to New Jersey citizens and businesses, and eliminate overlapping and duplication of functions.

2. All acts and parts of acts and plans or parts of plans inconsistent with any of the provisions of this Plan are superseded to the extent of such inconsistencies.

3. If any provision of this Plan or the application thereof to any person, or circumstance, or the exercise of any power or authority hereunder is held invalid or contrary to law, such holding shall not affect other provisions or applications of the Plan, which can be given effect without the invalid provisions or applications of the Plan, or affect other exercises of power or authority under said provisions not contrary to law. To this end, the provisions of the Plan are declared to be severable.

4. This Plan is intended to protect and promote the public health, safety and welfare and shall be liberally construed to attain the objectives and effect the purposes thereof.

5. All transfers directed by this Plan shall be effected pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

A copy of this Reorganization Plan was filed on January 13, 2004 with the Secretary of State and the Office of Administrative Law for publication in the New Jersey Register. This Plan shall become effective in 60 days on March 13, 2004 unless disapproved by each House of the Legislature by the passage of a concurrent resolution stating in substance that the Legislature does not favor this Reorganization Plan, or at a date later than March 13, 2004, should the Governor establish such a later date for the effective date of the Plan, or any part thereof, by Executive Order.

PLEASE TAKE NOTICE that this Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the Public Laws and in the New Jersey Register under the heading of "Reorganization Plans."

Filed January 13, 2004.
Effective March 13, 2004.

REORGANIZATION PLAN NO. 002-2004 A PLAN FOR THE TRANSFER, CONSOLIDATION AND REORGANIZATION OF THE DIVISION OF ADDICTION SERVICES INTO THE DEPARTMENT OF HUMAN SERVICES

PLEASE TAKE NOTICE that on February 5, 2004, Governor James E. McGreevey hereby issues the following Reorganization Plan No. 002-2004 ("the Plan"), to provide for the increased efficiency, coordination and integration of the State's addiction prevention and treatment functions by the transfer of the functions, powers and duties of the Division of Addiction Services from the Department of Health and Senior Services to the Department of Human Services.

GENERAL STATEMENT OF PURPOSE

The Division of Addiction Services (DAS or Division) is a unit in the Department of Health and Senior Services (DHSS) responsible for coordinating and implementing the State's addiction related services and programs. DAS is comprised of a prevention unit, treatment services unit, an administrative support unit, a planning and new initiatives unit, a research and information systems unit, and a licensing and inspection unit. The mission of the Division of Addiction Services to decrease misuse or abuse of alcohol and other drugs by New Jerseyans by supporting the development of a comprehensive network of prevention, intervention and treatment services in New Jersey. The Division is responsible for providing effective treatment and prevention for alcoholism and drug abuse and for enhancing public awareness of the dangers of such substances. DAS insures that a network of comprehensive prevention, intervention and rehabilitation services related to alcoholism, drug abuse and other addictive illnesses is available. It is responsible for budgeting State, Federal and other funds, and reviews applications, prepares grant documents, and monitors expenditures. For example, DAS awards community grants to approximately 65 agencies to enhance the knowledge and skill of individuals to promote health life choices. DAS develops and supports community change in the attitudes that influence the prevalence of alcohol and other drug problems in the general population. The Division also supports and monitors a wide variety of substance abuse programs, treatment services, and treatment providers designed to reduce the misuse of alcohol and other drugs through effective science-based treatment. The Division plans, coordinates and oversees addiction treatment services for the 21 counties of New Jersey and is responsible for the development of special treatment services for people with mental illness and substance abuse problems. It also oversees and provide technical assistance to programs that provide specialized addiction treatment services to people with special needs. The special needs addressed by this Division include: people who are deaf, hard of hearing or disabled, pregnant women, women with dependent children, minorities and adolescents. The Division conducts licensure inspections and reinspections to determine compliance with licensure standards for initial licensure and license renewals of all residential substance abuse treatment facilities.

The Division also coordinates its activities with the Department of Human Services and the Division of Mental Health Services as well as the 21 county welfare agencies. The Division monitors treatment, provides agencies to ensure compliance with required assessment and treatment

protocols, and with other grant requirements. It maintains and publishes a comprehensive and searchable Statewide addiction treatment provider directory with location, contact information, and descriptions of treatment services available. It also processes the conviction records of drivers convicted of driving under the influence and schedules these drivers for detention, evaluation and education by the county-based intoxicated driver resource centers.

Finally, the Division is responsible for maximizing and coordinating activities to enhance New Jersey's addiction resources and to support development of new and innovative services to treat and combat substance abuse and addiction. The Division carries this mission out through collaboration with other State, Federal and local entities, and through partnering with community-based organizations.

The Rationale For Relocating The Division of Addiction Services Within the Department of Human Services

New Jersey's data indicates the co-occurrence of child abuse and neglect and substance abuse is prevalent. Alcohol and drug use by a pregnant woman is devastatingly harmful to the unborn child. These infants are more likely to have serious medical complications at birth and continue experiencing behavioral, developmental and medical needs throughout their lifetime. Substance use affects all aspects of family life, interferes with positive family functioning and in most situations, perpetuates the cycle of substance abuse and child abuse and neglect.

Families experiencing substance abuse and child abuse also have additional complex and interconnected concerns such as poverty, risk of homelessness, poor physical and mental health, low literacy levels, and poor employment history. Prevalence rates for substance abuse among the array of New Jersey human service populations, beyond child welfare, reflect national trends and are substantially higher than among the general population.

Some Data:

- Children whose parents abused alcohol or drugs were three times likelier to be abused and four times more likely to be neglected compared to the children of parents who did not abuse substances (Reid, Macchetto and Foster, 1999).

- National rates of alcohol and drug abuse for those who are mentally ill, homeless, receiving welfare or involved with child protective services are often at least double of those of the general population (National Center on Addiction and Substance Abuse, 1999: Wright, Rubin and Devine, 1998: Reigier et al., 1990).
- The prevalence of substance abuse among persons with physical or cognitive disabilities is often at least double that of the general population and for those suffering incapacitating injuries is estimated at 50 percent (Buss and Cramer, 1989; Corrigan, 1995; NAAD, 1997; Sylvester, 1986).
- In New Jersey from the standpoint of those reporting substance abuse problems, 73 percent also reported having a mental health problem. (New Jersey Division of Mental Health Services, New Jersey Division of Addiction Services and Peer Review Organization of New Jersey, 2000).

The Department of Human Services (DHS) is the principal State department for administering programs designed to meet the social and human needs for citizens. It has substantial experience in administering programs to provide medical, mental health and specialty services to our people, and in particular to the fragile and special needs segment of society. DHS has substantial experience in coordinating State, county, local and private efforts in meeting these needs and has been the principal agency for the administration of State and Federal grant monies to fund such programs. Transferring the related functions associated with addiction education, prevention and treatment programs to DHS will allow that department to integrate those services into the comprehensive program of social services administered by that department to better meet the needs of our diverse population. It is appropriate, however, for DHSS to retain responsibility for smoking and tobacco related programs, given the direct relation of those programs to the health of our citizens. Thus, the comprehensive tobacco control program will remain in DHSS and will be closely coordinated with the Cancer and Cardiovascular Health initiatives of the Department.

The Rationale For Relocating Registered Environmental Health Inspectors Within the Department of Health and Senior Services

In order to provide expanded and most efficient program services and eliminate the practice of "self-regulation," with the goal of improving the environmental health and sanitary conditions of the institutions operated by the Department of Human Services, the responsibilities, assets and

associated budget of the five Registered Environmental Health Inspectors of the Department of Human Services is hereby transferred to the Department of Health and Senior Services. Administration and delivery of these important services by the Department of Health and Senior Services will allow for a more objective and comprehensive assessment and oversight of environmental and sanitary conditions that affect the health and safety of the residents. Historically, other State agencies, including the Departments of Corrections and Environmental Protection and the New Jersey Highway/Turnpike Authority, have significantly benefitted from the professional, centralized and independent services provided by the State's public health department.

NOW, THEREFORE, in accordance with the provisions of the Executive Reorganization Act of 1969, P.L.1969, c.203 (C.52:14C-1 et seq.), I find with respect to the reorganization included in this Plan that it is necessary to accomplish the purposes set forth in Section 2 of that Act and will do the following:

1. Promote more effective management of the Executive Branch and of its agencies and functions and the expeditious administration of the public business;

2. Promote economy to the fullest extent consistent with the efficient operation of the Executive Branch;

3. Increase the efficiency of the operations of the Executive Branch to the fullest extent practicable;

4. Group, coordinate and consolidate functions in a more consistent and practical way according to major purpose;

5. Eliminate overlapping and duplication of effort within the Executive Branch by reallocating certain functions and responsibilities and thereby better utilize the resources of the Executive Branch.

PROVISIONS OF THE REORGANIZATION PLAN

THEREFORE, I hereby order the following reorganization:

1. The functions, powers and duties of the Division of Addiction Services in the Department of Health and Senior Services, including, but not limited to, the functions, powers and duties under:

(a) L. 1952, c.157,s.3, as amended (C.12:7-46)
(b) L.1986, c.39,s.9, as amended (C.12:7-57)
(c) L.1975, c.305, as amended (C.26:2B-7 et seq.)
(d) L.1984, c.243 (C.26:2B-9.1)
(e) L.2001, c.48 (C.26:2B-9.2)
(f) L.1983, c.531 (C.26:2B-31 et seq.)
(g) L.1989, c.51 (C.26:2BB-1 et seq.)
(h) L. 1969, c.152 (C.26:2G-1 et seq.)
(i) L.1971, c.128 (C.26:2G-31 et seq.)
(j) L.1996, c.29,s.4 (C.26:2H-18.58a)
(k) R.S. 39:4-50, as amended (C.39:4-50)
(l) L.1995, c.318 (C.26:2B-36 et seq.)
(m) L.1970, c.334 (C.26:2G-21)

are continued and are transferred to the Department of Human Services; provided, however, that the functions, powers and duties of the Department of Health and Senior Services with respect to smoking and tobacco related programs shall remain with the DHSS. A proportionate share of those support services or funds to purchase such services utilized for the support of the Division of Addiction Services within the Department of Health and Senior Services shall be transferred to the Department of Human Services. These transfers shall be made as determined by agreement between the Commission of Health and Senior Services and the Commissioner of Human Services after considering the number and type of positions presently utilized for support of the Division of Addiction Services and the appropriateness of transferring personnel, positions, funding or equipment.

2. These functions, powers, duties and personnel shall be organized and implemented within the Department of Human Services as determined by the Commissioner of Human Services.

3. All records, property, revolving funds, appropriations and any unexpended balance of funds appropriated or otherwise available to the Department of Health and Senior Services in connection with the administration of the Division of Addiction Services shall be transferred to the Department of Human Services pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

4. Monies collected or received by the Department of Human Services shall be deposited in such accounts or funds as may be provided by law for deposit of such monies.

5. Whenever in any law, rule, regulation, order, contract, tariff, document, judicial or administrative proceeding or otherwise relating to the Division of Addiction Services reference is made to the Department of Health and Senior Services or the Commissioner of Health and Senior Services, the same shall mean the Department of Human Services or the Commissioner of Human Services, respectively.

6. The functions, powers and duties of the Department of Human Services, exercised through the Registered Environmental Health Inspectors, as well as such inspectors are continued and are transferred to the Department of Health and Senior Services.

7. These functions, powers, duties and personnel shall be organized and implemented within the Department of Health and Senior Services as determined by the Commissioner of Health and Senior Services.

8. All records, property, revolving funds, appropriations and any unexpended balance of funds appropriated or otherwise available to the Department of Human Services in connection with the administration of the functions, powers and duties of the Registered Environmental Health Inspectors shall be transferred to the Department of Health and Senior Services pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

9. Monies collected or received by the Department of Health and Senior Services shall be deposited in such accounts or funds as may be provided by law for deposit of such monies.

10. Whenever in any law, rule, regulation, order, contract, tariff, document, judicial or administrative proceeding or otherwise relating to Registered Environmental Health Inspectors reference is made to the Department of Human Services or the Commissioner of Human Services, the same shall mean the Department of Health and Senior Services or the Commissioner of Health and Senior Services, respectively.

GENERAL PROVISIONS

1. I find that this reorganization is necessary to accomplish the purposes set forth in Section 2 of P.L.1969, c.203. Specifically, this reorganization will promote the more effective management of the Executive Branch and its agencies, and it will promote economy to the fullest extent consistent with the efficient operation of the Executive Branch according to major purposes. It will group, coordinate and consolidate functions in a more consistent and practical manner and eliminate overlapping and duplication of functions.

2. Any section or part of this Plan that conflicts with Federal law or regulation shall be considered null and void unless and until addressed and corrected through an interagency agreement, Federal waiver or other means.

3. All acts and parts of acts and plans or parts of plans inconsistent with any of the provisions of this Plan are superseded to the extent of such inconsistencies.

4. If any provision of this Plan or the application thereof to any person or circumstance or the exercise of any power or authority hereunder is held invalid or contrary to law, such holding shall not affect other provisions or applications of the Plan which can be given effect without the invalid provisions or applications of the Plan, or affect other exercises of power or authority under said provisions not contrary to law. To this end, the provisions of the Plan are declared to be severable.

5. This Plan is intended to protect and promote the public health, safety and welfare and shall be liberally construed to attain the objectives and effect the purposes thereof.

6. All transfers directed by this Plan shall be effected pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

A copy of this Reorganization Plan was filed on February 5, 2004 with the Secretary of State and the Office of Administrative Law for publication in the New Jersey Register. This Plan shall become effective in 60 days on April 5, 2004 unless disapproved by each House of the Legislature by the passage of a concurrent resolution stating in substance that the Legislature does not favor this Reorganization Plan, or at a date later than April 5, 2004,

should the Governor establish such a later date for the effective date of the Plan, or any part thereof, by Executive Order.

PLEASE TAKE NOTICE that this Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the Public Laws and in the New Jersey Register under the heading of "Reorganization Plans."

Filed February 5, 2004.
Effective April 5, 2004.

REORGANIZATION PLAN NO. 003-2004
A PLAN FOR THE TRANSFER OF ADMINISTRATION AND ISSUANCE OF PROFESSIONAL LIBRARIAN CERTIFICATES TO THE STATE LIBRARY

PLEASE TAKE NOTICE that on February 24, 2004, Governor James E. McGreevey hereby issues the following Reorganization Plan No. 003-2004 ("the Plan"), to improve efficiency in the State certification of professional librarians for public libraries in the State of New Jersey. The Plan transfers responsibility for certification of professional librarians from the Department of Education, to the State Library, in but not of, the Department of State, and affiliated with Thomas Edison State College. The Plan furthers ongoing efforts of the Executive Branch to improve qualitative and quantitative services to the public, improve efficiency, and fully implement the legislative goal of coordination of the Statewide system of libraries in New Jersey under the administration of the State librarian as provided in P.L.2001, c.137.

GENERAL STATEMENT OF PURPOSE

New Jersey is committed to promoting cooperation among the various types of libraries in New Jersey and to providing improved library services to the State's residents by having the State Library coordinate library services on a Statewide basis. Pursuant to N.J.S.A.45:8A-1 et seq., the State Board of Education in the Department of Education currently sets the requirements for certification of professional librarians by regulation, and the State Board of Examiners in the Department of Education currently issues certificates to persons who meet such requirements, which certificate may be required for employment as a professional librarian in any library

in New Jersey supported by public funds. See also, N.J.A.C.6A:9-13.16. The certification of professional librarians in the State of New Jersey is a significant issue to public libraries, to public librarians, and to our citizens. By statute, public libraries must employ certified professional librarians to qualify for State per capita library aid pursuant to N.J.S.A.18A:74-1 et seq. and N.J.A.C.15:21-2.3. Librarians employed in communities governed by civil service law and regulations are required to be certified as professional librarians. Since, pursuant to N.J.S.A.18A:74-10, the State Library is empowered by statute to promulgate regulations and set standards for the operation and improvement of free public libraries to insure public benefit and convenience, and to achieve the objects of the 2001 legislation, the transfer to the State Library of the authority to set the requirements for certification of professional librarians and to issue such certificates to persons who may be employed as professional librarians in public libraries in this State will consolidate State standards for public libraries, and improve the efficiency of State administration of this certification program.

NOW, THEREFORE, pursuant to the provisions of the Executive Reorganization Act of 1969, P.L.1969, c.203 (C.52:14C-1 et seq.), I find with respect to the reorganization, transfer, and consolidation provided for in this Plan, that each aspect of the Plan is necessary to accomplish the purposes set forth in Section 2 of the Act and will:

1. Promote the better execution of the laws, the more effective management of the Executive Branch and its agencies and functions and the expeditious administration of the public business;

2. Promote economy to the fullest extent consistent with the efficient operation of the Executive Branch;

3. Increase the efficiency of the operations of the Executive Branch to the fullest extent practicable;

4. Group, coordinate and consolidate agencies and functions of the Executive Branch, as nearly as may be practical, according to major purposes;

5. Eliminate overlapping and duplication of effort within the Executive Branch by reallocating certain functions and responsibilities and thereby better utilizing the resources of the Executive Branch.

PROVISIONS OF THE REORGANIZATION PLAN

THEREFORE, I hereby order the following reorganization:

1. All the functions, powers and duties of the State Board of Examiners and the State Board of Education under P.L.1947, c.132, as amended (C.45:8A-1 et seq.) are continued and are transferred to the State Library, in but not of the Department of State, and affiliated with Thomas Edison State College, to be allocated within the State Library as determined by the President of Thomas Edison State College.

2. The files, records, data, documents, pending applications, forms, and equipment relevant to the profession librarian certification activities currently maintained within the Department of Education shall be transferred to the State Library, along with a proportionate share of any fees collected pursuant to or funds budgeted or allocated to such certification program activities. These transfers shall be made as determined by inter-agency agreement between the Department of Education, the State Library and Thomas Edison State College, considering the administrative requirements for the efficient transfer of such files, records, data, related equipment, fees and funds. The Commissioner of the Department of Education, the State Librarian and the President of Thomas Edison State College shall, within 30 days of the effective date of this Plan, enter into any and all inter-agency agreements necessary to effectuate this Plan.

3. All functions, powers, and duties of the Department of Education not transferred to the State Library by this Plan shall remain with the Department of Education.

GENERAL PROVISIONS

1. I find this reorganization is necessary to accomplish the purposes set forth in Section 2 of P.L.1969, c.203. Specifically, this reorganization will promote the more effective management of the Executive Branch and its agencies, and it will promote economy to the fullest extent consistent with the efficient operation of the Executive Branch according to major purposes. It will group, coordinate and consolidate functions in a more consistent and practical manner, improve services and service delivery to New Jersey citizens and businesses, and eliminate overlapping and duplication of functions.

2. All acts and parts of acts and plans or parts of plans inconsistent with any of the provisions of this Plan are superseded to the extent of such inconsistencies.

3. If any provision of this Plan or the application thereof to any person, or circumstance, or the exercise of any power or authority hereunder is held invalid or contrary to law, such holding shall not affect other provisions or applications of the Plan, which can be given effect without the invalid provisions or applications of the Plan, or affect other exercises of power or authority under said provisions not contrary to law. To this end, the provisions of the Plan are declared to be severable.

4. This Plan is intended to protect and promote the public health, safety and welfare and shall be liberally construed to attain the objectives and effect the purposes thereof.

5. All transfers directed by this Plan shall be effected pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

A copy of this Reorganization Plan was filed on February 24, 2004 with the Secretary of State and the Office of Administrative Law for publication in the New Jersey Register. This Plan shall become effective in 60 days on April 24, 2004 unless disapproved by each House of Legislature by the passage of a concurrent resolution stating in substance that the Legislature does not favor this Reorganization Plan, or at a date later than April 24, 2004, should the Governor establish such a later date for the effective date of the Plan, or any part thereof, by Executive Order.

PLEASE TAKE NOTICE that this Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the Public Laws and in the New Jersey Register under the heading of "Reorganization Plans."

Filed February 24, 2004.
Effective April 24, 2004.

REORGANIZATION PLAN NO. 004-2004
A PLAN FOR THE TRANSFER OF THE FUNCTIONS, POWERS AND DUTIES OF THE DIVISION OF REVENUE TO THE DEPARTMENT OF THE TREASURY

PLEASE TAKE NOTICE that on February 24, 2004, Governor James E. McGreevey hereby issues the following Reorganization Plan No. 004-2004 ("the Plan"), to provide for the transfer of responsibilities for revenue management, including receipts processing, management of accounts receivable and collection of debts, and data entry functions as well as the organizational units responsible for such revenue management, including receipts processing, management of accounts receivable and collection of debts, and data entry functions from the Division of Revenue in the Department of the Treasury to the Department of the Treasury.

This Plan furthers an ongoing effort to streamline and make more effective and efficient the operations of the Executive Branch by reallocating revenue management including receipts processing, management of accounts receivable and collection of debts and data entry functions of the Division of Revenue, together with the organization units of the Division of Revenue, within the Department of the Treasury as the State Treasurer may determine.

The Plan also provides for the continuation within the Department of the Treasury, as may be organized and implemented by the State Treasurer, of responsibility for recording and keeping documents pertaining to all corporate charters, and commercial filings, other filings requiring public notice, filings concerning notaries public, collecting the fees associated with such filings, and preparing monthly abstracts of corporate certificates for use by the Division of Taxation in computing annual corporate license fees and franchise taxes.

GENERAL STATEMENT OF PURPOSE

The Plan is designed to transfer to the Department of the Treasury, the various related responsibilities for revenue management now allocated to the Division of Revenue. This transfer will allow for the organization and implementation of these responsibilities in the manner best determined by the State Treasurer. These responsibilities include receipt of reports, processing of cash receipts, management of accounts receivable, collection of debts, and associated data entry operations of various State agencies, including the Division of Taxation. The Plan accomplishes this purpose of reallocating the functions, powers and duties of the Division of Revenue, within the Department of the Treasury by transferring these responsibilities to the Department of the Treasury. Given the Treasurer's existing statutory authority to organize the Department, the State Treasurer will then have the

ability to organize and implement the affected revenue activities within the Department of the Treasury as he or she determines to be in the best interest of the State.

Consistent with the centralization of revenue management in the Department of the Treasury, this Plan will allow the State Treasurer to exercise under existing authority the discretion to designate a single organization, such as the Division of Taxation, with Statewide responsibility and authority to define and control the policies and procedures governing all aspects of revenue management. Revenue management begins with the imposition and levy of most State taxes, continues with the processing of a broad range of the State's cash receipts and entails the maintenance of various corporate, business and tax filings, and ends with the management of accounts receivable and collection of delinquent receivables held by most State agencies, including the Division of Taxation.

Other opportunities for consolidation or reallocation of the revenue management functions formerly vested only in the Division of Revenue exist. The State Treasurer may determine that greater benefit can be realized by the State by placing the functions in a Division other than the Division of Revenue. The State Treasurer should have the opportunity to make such determinations.

Allowing the State Treasurer to exercise discretion in the organization and implementation of revenue management within the Department of the Treasury will also further the assistance provided other State agencies in the recovery and resolution of their accounts receivable. Specialized collection services had been provided by the Division of Revenue in an efficient and cost-effective manner. By affording the State Treasurer discretion to allocate the functions in such other unit or units within the Department of the Treasury, including the Division of Revenue, as the Treasurer determines, will go a step further in promoting efficiency and cost-effectiveness, eliminating duplication of effort in the State's multi-faceted revenue management activities, and ultimately, improving service to the entire New Jersey community, business and individual.

The Plan also provides for the continuation of responsibility for filing, recording and keeping of corporate and other commercial documents, other filings requiring public notices and concerning notaries public, and associated functions, including those related to corporate license fees and State corporate franchise taxes, with the Department of the Treasury.

NOW, THEREFORE, pursuant to the Executive Reorganization Act of 1969, P.L.1969, c.203 (C.52:14C-1 et seq.) (the "Act"), I find with respect to the reorganization, transfer and consolidation provided for in this Plan, that each aspect of the Plan is necessary to accomplish the purposes set forth in Section 2 of the Act and that each aspect will:

1. Promote the better execution of the laws, the more effective management of the Executive Branch and its agencies and functions and the expeditious administration of the public business;

2. Reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Executive Branch;

3. Increase the efficiency of the operations of the Executive Branch to the fullest extent practicable;

4. Group, coordinate and consolidate agencies and functions of the Executive Branch, as nearly as may be practical, according to major purposes;

5. Reduce the number of agencies by consolidating those having related functions under a single head and abolish such agencies thereof as may not be necessary for the efficient conduct of the Executive Branch; and

6. Eliminate overlapping and duplication of effort.

PROVISIONS OF THE REORGANIZATION PLAN

THEREFORE, I hereby order the following reorganization:

1. The Division of Revenue, created pursuant to Executive Reorganization Plan No. 001-1997, is continued but its functions, powers, duties and personnel are transferred to the Department of the Treasury. These functions, powers and duties and personnel shall be organized and implemented within the Department of the Treasury as determined by the State Treasurer.

2. The functions, powers, duties and personnel transferred pursuant to this Plan shall be administered and exercised by such organization unit or units as are designated by the State Treasurer.

3. Nothing contained in this Plan shall be construed to limit the authority of the Treasurer to organize the Department pursuant to N.J.S.A.52:18A-30.

4. All provisions of Reorganization Plan Nos. 001-1997, No. 003-1998, and No. 004-1998 shall continue to be in full force and effect, but to the extent the provisions of these prior Reorganization Plans are in conflict with this Plan, this Plan controls.

GENERAL PROVISIONS

1. I find that each aspect of this reorganization is necessary to accomplish the purposes set forth in Section 2 of P.L.1969, c.203. Specifically, this reorganization will more efficiently direct, administer, coordinate, and control the State's revenue management functions, in particular, consolidate and coordinate the processing of the State's cash receipts, the maintenance of its corporate and business records, the management of its accounts receivable and the collection of its billings and assorted debt. This Plan provides for the organization and implementation of these activities and responsibilities within the Department of the Treasury as the State Treasurer may determine. This reorganization will improve the State's overall ability to manage its revenue and will eliminate duplication of efforts in the area of receipts processing and debt collection.

2. Monies collected or received by the Department of the Treasury in connection with the activities affected by this reorganization shall be deposited in such accounts or funds as may be provided by law for deposit of such monies.

3. All acts or parts of acts inconsistent with any of the provisions of this Plan are superseded to the extent of such inconsistencies.

4. Unless otherwise specified in this Plan, all transfers directed by this Plan shall be effected pursuant to the State Agency Transfer Act, P.L.1971, c.375 (C.52:14D-1 et seq.).

5. Wherever, in any law, rule, regulation, order, contract, tariff, document, judicial or administrative order or proceeding or otherwise, reference is made to the Director of the Division of Revenue, the same shall mean and refer to the Treasurer or the Department of the Treasury, as appropriate, or to such employee as the Treasurer may designate.

6. If any provision of this Plan or the application thereof to any person or circumstances or the exercise of any power or authority hereunder is held invalid or contrary to law, such holding shall not affect other provisions or application of this Plan, which can be given effect without the invalid provisions or applications of the Plan, or affect other exercises of power or authority under said provisions not contrary to law. To this end, the provisions of this Plan are declared to be severable.

7. This Plan is intended to make the operations of the Executive Branch more efficient and effective with regard to revenue management practices and shall be liberally construed to attain the objectives and effect the purposes thereof.

A copy of this Reorganization Plan was filed on February 24, 2004 with the Secretary of State and the Office of Administrative Law for publication in the New Jersey Register. This Plan shall become effective in 60 days on April 24, 2004 unless disapproved by each House of the Legislature by the passage of a concurrent resolution stating in substance that the Legislature does not favor this Reorganization Plan, or at a date later than April 24, 2004, should the Governor establish such a later date for the effective date of the Plan, or any part thereof, by Executive Order.

PLEASE TAKE NOTICE that this Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the Public Laws and in the New Jersey Register under the heading of "Reorganization Plans."

Filed February 24, 2004.
Effective April 24, 2004.

REORGANIZATION PLAN NO. 005-2004
A PLAN FOR THE REDESIGNATION AND REORGANIZATION OF THE NEW JERSEY COMMERCE AND ECONOMIC GROWTH COMMISSION

PLEASE TAKE NOTICE that on October 18, 2004, Governor James E. McGreevey hereby issues the following Reorganization Plan No. 005-2004 ("the Plan"), to improve efficiency, coordination, and interaction of the Travel and Tourism industry within the State of New Jersey. The Plan redesignates the New Jersey Commerce and Economic Growth Commis-

sion as the New Jersey Commerce, Economic Growth and Tourism Commission. The Plan furthers ongoing efforts of the Executive Branch to highlight the importance of the tourism industry in New Jersey, improve qualitative and quantitative services to the industry and the public, improve efficiency, and meet the challenges of a competitive economy.

GENERAL STATEMENT OF PURPOSE

The tourism industry is one of the most vital contributors to our State's economy. New Jersey is committed to an efficient, innovative, and broad-based campaign that promotes the tourism industry in New Jersey and that maximizes the economic, recreational and social benefits for our citizens.

Tourism is a critical business in the State of New Jersey. Nationally, New Jersey ranks seventh in terms of domestic traveler spending. Our State experiences approximately 45 million overnight trips and 120 million day trips each year. Together, these travelers spend over $30 billion during their stays in the Garden State. In total, the tourism industry directly and indirectly supports over 415,000 jobs and generates over $12.3 billion in wages. Perhaps most significantly, tourism brings in approximately $2.9 billion in tax revenues to the State each year.

Thus, tourism is clearly one of New Jersey's greatest assets. As a State, we have a vested interest in doing everything we can to nurture this asset and foster its growth. That is what we have attempted to do, by providing over $140 million in the FY '05 Budget to support tourism in New Jersey, by utilizing shore protection dollars to maintain the exceptionally high quality of our beaches, by providing billions of dollars for transportation infrastructure improvements to increase mobility and to make New Jersey a more desirable tourist destination, by preserving and managing our cherished historical resources for future generations of visitors to enjoy, and by utilizing smart growth and open space preservation to ensure that New Jersey maintains its natural landscapes and unique communities.

This Reorganization Plan is consistent with the State's efforts to promote the tourism industry. Specifically, it is designed to highlight the importance of tourism to New Jersey by redesignating the New Jersey Commerce and Economic Growth Commission as the New Jersey Commerce, Economic Growth and Tourism Commission. This Plan will improve the profile of the

tourism industry and will strengthen the State's efforts to support and foster this critical sector of our economy.

This Reorganization Plan will further enhance the status of tourism by adopting a revised mission statement for the Commission. This will focus the efforts of the Commission and its employees on the central responsibilities of the agency.

The changes encompassed within this Plan will place New Jersey in the forefront of efforts to promote State tourism throughout the United States.

NOW, THEREFORE, pursuant to the provisions of the Executive Reorganization Act of 1969, P.L.1969, c.203 (C.52:14C-1 et seq.), I find with respect to the reorganization, transfer, and consolidation provided for in this Plan, that each aspect of the Plan is necessary to accomplish the purposes set forth in Section 2 of the Act and will:

1. Promote the better execution of the laws, the more effective management of the Executive Branch and its agencies and functions and the expeditious administration of the public business;

2. Promote economy to the fullest extent consistent with the efficient operation of the Executive Branch;

3. Increase the efficiency of the operations of the Executive Branch to the fullest extent practicable;

4. Group, coordinate and consolidate agencies and functions of the Executive Branch, as nearly as may be practical, according to major purposes;

5. Eliminate overlapping and duplication of effort within the Executive Branch by reallocating certain functions and responsibilities and thereby better utilizing the resources of the Executive Branch.

PROVISIONS OF THE REORGANIZATION PLAN

THEREFORE, I hereby order the following reorganization:

1. On and after the effective date of this Reorganization Plan, the New Jersey Commerce and Economic Growth Commission shall be entitled and

known as the New Jersey Commerce, Economic Growth and Tourism Commission and whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding, or otherwise, reference is made to the Commerce and Economic Growth Commission, the same shall mean and refer to the Commerce, Economic Growth and Tourism Commission.

2. The revised mission statement of the New Jersey Commerce, Economic Growth and Tourism Commission shall read as follows:

"The New Jersey Commerce, Economic Growth and Tourism Commission promotes economic vitality now and builds a foundation for world economic leadership in the 21st century. The Commission stimulates dynamic economic growth by providing resources and services to citizens, businesses and institutions, in partnership with other government agencies and the private sector, to create jobs. The Commission is also charged with the mandate to increase tourism through promotional, informational, educational, and developmental programs. These initiatives are designed to maintain and increase New Jersey's standing as a premier national and international travel designation. By nurturing, expanding and attracting industry, commerce, and tourism, we can achieve the highest quality of life and ensure economic security for all our citizens."

GENERAL PROVISIONS

1. I find this reorganization is necessary to accomplish the purposes set forth in Section 2 of P.L.1969, c.203. Specifically, this reorganization will promote the more effective management of the Executive Branch and its agencies, and it will promote economy to the fullest extent consistent with the efficient operation of the Executive Branch according to major purposes. It will group, coordinate and consolidate functions in a more consistent and practical manner, improve services and service delivery to New Jersey citizens and businesses, and eliminate overlapping and duplication of functions.

2. All acts and parts of acts and plans or parts of plans inconsistent with any of the provisions of this Plan are superseded to the extent of such inconsistencies.

3. If any provision of this Plan or the application thereof to any person, or circumstance, or the exercise of any power or authority hereunder is held

invalid or contrary to law, such holding shall not affect other provisions or applications of the Plan, which can be given effect without the invalid provisions or applications of the Plan, or affect other exercises of power or authority under said provisions not contrary to law. To this end, the provisions of the Plan are declared to be severable.

4. This Plan is intended to protect and promote the public health, safety and welfare and shall be liberally construed to attain the objectives and effect the purposes thereof.

5. All transfers directed by this Plan shall be effected pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

A copy of this Reorganization Plan was filed on October 18, 2004 with the Secretary of State and the Office of Administrative Law for publication in the New Jersey Register. This Plan shall become effective in 60 days on December 17, 2004 unless disapproved by each House of the Legislature by the passage of a concurrent resolution stating in substance that the Legislature does not favor this Reorganization Plan, or at a date later than December 17, 2004, should the Governor establish such a later date for the effective date of the Plan, or any part thereof, by Executive Order.

PLEASE TAKE NOTICE that this Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the Public Laws and in the New Jersey Register under the heading of "Reorganization Plans."

Filed October 18, 2004.
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