LIBRARY
DEPT. OF PUBLIC ADVOCATE

ACTS

OF THE

Second Annual Session

OF THE

One Hundred and Ninety-seventh Legislature

OF THE

STATE OF NEW JERSEY

AND

Twenty-sixth Under the New Constitution

CHAPTERS 218–467

New Jersey State Library

1977

CHAPTER 218

AN ACT concerning autocabs and amending R. S. 48:16–2.

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

1. R. S. 48:16–2 is amended to read as follows:

Consent of municipality before operating autocab; fees or charges.

48:16–2. No autocab shall be operated along any street in any municipality until the owner thereof shall obtain the consent of the elective governing body or member thereof having control of the public streets in the municipality. No municipality located in a county of the first class with a population of less than 20,000 persons shall enact an ordinance establishing fees or other charges in excess of $50.00 for the right to operate an autocab. The provisions of any existing ordinance establishing fees or other charges in excess of this amount for each cab operated are null and void and any excess fee or charge shall be returned to the owner of the autocab.

2. This act shall take effect immediately.

Approved September 13, 1977.

CHAPTER 219

AN ACT concerning transfer inheritance taxes and amending R. S. 54:34–2.

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

1. R. S. 54:34–2 is amended to read as follows:

Rates of taxation.

54:34–2. a. The transfer of property to a father, mother, grandparent, husband, wife, child or children of a decedent, or to any child or children adopted by the decedent in conformity with the laws of this State, or of any of the United States or of a foreign

country, or the issue of any child or legally adopted child of a decedent, shall be taxed at the following rates:

On any amount in excess of $15,000.00, up to $50,000.00	2%
On any amount in excess of $50,000.00, up to $100,000.00	3%
On any amount in excess of $100,000.00, up to $150,000.00	4%
On any amount in excess of $150,000.00, up to $200,000.00	5%
On any amount in excess of $200,000.00, up to $300,000.00	6%
On any amount in excess of $300,000.00, up to $500,000.00	7%
On any amount in excess of $500,000.00, up to $700,000.00	8%
On any amount in excess of $700,000.00, up to $900,000.00	9%
On any amount in excess of $900,000.00, up to $1,100,000.00	10%
On any amount in excess of $1,100,000.00, up to $1,400,000.00	11%
On any amount in excess of $1,400,000.00, up to $1,700,000.00	12%
On any amount in excess of $1,700,000.00, up to $2,200,000.00	13%
On any amount in excess of $2,200,000.00, up to $2,700,000.00	14%
On any amount in excess of $2,700,000.00, up to $3,200,000.00	15%
On any amount in excess of $3,200,000.00	16%

b. (Deleted by amendment.)

c. The transfer of property to a brother or sister of a decedent, wife or widow of a son of a decedent, or husband or widower of a daughter of a decedent shall be taxed at the following rates:

On any amount up to $1,100,000.00	11%
On any amount in excess of $1,100,000.00, up to $1,400,000.00	13%
On any amount in excess of $1,400,000.00, up to $1,700,000.00	14%

On any amount in excess of $1,700,000.00 ..... 16%

d. The transfer of property to every other transferee, distributee or beneficiary not hereinbefore classified shall be taxed at the following rates:

On any amount up to $700,000.00 ..... 15%
On any amount in excess of $700,000.00 ..... 16%

For every purpose of this subtitle all persons, including the decedent, shall be deemed to have been born in lawful wedlock and this provision shall apply to the estate of every decedent whether said decedent died before March 25, 1935, or shall die thereafter, but it shall not entitle any person to a refund of any tax paid before the aforementioned date.

2. R. S. 54:36–2 is amended to read as follows:

Valuation of estates for life or years.

54:36–2. Valuation of estates for life or years. In determining the value of a life estate, annuity, or estate for a term of years, the United States Life Tables, after December 31, 1970, Single Life Male 6% and Single Life Female 6%, published by the United States Department of Health, Education and Welfare, Public Health Service, with interest at the rate of 6% per annum, shall be used and shall be effective with respect to estates of decedents dying on or after January 1, 1978.

3. This act shall take effect July 1 next succeeding enactment.

Approved September 13, 1977.

CHAPTER 220

AN ACT to amend "An act to define and regulate certain retail installment sales and to license and regulate motor vehicle installment sellers and sales finance companies, to repeal P. L. 1948, c. 419 and supplementing Title 17 of the Revised Statutes," approved June 9, 1960 (P. L. 1960, c. 40) as said title was amended by P. L. 1971, c. 409.

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

1. Section 1 of P. L. 1960, c. 40 (C. 17:16C–1) is amended to read as follows:

C. 17:16C-1 Definitions.

1. In this act, unless the context otherwise requires, the following words and terms shall have the following meanings:

(a) "Goods" means all chattels personal which are primarily for personal, family or household purposes, including merchandise certificates and coupons to be exchanged for goods or services, having a cash price of $7,500.00 or less, but not including money or other choses in action. Goods shall not include chattels personal sold for commercial or business use.

(b) "Retail installment contract" means any contract, other than a retail charge account or an instrument reflecting a sale pursuant thereto, entered into in this State between a retail seller and a retail buyer evidencing an agreement to pay the retail purchase price of goods or services, which are primarily for personal, family or household purposes, or any part thereof, in two or more installments over a period of time. This term includes a security agreement, chattel mortgage, conditional sales contract, or other similar instrument and any contract for the bailment or leasing of goods by which the bailee or lessee agrees to pay as compensation a sum substantially equivalent to or in excess of the value of the goods, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of such goods upon full compliance with the terms of such retail installment contract.

(c) "Retail seller" means a person who sells or agrees to sell goods or services under a retail installment contract or a retail charge account to a retail buyer, and shall include a motor vehicle installment seller.

(d) "Retail buyer" means a person who buys or agrees to buy goods or services from a retail seller, not for the purpose of resale, pursuant to a retail installment contract or a retail charge account.

(e) "Person" means an individual, partnership, firm, corporation, banking institution, association or any other group of individuals however organized.

(f) "Sales finance company" means and includes any person engaging in this State in the business of acquiring or arranging for the acquisition of retail installment contracts or obligations incurred pursuant to retail charge accounts by purchase, discount, pledge or otherwise from a retail seller which is not wholly owned by or does not wholly own such person, and any person engaging,

directly or indirectly, in the business of soliciting the purchase of retail installment contracts or obligations incurred pursuant to retail charge accounts from a retail seller which is not wholly owned by or does not wholly own such person, or in the business of aiding the retail seller in selling, assigning or arranging for the sale or assignment of retail installment contracts or obligations incurred pursuant to retail charge accounts, and any person other than a retail seller who enters into a retail charge account with a retail buyer.

(g) "Motor vehicle" includes all vehicles used for transportation upon a highway propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks.

(h) "Motor vehicle installment seller" means a dealer in motor vehicles, who is required to be licensed under chapter 10 of Title 39 of the Revised Statutes and who sells or offers to sell a motor vehicle to a retail buyer under a retail installment contract.

(i) "Cash price" means the minimum price for which the goods or services subject to a retail installment contract or a retail charge account or other goods or services of like kind and quality may be purchased for cash from the seller by the buyer, as stated in the retail installment contract, the retail charge account or an instrument reflecting a sale pursuant thereto.

(j) "Down payment" means all payments made in cash or in goods or partly in cash and partly in goods, received by the retail seller prior to or substantially contemporaneous with either the execution of the retail installment contract or the delivery of the goods, whichever occurs later.

(k) "Official fees" means the filing or other fees required by law to be paid to a public officer to perfect an interest or lien, on the goods, retained or taken by a retail seller under a retail installment contract and motor vehicle license and transfer fees paid to the State.

(l) "Time price differential" means the amount or amounts, however denominated or computed, in addition to the cash price or prices, to be paid by the retail buyer for the privilege of purchasing goods or services pursuant to a retail installment contract or a retail charge account. The term does not include the amount, if a separate charge is made therefor, for insurance and official fees.

(m) "Holder" means any person, including a retail seller, who is entitled to the rights of a retail seller under a retail installment contract or retail charge account.

(n) "Banking institution" means any bank or national banking association authorized to do business in this State.

(o) "Commissioner" means the Commissioner of Banking of New Jersey and includes his deputies or any salaried employee of the Department of Banking named or appointed by the said commissioner to perform any function in the administration or enforcement of this act.

(p) "Payment-period" means the period of time scheduled by a retail installment contract to elapse between the days upon which installment payments are scheduled to be made on such contract; except that, when installment payments are scheduled to be omitted, pursuant to section 26, "payment-period" means the period of time scheduled by the contract to elapse between the days upon which installment payments are scheduled to be made during that portion of the contract period in which no installment payment is scheduled to be omitted.

(q) "Contract period" means the period beginning on the date of a retail installment contract and ending on the date scheduled by the contract for the payment of the final installment.

(r) "Retail charge account" means any account, other than a retail installment contract or a home repair contract which is subject to the "Home Repair Financing Act" (P. L. 1960, c. 41; C. 17:16C–62 et seq.), established by an agreement which prescribes the terms under which a retail buyer may from time to time purchase or lease goods or services which are primarily for personal, family or household purposes, and under which the unpaid balance thereunder, whenever incurred, is payable in one or more installments and under which a time price differential may be added in each billing period as provided herein. Retail charge account also includes all accounts arising out of the utilization by the holder of a credit card, letter of credit or other credit identification issued by a sales finance company, giving the holder the privilege of using the credit card, letter of credit or other credit identification to become a retail buyer in transactions out of which debt arises: (1) by the sales finance company's payment or agreement to pay the retail buyer's obligations; or (2) by the sales finance company's purchase from the retail seller of the obligations of the user of the credit card, letter of credit or other credit identification as a retail buyer.

(s) "Services" means and includes work, labor and services, professional and otherwise which are primarily for personal, family or household purposes but does not include services which are

subject to the "Home Repair Financing Act," and insurance premiums financing which is subject to the "Insurance Premium Finance Company Act" (P. L. 1968, c. 221; C. 17:16D–1 et seq.).

(t) "Billing period" means the time interval between regular periodic billing statement dates. In the case of monthly billing periods, such intervals shall be considered equal intervals of time if the billing date of a billing period does not vary more than 4 days from the billing date of the immediately preceding billing period. In the case of billing periods which are not monthly, the permissible variation in billing dates shall be that proportion of 4 days (adjusted to the nearest whole number) which the number of days in the billing period bears to 30.

(u) Professional services means services rendered or performed by a person authorized by law to practice a recognized profession whose practice is regulated by law and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training.

2. This act shall take effect immediately.

Approved September 14, 1977.

CHAPTER 221

AN ACT to amend the "State Uniform Construction Code Act," approved October 7, 1975 (P. L. 1975, c. 217).

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

1. Section 3 of P. L. 1975, c. 217 (C. 52:27D–121) is amended to read as follows:

C. 52:27D-121 Definitions.

3. Definitions. As used in this act unless the context clearly indicates otherwise:

"Building" means, exclusive of a public school facility, a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind.

"Business day" means any day of the year, exclusive of Saturdays, Sundays, and legal holidays.

"Certificate of occupancy" means the certificate provided for in section 15 of this act indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the State Uniform Construction Code and any ordinance implementing said code.

"Commissioner" means the Commissioner of Community Affairs.

"Code" means the State Uniform Construction Code.

"Construction" means the construction, erection, reconstruction, alteration, conversion, demolition, removal, repair or equipping of buildings or structures.

"Construction board of appeals" means the board provided for in section 9 of this act.

"Department" means the Department of Community Affairs.

"Enforcing agency" means the municipal construction official and subcode officials provided for in section 8 of this act and assistants thereto.

"Equipment" means plumbing, heating, electrical, ventilating, air conditioning; refrigerating and fire prevention equipment, and elevators, dumb waiters, escalators, boilers, pressure vessels and other mechanical facilities or installations.

"Hearing examiner" means a person appointed by the commissioner to conduct hearings, summarize evidence, and make findings of fact.

"Maintenance" means the replacement or mending of existing work with equivalent materials or the provision of additional work or material for the purpose of the safety, healthfulness, and upkeep of the structure and the adherence to such other standards of upkeep as are required in the interest of public safety, health and welfare.

"Mobile home" means a vehicular, portable structure which is built on a chassis and designed to be used without a permanent foundation as a dwelling for year round rather than temporary occupancy when connected to required utilities.

"Municipality" means any city, borough, town, township or village.

"Owner" means the owner or owners in fee of the property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other

person, firm or corporation, directly or indirectly in control of a building, structure, or real property and shall include any subdivision thereof of the State.

"Premanufactured system" means an assembly of materials or products that is intended to comprise all or part of a building or structure, exclusive of a public school facility, and that is assembled offsite by a repetitive process under circumstances intended to insure uniformity of quality and material content.

"Public school facility" means any building or any part thereof where the plans and specifications are submitted to, and approved by, the State Board of Education pursuant to N. J. S. 18A:18–2.

"State sponsored code change proposal" means any proposed amendment or code change adopted by the commissioner in accordance with subsection c. of section 5 of this act for the purpose of presenting such proposed amendment or code change at any of the periodic code change hearings held by the National Model Code Adoption Agencies, the codes of which have been adopted as subcodes under this act.

"Stop construction order" means the order provided for in section 14 of this act.

"State Uniform Construction Code" means the code provided for in section 5 of this act, or any portion thereof, and any modification of or amendment thereto.

"Structure" means, exclusive of a public school facility, a combination of materials to form a construction for occupancy, use, or ornamentation whether installed on, above, or below the surface of a parcel of land; provided, the word "structure" shall be construed when used herein as though followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning.

2. Section 5 of P. L. 1975, c. 217 (C. 52:27D–123) is amended to read as follows:

C. 52:27D-123 Adoption of a State Uniform Construction Code.

5. Adoption of a State Uniform Construction Code.

a. The commissioner shall after public hearing pursuant to section 4 of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–4) adopt a State Uniform Construction Code for the purpose of regulating the structural design, construction, maintenance and use of buildings or structures to be erected and alteration, renovation, rehabilitation, repair, maintenance, removal or demolition of buildings or structures already erected. Prior to

the adoption of said code, the commissioner shall consult with the code advisory board and other departments, divisions, bureaus, boards, councils or other agencies of State Government heretofore authorized to establish or administer construction regulations.

Such prior consultations with departments, divisions, bureaus, boards, councils, or other agencies of State Government shall include but not be limited to consultation with the Commissioner of Health and the Public Health Council prior to adoption of a plumbing subcode pursuant to paragraph b. of this section. Said code shall include any code, rule or regulation incorporated therein by reference.

b. The code shall be divided into subcodes which may be adopted individually by the commissioner as he may from time to time consider appropriate. Said subcodes shall include but not be limited to a building code, a plumbing code, an electrical code, an energy code, a fire prevention code, a mobile home code and mechanical code.

These subcodes shall be adoptions of the model codes of the Building Officials and Code Administrators International, Inc., the National Electrical Code, and the National Standard Plumbing Code, provided that for good reasons, the commissioner may adopt as a subcode a model code or standard of some other nationally recognized organization upon a finding that such model code or standard promotes the purposes of this act. The initial adoption of a model code or standard as a subcode shall constitute adoption of any subsequent revisions or amendments thereto.

The commissioner shall be authorized to adopt a barrier free subcode or to supplement or revise any model code adopted hereunder, for the purpose of insuring that adequate and sufficient features are available in buildings or structures so as to make them accessible to and usable by the physically handicapped.

c. Any municipality through its construction official, and any State agency or political subdivision of the State may submit an application recommending to the commissioner that a State sponsored code change proposal be adopted. Such application shall contain such technical justification and shall be submitted in accordance with such rules of procedure as the commissioner may deem appropriate.

At least 45 days prior to the final date for the submission of amendments or code change proposals to the National Model Code Adoption Agency, the code of which has been adopted as a subcode under this act, the commissioner shall hold a public hearing in ac-

cordance with the Administrative Procedure Act P. L. 1968, c. 410 (C. 52:14B–1 et seq.), at which testimony on any application recommending a State sponsored code change proposal will be heard.

The commissioner shall maintain a file of such applications, which shall be made available to the public upon request and upon payment of a fee to cover the cost of copying and mailing.

After public hearing, the code advisory board shall review any such applications and testimony and shall within 20 days of such hearing present its own recommendations to the commissioner.

The commissioner may adopt, reject or return such recommendations to the code advisory board for further deliberation. If adopted, any such proposal shall be presented to the subsequent meeting of the National Model Code Agency by the commissioner or by persons designated by the commissioner as a State sponsored code change proposal. Nothing herein, however, shall limit the right of any municipality, the department, or any other person from presenting amendments to the National Model Code Agency on its own initiative.

The commissioner may adopt further rules and regulations pursuant to this subsection and may modify the procedures herein described when a model code change hearing has been scheduled so as not to permit adequate time to meet such procedures.

d. The Department of Education shall annually update its rules and regulations concerning public school facilities for the purpose of, insofar as appropriate for such facilities making them conform with the State Uniform Construction Code. Such updating shall be undertaken in consultation with the commissioner. Within 3 years from the effective date of this act, the Department of Education and commissioner shall submit to the Legislature reports on the extent to which the Department of Education's rules and regulations have been brought into conformity with the code, and identifying problems still outstanding for purposes of applying the provisions of the code to all public school facilities.

3. This act shall take effect immediately.

Approved September 14, 1977.

CHAPTER 222

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, 1977 and regulating the disbursement thereof," approved July 1, 1976 (P. L. 1976, c. 42).

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

1. The following sums are hereby appropriated out of the General State Fund, or such other source of funds specifically indicated, for the respective public officers and for the several purposes herein specified:

DEPARTMENT OF THE TREASURY

71310. Tax Collection and Enforcement Service		$62,500
Extraordinary:		
Expenses for personnel and equipment to administer and enforce tax levied under the Spill Compensation and Control Act	($62,500)	
79110. Management Services		$250,000
Extraordinary:		
Expenses for personnel and equipment to supervise and administer the New Jersey Spill Compensation Fund	($250,000)	
In addition to the amount appropriated hereinabove, there are hereby appropriated out of the New Jersey Spill Compensation Fund such additional sums as may be required for the payment of claims for cleanup and removal costs and direct and indirect damages resulting from the discharge of hazardous substances (C. 58:10–23.11 et seq.).		
Total Appropriation		$312,500

The amount hereinabove shall be appropriated out of the New Jersey Spill Compensation Fund.

2. This act shall take effect immediately and be retroactive to April 1, 1977.

Approved September 14, 1977.

CHAPTER 223

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

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

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

1. An active member in good standing of a volunteer fire company or a volunteer first aid or rescue squad recognized by and rendering service in any municipality may display on a motor vehicle owned by him and registered in his name an emergency warning light or lights as provided in this act.

C. 39:3-54.8 Operation.

2. Emergency warning lights may be operated only while the vehicle is being used in answering a fire or emergency call.

C. 39:3-54.9 Type of emergency lights.

3. Emergency warning lights shall be temporarily attached, removable lights of the flashing type, not more than 7½ inches in diameter, equipped with a blue lens and a lamp of not more than 21 candlepower and shall be controlled by a switch installed inside the vehicle.

C. 39:3-54.10 Installation.

4. No more than two emergency warning lights shall be installed on a vehicle. If one light is used it shall be installed in the center of the roof of the car, or on the left windshield column in a position where a spotlight is normally located. If two lights are used they may be placed on the windshield columns on each side of the vehicle where spotlights are normally mounted, or on either side of the roof at the front of the vehicle directly back of the top of the wind-

shield. Under no circumstances may one light be placed on the roof and one on the windshield column in the spotlight position.

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

5. The Director of Motor Vehicles shall prepare suitable identification cards bearing the signature of the director which, upon the request of the mayor or chief executive officer of any municipality recognizing and being served by a volunteer fire company or a volunteer first aid or rescue squad on a form and in a manner prescribed by the director, shall be forwarded to said mayor or chief executive officer, to be countersigned and issued by said mayor or chief executive officer to the members in good standing of such volunteer fire company or first aid or rescue squad. Identification cards issued pursuant to this section shall be considered permits to display and operate emergency warning lights as provided for in this act, and no emergency warning lights shall be mounted prior to the issuance of such identification cards. Each member of a volunteer fire company or a volunteer first aid or rescue squad must carry such identification card while an emergency warning light or lights are displayed on his vehicle.

C. 39:3-54.12 Act not to be construed as granting privilege or exemption denied to others; right of way.

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

C. 39:3-54.13 Violation of act; penalty.

7. Any person authorized to display emergency warning lights pursuant to this act who wilfully displays or uses such emergency warning lights in violation of the provisions of this act, shall be liable to a penalty of not more than $50.00 and his privilege to display such emergency warning lights may be suspended or revoked by the Director of Motor Vehicles.

Repealer.

8. P. L. 1971, c. 352 (C. 39:3–54.1 et seq.) is repealed.

9. This act shall take effect immediately.

Approved September 16, 1977.

CHAPTER 224

AN ACT concerning safe drinking water, providing certain powers to the Department of Environmental Protection, providing penalties, repealing parts of the statutory law and amending P. L. 1947, c. 177.

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

C. 58:12A-1 Short title.

1. This act shall be known and may be cited as the "Safe Drinking Water Act."

C. 58:12A-2 Legislature's findings.

2. The Legislature finds and declares that it is a paramount policy of the State to protect the purity of the water we drink and that the Department of Environmental Protection shall be empowered to promulgate and enforce regulations to purify drinking water by filtration or such other treatment method as it may require, prior to the distribution of said drinking water to the public; that the maintenance of high-quality potable water is essential in order to safeguard the health and welfare of the people of the State; that the Federal Safe Drinking Water Act provides a comprehensive framework for regulating the collection, treatment, storage, and distribution of potable water, and for consolidating and improving existing State law regarding potable water; and that it is in the best interests of the people of the State for the State, through its Department of Environmental Protection, to assume primary enforcement responsibility under the Federal Safe Drinking Water Act.

C. 58:12A-3 Definitions.

3. As used in this act, unless the context clearly requires a different meaning, the following words and terms shall have the following meanings:

a. "Administrator" means the Administrator of the United States Environmental Protection Agency or his authorized representative;

b. "Contaminant" means any physical, chemical, biological or radiological substance or matter in water;

c. "Commissioner" means the Commissioner of Environmental Protection or his designated representative;

d. "County" means any county or any agency or instrumentality of one or more thereof;

e. "Department" means the Department of Environmental Protection;

f. "Federal act" means the Safe Drinking Water Act, P. L. 93–523, 42 U. S. C. § 300 et al.;

g. "Federal agency" means any department, agency, or instrumentality of the United States;

h. "Municipality" means any city, town, township, borough or village or any agency or instrumentality of one or more thereof;

i. "National primary drinking water regulations" means primary drinking water regulations promulgated by the administrator pursuant to the Federal act;

j. "Person" means any individual, corporation, company, firm, association, partnership, municipality, county, State agency or Federal agency;

k. "Primary drinking water regulation" means a regulation which:

(1) Applies at a minimum to public water systems;

(2) Specifies contaminants which, in the judgment of the commissioner, may have any adverse effect on the health of persons;

(3) Specifies for each such contaminant either (a) a maximum contaminant level if, in the judgment of the commissioner, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or (b) if, in the judgment of the commissioner, it is not economically or technologically feasible to ascertain the level of such contaminant, each treatment technique known to the commissioner which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 4 of this act;

(4) Contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels, including quality control, sampling frequencies, and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the

system, and requirements as to: (a) the minimum quality of water which may be taken into the system, and (b) siting for new facilities for public water systems;

l. "Public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. Such term includes: (1) any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (2) any collection or pre-treatment storage facilities not under such control which are used primarily in connection with such system;

m. "State agency" means any department, agency or instrumentality of this State or of this State and any other State or States;

n. "Supplier of water" means any person who owns or operates a public water system;

o. "Maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to the free-flowing outlet of the ultimate user of a public water system or other water system to which State primary drinking water regulations apply, except in the case of turbidity where the maximum permissible level is measured at the point of entry to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition;

p. "Nonpublic water system" means a water system that is not a public water system;

q. "Sanitary survey" means an on-site review of the water source, facilities, equipment, operation and maintenance of a public or nonpublic water system for the purpose of exaluating the adequacy of the source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water with adequate pressure and volume;

r. "Secondary drinking water regulation" means a regulation applying to one or more water systems, and which specifies the maximum contaminant levels that are required to protect the public welfare; such regulations may apply to any contaminant in drinking water (1) which may adversely affect the taste, odor, or appearance of such water and consequently may cause a substantial number of persons served by such water systems to discontinue

their use, or (2) which may otherwise adversely affect the public welfare;

s. "Water system" means a system for providing potable water to any person.

C. 58:12A-4 Promulgation and enforcement of rules and regulations.

4. a. The commissioner shall prepare, promulgate and enforce and may amend or repeal (1) State primary drinking water regulations that at any given time shall be no less stringent than the complete interim or revised national primary drinking water regulations in effect at that time; (2) State secondary drinking water regulations; and (3) other regulations to protect potable waters, regulate public and nonpublic water systems, and carry out the intent of this act in any one or more areas of the State requiring a particular safe drinking water program.

b. Subject to section 5. of this act, State primary drinking water regulations shall apply to each public water system in the State, except that such regulations shall not apply to a public water system:

(1) Which consists only of distribution and storage facilities and which does not have any collection and treatment facilities;

(2) Which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply; or

(3) Which does not sell water to any person;

c. The commissioner shall adopt and implement adequate procedures, promulgate appropriate rules and regulations, and issue such orders as are necessary for the enforcement of State primary drinking water regulations and for the provision of potable water of adequate volume and pressure; such regulations and procedures to include but not be limited to:

(1) Monitoring and inspection procedures;

(2) Maintenance of an inventory of public water systems in the State;

(3) A systematic program for conducting sanitary surveys of public water systems throughout the State or in a part thereof whenever the commissioner determines that such surveys are necessary or advisable;

(4) The establishment and maintenance of a program for the certification of laboratories conducting analytical measurements of drinking water contaminants specified in the State primary and secondary drinking water regulations; and the assurance of the

availability to the department of laboratory facilities certified by the administrator and capable of performing analytic measurements of all contaminants specified in the State primary and secondary drinking water regulations;

(5) The establishment and maintenance of a program concerning plans and specifications for the design and construction of new or substantially modified public water systems, which program (a) requires all such plans and specifications, or either, to be first approved by the department before any work thereunder shall be commenced and (b) assures that all such projects, upon completion, will comply with any rules and regulations of the department concerning their construction; will be capable of compliance with the State primary drinking water regulations or such requirements of the State secondary drinking water regulations as the commissioner deems applicable, and will deliver water with sufficient volume and pressure to the users of such systems.

d. The commissioner shall keep such records and make such reports with respect to his activities under subsections a. and c. of this section as may be required by regulations established by the administrator pursuant to the Federal act;

e. The commissioner may require any public water system to install, use, and maintain such monitoring equipment and methods, to perform such sampling, to maintain and retain such records of information from monitoring and sampling activities, to submit such reports of monitoring and sampling results, and to provide such other information as he may require to assist in the establishment of regulations under this act, or to determine compliance or noncompliance with this act or with regulations promulgated pursuant to this act;

f. The commissioner shall have the right to enter any premise upon presentation of appropriate credentials during regular business hours, in order to test, inspect or sample any feature of a public water system and in order to inspect, copy or photograph any monitoring equipment or records required to be kept under provisions of this act.

g. The department shall further transmit copies of all rules and regulations proposed pursuant to this act to the Senate and General Assembly on a day on which both Houses shall be meeting in the course of a regular or special session. The provisions of the aforesaid "Administrative Procedure Act" or any other law to the contrary notwithstanding, no such rule or regulation shall take effect if, within 60 days of the date of its transmittal to the Senate and

General Assembly, the Legislature shall pass a concurrent resolution stating in substance that the Legislature does not favor such proposed rule or regulation.

C. 58:12A-5 Variances or exemptions from regulations.

5. The commissioner may authorize variances or exemptions from the regulations issued pursuant to section 4. of this act under conditions and in such manner as he deems necessary and desirable; provided, however, that such variances or exemptions shall be granted only under conditions and in a manner which are no less stringent than the conditions under, and the manner in which, variances and exemptions may be granted under the Federal act. Notwithstanding the foregoing variances may be granted for no longer than 5 years, subject to one or more renewals of no longer than 5 years each.

C. 58:12A-6 Actions by commissioner to avoid contamination.

6. The commissioner, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, may take such actions as he may deem necessary in order to protect the health of such persons. Such actions may include, but shall not be limited to: a. issuing such orders as may be necessary to protect the health of persons who are or may be users of such system, including travelers; and, b. commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

C. 58:12A-7 Emergency circumstances; plan for provision of safe drinking water.

7. The commissioner shall promulgate an adequate plan for the provision of safe drinking water under emergency circumstances. When, in the judgment of the commissioner, emergency circumstances exist in the State with respect to a need for safe drinking water, he may take such actions, including the issuance of orders, as he may deem necessary in order to provide such water where it otherwise would not be available.

C. 58:12A-8 Notice by supplier.

8. Whenever a public water supply system: a. is not in compliance with the State primary drinking water regulations; b. fails to perform monitoring required by regulations adopted by the commissioner; or, c. fails to comply with the requirements prescribed by a variance or exemption, the supplier of water shall as soon as practicable give notice of that fact and of the nature, and extent and possible health effects of such fact to the municipal and

county health departments, the department, the administrator, and communications media serving the area served by the system of such fact. Such notice also shall be given by the supplier of water by publication in a newspaper of general circulation, as determined by the commissioner, within the area served by such public water system at least once every 3 months so long as the violation continues. If the water bills of a public water system are issued more often than once every 3 months, such notice shall also be included in at least one water bill of the public water system for each customer every 3 months; if the public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system for each customer; provided, however, that the commissioner may prescribe by regulations alternative notice requirements.

C. 58:12A-9 Powers and duties of commissioner.

9. The commissioner is authorized and empowered, in order to carry out the provisions and purposes of this act, to:

a. Perform any and all acts necessary to carry out the purposes and requirements of this act relating to the adoption and enforcement of any regulations authorized pursuant to this act;

b. Administer and enforce the provisions of this act and all rules, regulations, and orders promulgated, issued, or effective hereunder;

c. Enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as he deems appropriate with other state agencies, Federal agencies, municipalities, counties, educational institutions, municipal or county health departments, or other organizations or individuals;

d. Receive financial and technical assistance from the Federal Government and other public or private agencies;

e. Participate in related programs of the Federal Government, other states, interstate agencies, or other public or private agencies or organizations;

f. Establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds appropriated or otherwise provided for the purpose of carrying out the provisions of this act;

g. Delegate those responsibilities and duties as deemed appropriate for the purpose of administering the requirements of this act;

h. Establish and collect fees, in accordance with a fee schedule adopted as a rule or regulation, for conducting inspections and laboratory analyses and certifications as may be necessary;

i. Prescribe such regulations and issue such orders as are necessary or appropriate to carry out his functions under this act.

C. 58:12A-10 Violation of act; penalty.

10. a. If any person violates any of the provisions of this act or any rule, regulation or order promulgated or issued pursuant to the provisions of this act, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner.

b. Any person who violates the provisions of this act or any rule, regulation or order promulgated pursuant to this act shall be liable to a penalty of not more than $5,000.00 for each offense, to be collected in a civil action by a summary proceeding under The Penalty Enforcement Law (N. J. S. 2A:58–1 et seq.), or in any case before a court of competent jurisdiction wherein injunctive relief had been requested. The Superior Court, County Court and county district court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

c. The department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.

C. 58:12A-11 Partial invalidity; construction of act.

11. If any provision of this act or the application thereof to any person or circumstance is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby. This act shall be liberally construed to effectuate the purpose and intent thereof. All rules and regulations promulgated pursuant to any statutes repealed by this act are continued in full force and effect until superseded and repealed by rules and regulations promulgated pursuant to this act.

12. Section 7 of P. L. 1947, c. 177 (C. 26:1A–7), is amended to read as follows:

C. 26:1A-7 Establishment of State Sanitary Code; contents; amendments.

7. The Public Health Council shall have power, by the affirmative vote of a majority of all its members, to establish, and from time to time amend and repeal, such reasonable sanitary regulations not inconsistent with the provisions of this act or the provisions of any other law of this State as may be necessary properly to preserve and improve the public health in this State. The regulations so established shall be called the State Sanitary Code.

The State Sanitary Code may cover any subject affecting public health, or the preservation and improvement of public health and the prevention of disease in the State of New Jersey, including the immunization against disease of all school children in the State of New Jersey. In addition thereto, and not in limitation thereof, said State Sanitary Code may contain sanitary regulations: (a) prohibiting nuisances hazardous to human health; (b) (deleted by amendment) (c) regulating the use of privies and cesspools; (d) regulating the disposition of excremental matter; (e) regulating the control of fly and mosquito breeding places; (f) regulating the detection, reporting, prevention and control of communicable and preventable diseases; (g) regulating the conduct of public funerals; (h) regulating the conduct of boarding homes for children; (i) regulating the conduct of maternity homes and the care of maternity and infant patients therein; (j) regulating the conduct of camps; (k) regulating the production, distribution and sale of certified milk; (l) regulating the preparation, handling, transportation, burial or other disposal, disinterment and reburial of dead human bodies; and (m) prescribing standards of cleanliness for public eating rooms and restaurants.

Prior to the final adoption by the council of any sanitary regulation or amendment thereto or repealer thereof the council shall hold a public hearing thereon. The council shall cause to be published, at least once, not less than 15 days prior to such hearing, in each of the counties of the State in a newspaper published in each of said counties, or if no newspaper be published in any such county, then in a newspaper circulated in such county, a notice of such hearing, specifying the time when and the place where such hearing will be held, together with a brief summary of the proposed regulation, amendment or repealer and a statement that copies of the text thereof may be obtained from the State Commissioner of Health or from the board of health of any municipality in the State. The State Department of Health shall prepare and make available

on request therefor, copies of the text of such proposed regulations and changes therein in the manner described in such public notice.

13. Section 37 of P. L. 1947, c. 177 (C. 26:1A–37) is amended to read as follows:

C. 26:1A-37 Formulation of policies; additional powers and duties of department.

37. The department shall formulate comprehensive policies for the promotion of public health and the prevention of disease within the State. It shall in addition to other powers and duties vested in it by this act or by any other law:

a. Collect, preserve and tabulate all information required by law in reference to births, marriages, deaths and all vital facts and shall obtain, collect and preserve such information relating to the health of the people of the State and to the prevention of disease as may be useful in the discharge of the functions of the department;

b. Prepare and administer or supervise a State-wide program of health education, prepare and make available to practicing physicians and local boards of health in the State technical information concerning public health, cooperate with the Commissioner of Education in the preparation and distribution of health bulletins among all the public schools of the State for the purpose of educating children in sanitation and hygiene, cooperate with the Commissioner of Education in the preparation of a program of school health services.

c. Administer or supervise a program of public health nursing, prescribe the minimum qualifications of all public health nurses engaged in official public health work, and encourage and aid in coordinating local public health nursing services;

d. Encourage, direct and aid in coordinating local programs concerning control of preventable diseases in accordance with a unified State-wide plan which shall be formulated by the department;

e. Administer or supervise a program of maternal and child health services, encourage and aid in coordinating local programs concerning maternal and infant hygiene, and encourage and aid in coordinating local programs concerning prenatal and post-natal care, and may, when requested by a local board of education, supervise the work of school nurses;

f. Administer or supervise a program of dental health, encourage and aid in coordinating local programs concerning dental health;

g. Establish and maintain adequate serological, bacteriological and chemical laboratories with such expert assistance and such

facilities as are necessary for routine examinations and analyses, and for original investigations and research in matters affecting public health;

h. Administer or supervise a program of industrial hygiene, encourage the establishment of medical, dental, environmental engineering and nursing services in all industrial plants in the State, cooperate with the State Department of Labor in formulating rules and regulations concerning industrial sanitary conditions;

i. (Deleted by amendment)

j. Enforce the State food, drug, and cosmetic laws and collaborate in the enforcement of the Federal Food, Drug, and Cosmetic Act;

k. Keep complete and accurate minutes of all hearings held before the commissioner or any member of the department pursuant to the provisions of this act.

All such minutes shall be retained in a permanent record, and shall be available for public inspection at all times during the office hours of the department.

Repealer.

14. The following are repealed:

R. S. 58:7–1 to R. S. 58:7–3 inclusive.
R. S. 58:8–1.
R. S. 58:9–1.
R. S. 58:11–1 to R. S. 58:11–13 inclusive.
R. S. 58:10–1 to R. S. 58:10–4 inclusive.
P. L. 1945, c. 192, s. 1 (C. 26:3B–1).
P. L. 1945, c. 192, s. 4 (C. 26:3B–4).

15. This act shall take effect immediately.

Approved September 17, 1977.

CHAPTER 225

AN ACT establishing a Division of Travel and Tourism in the Department of Labor and Industry; transferring the functions, powers, and duties of the Office of Tourism and Promotion thereto; creating a Tourism Advisory Council; directing the formulation of a master plan for the development of tourism in this State; and supplementing Title 34 of the Revised Statutes.

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

C. 34:1A-45 Short title.

1. This act shall be known and may be cited as the "Division of Travel and Tourism Act."

C. 34:1A-46 Legislature's findings.

2. The Legislature hereby finds and declares that:

a. Increased revenues for this State and more employment opportunities for its citizens will result from the proper promotion throughout the United States and the world of the many tourist attractions which New Jersey has to offer to vacationers and travelers.

b. Such proper promotion—and the desired expansion of tourism in New Jersey—will be enhanced by the elevation of the present Office of Tourism and Promotion to the more visible level of a division in the Department of Labor and Industry and by the formulation of a master plan for the development of the tourist industry throughout New Jersey.

c. The objective of State policy through its programs, agencies, and resources shall be to provide an optimum of satisfaction and high-quality service to visitors, to protect the natural beauty of New Jersey, and to sustain the economic health of the tourist industry in a manner and to the extent compatible with such goals.

C. 34:1A-47 Definitions.

3. As used in this act, unless a different meaning appears from the context:

a. "Council" means the Tourism Advisory Council.

b. "Director" means the Director of the Division of Travel and Tourism.

c. "Division" means the Division of Travel and Tourism.

d. "Tourism" means activities involved in providing and marketing services and products, including accommodations, for nonresidents and residents who travel to and in New Jersey for recreation and pleasure.

e. "Tourist industry" means the industry consisting of private and public organizations which directly or indirectly provide services and products to nonresidents and residents who travel to and in New Jersey for recreation and pleasure.

C. 34:1A-48 Division of travel and tourism; establishment; director; appointment; term; salary.

4. There is hereby established in the Department of Labor and Industry the Division of Travel and Tourism. The division shall be under the supervision of a director, who shall be a person qualified by training and experience to direct the work of such division. The director shall be appointed by the Governor after consultation with the council and with the advice and consent of the Senate; provided, however, that in the case of the first director to be appointed, the Governor shall not be required to consult with the council. The director shall serve during the term of office of the Governor appointing him and until his successor is appointed and qualified. The director shall receive such salary as shall be provided by law and shall devote his entire time and attention to the duties of his office and shall not, while in office, engage in any other gainful pursuit. The Governor may remove the director from office for cause, upon notice and opportunity to be heard.

C. 34:1A-49 Transfer of functions, powers and duties to division.

5. All the functions, powers, and duties of the Office of Tourism and Promotion in the Division of Economic Development in the Department of Labor and Industry are transferred to the Division of Travel and Tourism established hereunder.

C. 34:1A-50 Applicability of State agency transfer act.

6. The transfer directed by this act shall be made in accordance with the "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D–1 et seq.).

C. 34:1A-51 Tourism advisory council; membership; appointment; terms; vacancies; compensation.

7. a. There is hereby created in the division the Tourism Advisory Council consisting of 12 members appointed as follows by the Governor, with the advice and consent of the Senate:

(1) Three representatives of the tourist industry;

(2) Three representatives from among the elected officials in those municipalities that expend funds for the advertising of their recreational, travel, and tourism attractions;

(3) Three representatives from among the county boards of freeholders of the State; and

(4) Three representatives of the public, one of whom the Governor shall designate as chairman for the term of his appointment.

b. Each member shall be appointed to a 3-year term, except that of the initial appointments, one member in each of the four groups specified above shall be appointed to a 3-year term, one to a 2-year term, and one to a 1-year term. Members shall serve until their successors are appointed and qualified. Vacancies occurring other than by expiration of term shall be filled for the unexpired term only.

c. No more than two representatives from each group shall be members of the same political party, and no more than six members of the council shall be of the same political party.

d. No county shall have more than two residents serving on the council.

e. The members of the council shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties as members.

f. The director shall be a nonvoting member of the council.

C. 34:1A-52 Master plan; contents.

8. The director, upon consultation with the council, shall develop a 10-year master plan for the growth of tourism for presentation to the Governor and the Legislature no later than February 1, 1979.

The plan shall include, but not be limited to, consideration of the following:

a. New Jersey's need for additional job opportunities and for tax revenues;

b. The optimum distribution of the tourist industry throughout the State and the effect of such industry on the environment;

c. The upgrading and improvement of the facilities and services available to tourists in New Jersey;

d. The development of tourist destination areas attractive in appearance, manageable in terms of densities, and with wholesome recreational opportunities;

e. The protection and preservation of shoreline areas;

f. The providing of access to shoreline areas for tourists and the assurance of the rights of residents to the use of public beaches

and public beach access areas, surfing and fishing sites, hiking trails, and other recreational sites and scenic areas;

g. The reconstruction, maintenance, and preservation of sites which have been important in New Jersey history and American history;

h. The promotion of various cultural and ethnic holidays, observances, and festivities and of understanding by visitors and residents of the social and cultural contributions of all ethnic groups and people residing in New Jersey; and

i. The desirability and the feasibility of creating a Department of Tourism.

C. 34:1A-53 Powers and duties of division.

9. In the pursuance and promotion of a State policy on tourism, the division shall:

a. Provide and promote adequate opportunities for county and municipal participation, Federal agency participation, and private citizens' involvement in the decision-making process of tourism planning and policy formulation;

b. Encourage all State, county, and municipal governmental and private agencies to do their utmost to assure the personal safety of residents and tourists both within and without tourist destination areas;

c. Take whatever administrative, litigable, and legislative steps as are necessary to minimize the problems of tourists in not receiving contracted services, including transportation, tours, hotels;

d. Attempt to reconcile and balance the activities and accommodations of the tourist with the daily pursuits and lifestyles of the residents;

e. Develop an understanding among all citizens of the role of tourism in New Jersey, both in terms of its economic and social importance and the problems it presents, through appropriate formal and informal learning experiences;

f. Cooperate with the Department of Education to promote throughout the educational system of New Jersey an awareness of New Jersey history and culture;

g. Ensure that the growth of the tourist industry is consistent with the attainment of economic, social, physical, and environmental objectives in any State plan and county plans that are adopted;

h. Continuously monitor and evaluate the social costs of growth of the tourist industry against the social benefits;

i. Emphasize in the State's tourism promotional efforts the high quality of the State's natural and cultural features;

j. Promote the tourist industry through such activities as Visitors Bureaus and similar county and municipal agencies, and assure that the tourist industry contributes its fair share of the cost of such promotion;

k. Request and receive from any department, division, board, bureau, commission, or other agency of the State, or any political subdivision or public authority thereof, such assistance and data as may be necessary to enable the division to carry out its responsibilities under this act; and

l. Review annually and, if necessary, revise the Statewide master plan and submit a report to the Governor and the Legislature containing an evaluation of the preceding year's developments in tourism and the revisions recommended in the master plan.

C. 34:1A-54 Powers and duties of commission.

10. The commission shall:

a. Aid the division in the formulation of the 10-year master plan and the annual review thereof;

b. Consider all matters referred to it by the director; and

c. Make recommendations to the division on any matter relating to tourism and the tourist industry in New Jersey and to those objectives and responsibilities specified in sections 8 and 9 of this act.

C. 34:1A-55 Partial invalidity.

11. If any section, subsection, paragraph, sentence or other part of this act is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which said judgment shall have been rendered.

C. 34:1A-56 Inconsistent acts repealed.

12. All acts and parts of acts inconsistent with this act are, to the extent of such inconsistency, superseded and repealed.

13. This act shall take effect 45 days following enactment, but anticipatory action to effect the establishment of the division may be taken in advance thereof, including the making of authorized appointments and confirmation or approval thereof, and, within the appropriations to the Department of Labor and Industry, the expenditure of funds for payment of salaries and expenses incident thereto.

Approved September 17, 1977.

CHAPTER 226

AN ACT creating a commission to study the matter of personal privacy.

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

1. The Legislature hereby finds and declares that the privacy of an individual is directly affected by the collection, maintenance, use, and dissemination of personal information by governmental agencies and various nongovernmental entities; that one of the principal functions of a democratic form of government must be the protection of individual liberty; that recent years have seen a growing threat to individual privacy, the very essence of liberty; that the increasing use of computers and sophisticated information technology, while essential to the efficient operations of the State Government and private enterprise, has greatly magnified the harm to individual privacy that can occur from any collection, maintenance, use or dissemination of personal information; and that the opportunities for an individual to secure employment, insurance, and credit, and his right to due process, and other legal protections are endangered by the misuse of certain information systems.

The Legislature further finds and declares that the right to privacy is a personal and fundamental right protected by the Constitution of the United States and the Constitution of the State of New Jersey; and that in order to protect the privacy of individuals identified in information systems maintained by the State Government and various nongovernmental entities, it is necessary and proper for the Legislature to regulate the collection, maintenance, use, and dissemination of information by the State and by the private sector.

2. There is hereby created a commission, to be known as the Commission on Individual Liberty and Personal Privacy, which shall consist of 12 members:

a. Four members to be appointed by the President of the Senate, two of whom shall be from the membership thereof with no more than one from the same political party, and two of whom shall be appointees representing the public;

b. Four members to be appointed by the Speaker of the General Assembly, two of whom shall be of the membership thereof with no more than one from the same political party, and two of whom shall be appointees representing the public;

c. The State Treasurer, ex officio, and the Director of the Division of Data Processing and Telecommunications in the Department of the Treasury, ex officio; and

d. Two citizen members who shall be appointed by and shall serve at the pleasure of the Governor.

Each member appointed from either House of the Legislature shall serve as long as he is a member of the House from which he was appointed. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made. All members of the commission shall serve without compensation, except that public members shall be reimbursed for their expenses actually incurred in the performance of their duties.

3. The commission shall organize as soon as may be after the appointment of its members and shall select a chairman from among its members.

4. It shall be the duty of the commission to study the system of information management and data processing by various private sector entities engaged in data processing. The commission shall review the collection and use of information which threatens individual privacy and recommend specific measures, including legislation, to protect the right of privacy.

5. The commission shall be entitled to employ and utilize a full-time professional staff of assistants, and to employ such stenographic and clerical assistants and incur such traveling and other miscellaneous expenses as it may deem necessary, in order to perform its duties, as may be within the limits of funds appropriated to it within this act or otherwise made available to it for said purposes.

6. The commission shall be entitled to call to its assistance and avail itself of the services of the Division of Legislative Information and Research of the Legislative Services Agency, the Office of Fiscal Affairs and such employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for said purpose, and to employ such stenographic, clerical, technical and professional staff assistance provided by the Division of Legislative Information and Research of the Legislative Services Agency and

incur such traveling and other miscellaneous expenses as it may deem necessary, in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for said purposes.

7. For the purposes of carrying out its duties under this act the commission shall have all the powers granted pursuant to chapter 13 of Title 52 of the Revised Statutes.

8. The commission may conduct public hearings in furtherance of its general purposes at such place or places as it shall designate at which it may request the appearance of officials of any State agency and solicit the testimony of interested groups and the general public.

9. The commission may adopt such rules and regulations as it shall deem necessary or desirable to carry out its purposes as provided by this act.

10. The commission shall report its findings and recommendations to the Governor and the Legislature on or before November 15, 1977 together with any legislative bills it may desire to recommend for adoption by the Legislature.

11. This act shall take effect immediately and shall expire at noon on January 10, 1978.

Approved September 19, 1977.

CHAPTER 227

AN ACT concerning the appointment of county court judges in certain counties and amending N. J. S. 2A:3–13.

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

1. N. J. S. 2A:3–13 is amended to read as follows:

Additional judges in certain counties.

2A:3–13. There shall be a judge of each County Court; and in addition, the Governor may, whenever in his judgment the public interest requires, appoint additional judges as follows:

a. In counties now or hereafter having 900,000 or more inhabitants, 13 additional judges, making 14 in all in each of such counties.

b. In counties now or hereafter having not less than 700,000 nor more than 900,000 inhabitants, 11 additional judges, making 12 in all in each of such counties.

c. In counties now or hereafter having not less than 400,000 nor more than 700,000 inhabitants, five additional judges, making six in all in each of such counties.

d. In counties now or hereafter having 150,000 or more and less than 400,000 inhabitants, three additional judges, making four in all in each of such counties.

e. In counties bordering on the Atlantic ocean and now or hereafter having not less than 50,000 nor more than 100,000 inhabitants, an additional judge, making two in all in each of such counties.

f. In counties of the fifth class having, according to the 1960 Federal census not more than 150,000 inhabitants, seven additional judges, making eight in all in each of such counties and in all other counties of the fifth class, three additional judges, making four in all.

2. This act shall take effect immediately.

Approved September 19, 1977.

CHAPTER 228

AN ACT to validate certain proceedings of school districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

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

Validating act.

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization or issuance of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of a proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that the supplemental debt statement required by N. J. S. 18A:24–16 was not prepared and filed as required by N. J. S. 18A:24–17; provided, however, that a supplemental debt statement has heretofore been made, sworn to, and filed in the places required by N. J. S.

18A:24–16 and N. J. S. 18A:24–17; and provided further, that no action, suit or other proceeding of any nature to contest the validation of such proceeding has heretofore been instituted prior to the date upon which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, if instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved September 19, 1977.

CHAPTER 229

AN ACT concerning cruelty to animals, and amending R. S. 4:22–20 and R. S. 4:22–26.

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

1. R. S. 4:22–20 is amended to read as follows:

Abandoning animals in public place; misdemeanor.

4:22–20. a. A person who shall abandon a maimed, sick, infirm or disabled animal or creature to die in a public place, shall be guilty of a misdemeanor and punished as provided in section 4:22–17 of this Title.

b. A person who shall abandon a dog or cat shall be guilty of a misdemeanor and punished as provided in section 4:22–17 of this Title.

2. R. S. 4:22–26 is amended to read as follows:

Penalty for acts constituting cruelty in general.

4:22–26. A person who shall:

a. Overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, or cruelly beat or otherwise abuse or needlessly mutilate or kill a living animal or creature;

b. Cause or procure to be done by his agent, servant, employee or otherwise an act enumerated in paragraph "a" of this section;

c. Inflict unnecessary cruelty upon a living animal or creature of which he has charge or custody either as owner or otherwise, or

unnecessarily fail to provide it with proper food, drink, shelter or protection from the weather;

d. Receive or offer for sale a horse which by reason of disability, disease or lameness, or any other cause, could not be worked without violating the provisions of this article;

e. Keep, use, be connected with or interested in the management of, or receive money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;

f. Be present and witness, encourage, aid or assist in an activity enumerated in paragraph "e" of this section;

g. Permit or suffer a place owned or controlled by him to be used as provided in paragraph "e" of this section;

h. Carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhuman manner;

i. Use a dog or dogs for the purpose of drawing or helping to draw a vehicle for business purposes;

j. Impound or confine or cause to be impounded or confined in a pound or other place a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water;

k. Abandon a maimed, sick, infirm or disabled animal or creature to die in a public place;

l. Willfully sell, or offer to sell, use, expose, or cause or permit to be sold or offered for sale, used or exposed, a horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the health or life of human beings or animals, or who shall, when any such disease is beyond recovery, refuse, upon demand, to deprive the animal of life;

m. Own, operate, manage or conduct a stand or roadside market for the sale of merchandise along a highway and shall keep a living animal or creature inhumanly confined on such premises as an exhibit;

n. Keep or exhibit any wild animal, other than birds or fowl, at any road stand, gasoline station or market located on any of the public streets or highways of this State;

o. Sell, offer for sale, barter or give away or display live baby chicks, ducklings or other fowl or rabbits, turtles or chameleons which have been dyed or artificially colored or otherwise treated so as to impart to them an artificial color;

p. Use any animal, reptile, or fowl for the purpose of soliciting any alms, collections, contributions, subscriptions, donations, or

payment of money except in connection with exhibitions, shows or performances conducted in a bona fide manner by recognized breeders associations, 4H clubs or other similar bona fide organizations;

q. Sell or offer for sale, barter, or give away living rabbits, turtles, baby chicks, ducklings or other fowl under 2 months of age, for use as household or domestic pets;

r. Sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl, or rabbits, turtles or chameleons under 2 months of age for any purpose not prohibited by subsection q. of this section and who shall fail to provide proper facilities for the care of such animals.

s. Artificially mark sheep or cattle, or cause them to be marked, by cropping or cutting off both ears, cropping or cutting either ear more than 1 inch from the tip end thereof, or half cropping or cutting both ears or either ear more than 1 inch from the tip end thereof, or who shall have or keep in his possession sheep or cattle, which he claims to own, marked contrary to this paragraph unless they were bought in market or of a stranger.

t. Abandon a dog or cat—

Shall forfeit and pay a sum not to exceed $250.00 to be sued for and recovered, with costs, in a civil action by any person in the name of the New Jersey Society for the Prevention of Cruelty to Animals.

3. This act shall take effect immediately.

Approved September 20, 1977.

CHAPTER 230

A SUPPLEMENT to the "New Jersey Turnpike Authority Act of 1948," approved October 27, 1948 (P. L. 1948, c. 454, C. 27:23–1 et seq.).

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

C. 27:23-5.10 Public hearing prior to establishing new or increased tolls.

1. The authority shall, whenever it desires to increase any existing toll or establish any new toll for the use of any turnpike project and the different parts or sections thereof, hold a public hearing

on such proposed toll at least 45 days prior to the date on which such toll is proposed to become effective.

C. 27:23-5.11 Notice of hearing; publication.

2. The authority shall cause to be published notice of such hearing at least 10 days prior to such hearing in at least 10 newspapers with a daily circulation in this State.

3. This act shall take effect immediately.

Approved September 20, 1977.

CHAPTER 231

AN ACT concerning the destruction of certain animals, amending "An act for the uniform control and licensing of dogs and kennels to aid in preventing the spread of rabies, and repealing sections 4:19–10, 4:19–11, 4:19–12, 4:19–13, 4:19–14, 4:19–15, 40:52–5 and 40:52–6 of the Revised Statutes," approved May 24, 1941 (P. L. 1941, c. 151), and amending R. S. 4:22–19.

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

1. R. S. 4:22–19 is amended to read as follows:

Failure to care for or destroy impounded animals properly; penalty.

4:22–19. A person who shall

a. Impound or confine, or cause to be impounded or confined, in a pound or other place, a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water; or

b. Destroy or cause to be destroyed any such animal except by a method of euthanasia generally accepted by the veterinary medical profession as being reliable, appropriate to the type of animal upon which it is to be employed, and capable of producing loss of consciousness and death rapidly and painlessly for such animal shall, in the case of a violation of paragraph a., be guilty of a misdemeanor and punished as provided in section 4:22–17 of this Title; or, in the case of a violation of paragraph b., be subject to a penalty of $25.00 for the first offense and $50.00 for each subsequent offense. Each animal destroyed in violation of paragraph b. shall constitute

a separate offense. The penalty shall be collected in accordance with the Penalty Enforcement Law (N. J. S. 2A:58–1 et seq.) and all money collected shall be remitted to the State.

Paragraphs a. and b. of this section shall apply to pounds and places of confinement owned and operated by municipalities, counties or regional governmental authorities and to every contractual warden or impounding service, any provision to the contrary in this title notwithstanding.

2. Section 16 of P. L. 1941, c. 151 (C. 4:19–15.16) is amended to read as follows:

C. 4:19-15.16 Impounding and disposal of dogs; notice; destruction; experimentation; penalty.

16. Any person appointed for the purpose by the governing body of the municipality, shall take into custody and impound or cause to be taken into custody and impounded, and thereafter destroyed or disposed of as provided in this section:

(a) Any dog off the premises of the owner or of the person keeping or harboring said dog which said official or his agent, or agents have reason to believe is a stray dog;

(b) Any dog off the premises of the owner or of the person keeping or harboring said dog without a current registration tag on his collar;

(c) Any female dog in season off the premises of the owner or of the person keeping or harboring said dog.

If any dog so seized wears a collar or harness having inscribed thereon or attached thereto the name and address of any person or a registration tag or the owner or the person keeping or harboring said dog is known, any person authorized by the governing body, shall forthwith serve on the person whose address is given on the collar, or on the owner or the person keeping or harboring said dog, if known, a notice in writing stating that the dog has been seized and will be liable to be disposed of or destroyed if not claimed within 7 days after the service of the notice.

A notice under this section may be served either by delivering it to the person on whom it is to be served, or by leaving it at the person's usual, or last known place of abode, or at the address given on the collar, or by forwarding it by post in a prepaid letter addressed to that person at his usual or last known place of abode, or to the address given on the collar.

When any dog so seized has been detained for 7 days after notice, when notice can be given as above set forth, or has been detained

for 7 days after seizure, when no notice has been given as above set forth and if the owner or person keeping or harboring said dog has not claimed said dog and paid all expenses incurred by reason of its detention, including maintenance not exceeding $1.00 per day, and if the dog be unlicensed at the time of the seizure and the owner or person keeping or harboring said dog has not produced a license and registration tag for said dog, any person authorized by the governing body, may cause the dog to be destroyed in manner causing as little pain as possible and consistent with the provisions of R. S. 4:22–19. No dog or other animal so caught and detained or procured, obtained, sent or brought to a pound or shelter shall be sold or otherwise made available for the purpose of experimentation. Any person who sells or otherwise makes available any such dog or other animal for the purpose of experimentation shall be guilty of a disorderly persons offense.

3. This act shall take effect immediately.

Approved September 20, 1977.

CHAPTER 232

AN ACT concerning credit unions and amending P. L. 1938, c. 293 and P. L. 1968, c. 196 supplementary thereto.

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

1. Section 2 of P. L. 1938, c. 293 (C. 17:13–27) is amended to read as follows:

C. 17:13-27 Authority to incorporate; powers of credit union.

2. Upon executing, recording and filing a certificate of incorporation as hereinafter provided and upon compliance with the provisions of this act and upon approval of the Commissioner of Banking as hereinafter provided, any seven or more natural persons citizens of this State, may become a credit union and shall be a corporation by the name set forth in its certificate of incorporation with the following powers:

(a) To receive the savings of its members as payments on shares, including the right to conduct Christmas accounts, vacation accounts, and other such thrift accounts within the membership;

(b) To make loans to its members for provident or productive purposes;

(c) To make loans to any other credit union operating under the provisions of this act or of the Federal Credit Union Act; provided, however, that the aggregate of all loans to other credit unions shall not exceed 25% of its share liability, and no credit union shall loan to any other credit union more than 25% of the share liability of such other credit union;

(d) To invest in or purchase any security in which savings banks of this State are authorized by law to invest, including those investments which are restricted by law to savings banks alone; and shares, certificates and accounts of savings and loan associations organized under the laws of the State of New Jersey and Federal Savings and Loan Associations, provided all such shares, certificates and accounts are insured by an agency or instrumentality of the United States Government, in an amount not to exceed the amount of the insurance; provided, that no such credit union shall invest in securities not permitted under the terms of this act; and provided, that investments, other than in loans to members, shall be made only from funds not needed for loans to members except when the board of directors of any such credit union deems it advisable to invest in other securities for the purpose of maintaining the liquidity of such credit union or maintaining a proper balance in its investment portfolio;

(e) To charge, contract for and receive interest on loans at a rate not to exceed 1% per month; and such interest shall not be payable in advance, or compounded, and shall be computed on unpaid balances; provided, that no further or other charge or amount whatsoever for examination, service, brokerage, commission or otherwise shall be directly or indirectly charged, contracted for or received on loans, in addition to the interest herein provided for, except the lawful fees, if any, actually and necessarily paid out on any such transaction to any public officer for filing or recording or releasing in any public office any instrument securing the loan, which fees may be collected when the loan is made, or at any time thereafter, and except on actual sale of the security in foreclosure proceedings or upon entry of judgment; and attorneys' fees not to exceed 20% but with a minimum fee of $10.00, may be added to the principal amount of any loan of any such credit union resolved into judgment or placed in the hands of any attorney for collection after default thereon and such addition to the principal

amount shall be collectible in any court of competent jurisdiction in addition to the court costs;

(f) To deposit its funds in national banks, banks, savings and loan associations organized under the laws of the State of New Jersey and Federal savings and loan associations, or savings banks of this State, central funds of credit unions or central credit unions organized under the laws of this State or of the Federal Government;

(g) To have and exercise all the powers of corporations organized under Title 14A of the New Jersey Statutes not inconsistent with this act;

(h) To act as the fiscal agent for the Federal Government, the State of New Jersey, or any of the subdivisions thereof;

(i) To sell to members negotiable checks, drafts, money orders and travelers checks, for a reasonable fee, and to cash checks and money orders for members, for a reasonable fee; but credit unions operating under the provisions of this act are not required to be licensed under the provisions of P. L. 1951, c. 187 (C. 17:15A–1 et seq.) and P. L. 1964, c. 273 (C. 17:15B–1 et seq.);

(j) To purchase land and building for the purpose of providing adequate facilities for the transaction of its business at a cost not to exceed 50% of the amount of its reserves, with the prior approval of the Commissioner of Banking;

(k) The Department of Banking of the State of New Jersey, or what every agency may in the future be charged with the operation of State chartered credit unions, shall have the power in relation to loans or investments authorized under this act, to promulgate rules and regulations in substantial conformity with similar rules and regulations under the Federal Credit Union Act and under the regulations promulgated by the administrator of the National Credit Union Association.

2. Section 5 of P. L. 1938, c. 293 (C. 17:13–30) is amended to read as follows:

C. 17:13-30 Membership groups.

5. The membership of any such credit union shall be limited to a group composed of:

(a) Persons employed by a common employer; or persons having a common bond of association by belonging to the same labor union or fraternal or benevolent association affiliated with a national labor union or national fraternal or benevolent association, or a labor union or fraternal or benevolent or civil service association

organized under the laws of the State of New Jersey for at least 5 years, provided that such labor union or fraternal or benevolent or civil service association has a membership of at least 200 members; or employees of organizations operating in a compact business community, industrial park or shopping center; or employees of organizations which are members of a State or National trade association; or

(b) Members of a church parish or church congregation or society consisting solely of members of such church parish or of such church congregation; or

(c) Persons employed by one or more municipal or regional school boards; or persons employed within a municipality by the municipality itself or by any department thereof; or persons employed by municipalities; or persons employed by any county or department thereof; or employees of the State or any department, board, commission, agency or instrumentality thereof; or employees of any port authority, commission, board, agency or instrumentality created by agreement, treaty, or compact between the State of New Jersey and any other state; or employees of the Federal Government or any department, board, commission, agency or instrumentality thereof whose place or places of employment are within the State of New Jersey; or

(d) Persons who are residents of a well defined rural area having not more than 2,500 population; provided, however, that any corporation, association, or partnership, the stockholders or members of which are eligible for membership in any credit union, may become a member thereof but shall not borrow therefrom except as provided in bylaws of the credit union; and provided, further, that membership in any credit union shall be limited to a group existing under circumstances which will afford the officers, directors and committees of such credit union reasonable opportunity to observe the character, financial responsibility and financial needs of the members thereof; and provided, further, that the Commissioner of Banking shall have power, in his discretion, not withstanding the provisions of this act, to authorize, on terms, any credit union existing at the time of the taking effect of this act to continue to accept memberships from the group to which its membership was limited by the provisions of its charter and the applicable laws of this State as said charter and said laws existed prior to the taking effect of this act.

(e) Members of any age of the immediate family, defined as the parents, brothers and sisters, spouse and children and unremarried

widows or widowers of such persons of the persons described in the above paragraphs may become members in the credit union; provided, that only such additional immediate family members who are 16 years of age or over shall be permitted to borrow from said credit union but not in excess of their share holdings in the credit union, unless such loans are fully secured, except that any such member who is a student may borrow under any State or Federal plan or any plan approved by the Commissioner of Banking; and provided further, that such immediate family members shall not be permitted to act as comaker or endorser of any member loan except as provided in the bylaws of the credit union.

(f) Employees of any credit union organized under this act may become members of the credit union by which they are employed and enjoy all of the rights and privileges permitted members.

3. Section 9 of P. L. 1938, c. 293 (C. 17:13–34) is amended to read as follows:

C. 17:13-34 Credit committee; election; duties.

9. The members of each credit union shall elect from the membership, for terms to be provided in the bylaws, a committee, not less than three nor more than five in number, which shall be known as the credit committee. It shall be the exclusive duty of the credit committee to receive written applications for loans from members of any such credit union, pass on the same and order the proper officers of such credit union, in writing, to disburse such loans out of available funds; provided, however, that this section shall not be construed to take away from the board of directors its control over the general loaning policy of any such credit union or its power to make general regulations pertaining to loans. At all meetings of any such credit committee a majority of the members thereof shall constitute a quorum; and no member loan shall be ordered to be disbursed by any such credit committee unless the application therefor shall have been approved, in writing, by all of the members of the credit committee present at the meeting at which such loan was considered. No member loans shall be approved except at meetings of the credit committee and the committee shall appoint a chairman and a secretary and such other officers as it deems necessary. It shall be the duty of the secretary of any such credit committee to keep permanent minutes of all of its meetings. The credit committee may appoint one or more loan officers, and delegate to him or them the power to approve loans up to the unsecured limit, or in excess of such limit if such excess is fully

secured by unpledged shares. Each loan officer shall furnish to the credit committee a record of each loan approved or not approved by him within 7 days of the filing of the application therefor. All loans not approved by a loan officer shall be acted upon by the credit committee. No individual shall have authority to disburse funds of the credit union for any loan which has been approved by him in his capacity as a loan officer. Not more than one member of the credit committee may be appointed as a loan officer. The credit committee may approve in advance upon its own motion or upon application by a member, a line of credit, and loans may be granted to such member within the limit of such line of credit. Where a line of credit has been approved, applications for loans need no further consideration as long as the aggregate obligation does not exceed the limit of such line of credit. The credit committee shall, at least once each 2 years, review all lines of credit prior to the expiration date thereof and may at its discretion act to extend the expiration date or to increase the amount of a line of credit. A line of credit shall expire if the member becomes more than 60 days delinquent in his obligations to the credit union.

4. Section 12 of P. L. 1938, c. 293 (C. 17:13–37) is amended to read as follows:

C. 17:13-37 Membership in credit union; shares; termination of membership; contract of membership; special reserve account; joint tenancy account; payment.

12. (a) Any person may become a member of any such credit union upon payment of an initial installment on a share or shares, acceptance of his membership by the proper authorities of such credit union in the manner prescribed in its bylaws and compliance with any other qualifications required by the bylaws; provided, however, that no person may become a member of such credit union who is not within the group to which membership shall have been limited by the terms of its charter. Shares may be issued in joint tenancy with right of survivorship with any persons designated by the credit union member, but no joint tenant shall be permitted to vote, obtain loans, or hold office, unless he is within the field of membership and is a qualified member. Minors over the age of 16 years may become members and enjoy all of the rights and privileges and incur all of the obligations and liabilities of members, including the right to vote but he may not hold office until he shall have reached his eighteenth birthday; and, notwithstanding legal disabilities to which they might otherwise be subject, either by statute or otherwise, any minor may make any and all contracts, in exercis-

ing his membership privileges with the credit union of which he is a member, which any other of its members could make with it and any such contract of a member who is a minor shall be binding and enforceable against such member in the same manner as if he were of full age at the time of entering any such contract. Any non-member who may, by assignment, as legal representative, trustee, or otherwise, acquire title to the shares of a member shall be entitled to withdraw such shares on the same basis as a member would be entitled to withdraw them but, unless he shall become a member, he shall have no other rights of membership. The pledging of shares in whole or in part by a member shall not terminate his rights as a member. Any member of any such credit union may be expelled at any meeting of the board of directors of which he shall have had notice by a two-thirds vote of the members of the board present at such meeting and a member who has been expelled may be re-instated under like conditions. Upon termination of membership in any such credit union in any manner the balance, if any, credited to the account of the member at the time of termination shall be paid to the person or persons entitled to receive it in the same manner and subject to the same conditions as if the member had withdrawn from such credit union. Any member of any such credit union whose membership has been terminated by withdrawal, expulsion or otherwise, upon the payment of the balance credited to his account shall have no further rights against such credit union. No credit union shall, by reason of having issued shares to its members be construed to be a capital stock corporation or to have capital. The contract of membership in any such credit union shall be deemed to be expressed by its bylaws, its certificate of incorporation and the applicable laws governing such credit union; but such contract of membership may be changed insofar as such laws are concerned by the Legislature, insofar as its certificate of incorporation is concerned by an amendment thereof and insofar as its bylaws are concerned by an amendment of its bylaws or the adoption of new bylaws in whole or in part and no such change in its certificate of incorporation, in the laws governing it or in its bylaws shall be construed to be an impairment of the obligation of contract or a taking of property of any member; and membership in every such credit union shall be deemed to be subject to that hazard. When a member's whereabouts are unknown for 12 months, all sums due him may be credited to a special reserve account of the credit union, after return of a certified letter sent to the last known address. The member shall have 5 years to reclaim

the proceeds after which they shall be turned over to the Treasurer of the State of New Jersey;

(b) When either, or both, or one or more of the two or more persons in whose name a joint tenancy account is maintained, makes a payment or payments to such joint account, or causes a payment or payments to be made to such joint account, such person or persons shall be conclusively presumed to intend to vest in the other or others a present beneficial interest in each payment so made, and in the moneys to the credit of the joint account from time to time to the end that, upon the death of any such person or persons, all the right and title of the person so dying in and to the moneys to the credit of the joint account on his death, less all proper set-offs and charges, shall, at such death, vest solely and indefeasibly in the survivor or survivors.

(c) A credit union which makes any payment pursuant to this section prior to service upon the credit union of an order of court restraining such payment, shall, to the extent of each payment so made, be released from all claims of each of the two or more persons, their legal representatives, and all others claiming by, from, through or under them, or any of them.

5. Section 13 of P. L. 1938, c. 293 (C. 17:13–38) is amended to read as follows:

C. 17:13-38 Withdrawals.

13. The shares of every credit union may be withdrawn by the member upon giving such written notice, not exceeding 30 days, as its bylaws shall provide. Upon withdrawal from any such credit union, the amount credited upon such shares, less fines or other obligations of the withdrawing member to such credit union, shall be paid to the withdrawing member in the manner hereinafter provided. This section shall not be construed to prevent a reduction of the share liability of any such credit union to its members for the purpose of providing for losses or anticipated losses or reserving against them. Withdrawals shall be paid in the order in which notices of withdrawal shall have been filed. One-half of the net receipts of any such credit union in each fiscal month shall be made available so far as necessary for the payment of withdrawals and additional sums may be made available; and the words "net receipts" as used in this section shall be construed to mean the moneys, other than borrowed moneys, received by any such credit union less moneys used for operating expenses, moneys used to pay creditor obligations, moneys used for the con-

servation, preservation or protection of the property and assets of such credit union and moneys reserved for any of such purposes. If at the end of any fiscal month the funds of any such credit union required to be made available together with such other funds, if any, made available for such purpose by the board of directors shall be insufficient to pay all withdrawals then due and payable, the board of directors shall, so far as possible, pay out of such funds, on account of the sum due to each member who has filed notice of withdrawal, in the order in which the notices have been filed, a sum equivalent to the value of one share or the balance due, whichever is less, and if the available funds shall not thereby be exhausted or become inadequate, shall, so far as possible, again pay on account of the sum due to each withdrawing member, in said order, a sum equivalent to the value of one share or the balance due to such member, whichever is less, and shall repeat the process until the available funds shall become inadequate or exhausted; and subsequent available funds, when available, shall be applied to the payment of then existing withdrawal obligations in the same manner beginning with the withdrawal of the member next following the one on whose account the last such payment was made; and, in the event that any such member shall have filed more than one notice of withdrawal, his place in the order of payment shall be as of the date and time of the first notice filed by him and he shall not be entitled to receive any moneys on account of the subsequent withdrawals until the first one shall have been paid out. No member to whom any such credit union shall be obligated for the payment of a withdrawal shall have the right to bring suit against such credit union to recover the withdrawal value of his shares or any part thereof so long as the funds of such credit union shall be applied as required by this section.

6. Section 16 of P. L. 1938, c. 293 (C. 17:13–41) is amended to read as follows:

C. 17:13-41 Dividends.

16. (a) At least annually the board of directors of each such credit union may declare a dividend from the net earnings, or from undivided profits. No dividend shall be declared until a written financial statement of the credit union shall have been submitted to and approved by the board showing such profits to have been earned since the last declaration of dividends or to have been transferred from undivided profits. Dividends shall be paid on all fully paid shares outstanding at the close of the dividend period. Shares withdrawn during the dividend period shall receive a proportionate part

of said dividend based on the number of months of the dividend period that the shares have been in the credit union, provided that the member's account has not been closed because of withdrawal. Shares paid in full during the dividend period shall be entitled to a proportionate part of said dividends calculated from the first day of the month following such payment in full, except that dividend credit for a month may be accrued on shares which are or become fully paid during the first 5 days of that month. The board of directors of any such credit union may elect to pay dividends on shares or other thrift accounts calculated from the date of payment to the end of the dividend period or to the date of withdrawal provided that at least one share remains in the member's account at the close of the dividend period. No dividends shall be declared in excess of 7% of the share value.

(b) No dividend shall be declared unless the reserve fund shall be equal to or in excess of the sum of 10% of the unpaid balances of all loans contractually delinquent more than 2 months and less than 6 months; plus 25% of the unpaid balances on all loans contractually delinquent 6 months and less than 12 months; plus 100% of the unpaid balances on all loans contractually delinquent 12 months or more; provided, further, that if the reserve fund does not equal the amount required as hereinabove set forth then there shall be set aside in a special reserve for delinquent loans an amount which, when added to the reserve funds, shall equal the sum required in accordance with the schedule hereinabove set forth. The transfer to the special reserve for delinquent loans shall be made on December 31 of each year, or at the close of the dividend period, from undivided profits or net earnings before any declaration of dividends. No deductions shall be made from the special reserve for delinquent loans except that any excess in such fund at the close of the next succeeding dividend period may be returned to undivided profits accounts.

(c) The board of directors may provide for an interest refund proportioned to the interest paid during the dividend period by borrowers.

7. Section 17 of P. L. 1938, c. 293 (C. 17:13–42) is amended to read as follows:

C. 17:13-42 Loans to members.

17. Loans to members of any such credit union shall be subject to the following conditions:

(a) All member loans shall be evidenced by note. Loans may be made to members for provident or productive purposes and upon

such security and terms as the bylaws may provide and the credit committee shall approve at rates of interest not to exceed 1% per month on the unpaid balances, such rate to include the credit union's total income on a loan.

(b) Applications for loans shall be made on forms prescribed by the credit committee, which shall set forth the purpose for which the loan is desired, the security, if any, offered, and such other data as may be required. Every loan shall be evidenced by a written instrument.

(c) No loan shall be made to any member which causes such member to become indebted to the credit union in an aggregate amount, upon loans made to such member which is in excess of $250.00 or 5% of the credit union's shares and reserves, whichever is greater, and no loan shall be made to any member which would exceed 2½% of the credit union's shares and reserves, or $3,500.00, whichever is less, unless such excess over 2½% or $3,500.00 is adequately secured. In addition to generally accepted types of security, the endorsement of a note by a comaker or assignment of shares or of wages, in manner consistent with the laws of this State, shall be deemed security within the meaning of this act. The adequacy of all securities shall be within the determination of the credit committee or loan officer subject to the provisions of this act and of the credit union's bylaws.

(d) No loan shall be made to a director, officer or member of the credit committee which exceeds the amount of his shares unless the loan shall have been approved by a majority vote of a joint meeting at which a majority of the members of the credit committee and a majority of the members of the board of directors are present. No director or member of the credit or examining committee may endorse for borrowers from the credit union.

(e) A member may receive a loan in one sum, or in fixed installments and may pay the whole or any part of the loan on any day on which the office of the credit union is open for business.

8. Section 25 of P. L. 1938, c. 293 (C. 17:13–50) is amended to read as follows:

C. 17:13-50 Inspection and supervision by department; subpena; compliance; perjury.

25. Every credit union shall be subject to the inspection and supervision of the Department of Banking and the Commissioner of Banking shall, either personally or by a person appointed by him, visit and examine every such credit union at least once in each 2 years, or more often if he shall deem it expedient, except that

such an examination shall not be required to be made if the credit union records are examined by a certified public accountant who files an opinion of his examination with the Commissioner of Banking. When deemed advisable the examiner shall verify the liabilities of such credit union to its members by an inspection and verification of their accounts. The commissioner shall promptly communicate the result of each examination to the president of the credit union examined, who shall present the same to its board of directors at the next regular meeting or a special meeting if the commissioner shall so direct. The action taken thereon by the board shall thereupon be promptly communicated by the president to the commissioner.

The officers, directors and employees of the credit union under examination shall exhibit its books, papers, records, documents and securities to the commissioner, or the person appointed by him to conduct the examination, and shall otherwise facilitate the same. The commissioner and every examiner may administer an oath to any person whose testimony is required on any examination and may compel the appearance of any person for the purpose of examination or the production of books, papers, records, documents, securities or things, by subpena. The subpena may be served by any police officer or constable of the municipality in which such person resides.

If any person shall fail to obey the subpena, give testimony, answer questions or produce any books, papers, records, documents, securities or things, as required, the Superior Court may upon ex parte application compel him to do so.

A person who shall willfully and corruptly testify falsely to a material matter upon oath administered by the commissioner or examiner upon such investigation or inquiry, or in regard to a report made to the commissioner, shall be guilty of perjury and punished accordingly.

9. Section 10 of P. L. 1968, c. 196 (C. 17:13–73) is amended to read as follows:

C. 17:13-73 Central credit union; membership; voting representatives; rights and powers; authority to make loans, borrow and issue notes or debentures.

10. (a) One hundred or more credit unions operating under provisions of this act, or operating in this State under the provisions of the Federal Credit Union Act may organize a single central credit union whose membership shall be limited to:

(1) Credit unions operating under the provisions of this act or operating in this State under the provisions of the Federal Credit Union Act, and organizations composed of such credit unions;

(2) Employees of the central credit union;

(3) Employees of the New Jersey Credit Union League;

(4) Persons who are members of credit unions in this State which have entered or are about to enter into voluntary or involuntary dissolution or liquidation;

(5) Children of members of any New Jersey credit union which does not provide educational loan services, may, with the approval of such credit union, become members of the Central Credit Union for the sole purpose of securing educational loans which are guaranteed by a State or Federal agency, and such membership shall terminate when the educational loan is repaid;

(6) Employees of small business groups defined as having less than 100 people, which groups are located in the State of New Jersey;

(7) Any agency or association organized as a stock company, mutual association or membership corporation, or trade association which is organized to service or assist credit unions;

(8) Central credit unions operating under the provisions of the Federal Credit Union Act or under the laws of any state of the United States and credit unions operating in any other state of the United States.

(b) Each credit union or credit union organization becoming a member of the central credit union shall designate one member authorized by the board of directors as the voting representative of the credit union. Such voting representative is eligible for office in the central credit union in the same manner as if he were a member thereof.

(c) The central credit union shall have all of the rights and powers of any other credit union organized under this act, and in addition, shall have the power to obtain through purchase the assets and liabilities of any credit union operating in this State which enters into liquidation; and shall have the power to invest in and grant loans to associations of credit unions, central funds of credit unions, or organizations chartered to provide exclusive service to credit unions as provided for hereinbelow notwithstanding any of the provisions of this act regulating credit unions.

(d) The Central Credit Union organized under this paragraph shall have the authority to make loans to other credit unions organized under this act or operating in this State under the provisions

of the Federal Credit Union Act or to central credit unions operating under the provisions of the Federal Credit Union Act or under the laws of any state of the United States to an aggregate amount of 90% of its assets.

(e) Funds of the Central Credit Union not used in loans to members may also be invested in the capital shares, obligations, or preferred stock issues of any agency or association organized as a stock company, mutual association or membership corporation, provided the membership or the stockholdings, as the case may be, of such agency or association, are confined or restricted to credit unions or organizations of credit unions, and provided such agency, association, or corporation is organized to service or otherwise assist credit unions;

(f) The Central Credit Union organized under this act shall have the power to borrow money from any source and to issue notes or debentures.

10. This act shall take effect immediately.

Approved September 23, 1977.

CHAPTER 233

AN ACT concerning the handling of radioactive materials in this State and supplementing the "Radiation Protection Act" (P. L. 1958, c. 116).

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

C. 26:2D-18 Certificate of handling for certain materials.

1. No person shall transport into or through the State, or store, hold or detain pending or during such transit, any of the following materials without first having obtained a "certificate of handling" from the department;

a. Plutonium isotopes in any quantity and form exceeding two grams or 20 curies, whichever is less;

b. Uranium enriched in the isotope U-235 exceeding 25 atomic per cent of the total uranium content in quantities where the U-235 content exceeds one kilogram;

c. Any of the actinides the activity of which exceeds 20 curies;

d. Spent reactor fuel elements or mixed fission products associated with such spent fuel elements the activity of which exceeds 20 curies;

e. Any quantity of radioactive material which exceeds 20 curies; or

f. Any lesser quantity of radioactive material which, when combined with any other quantity of such material, exceeds 20 curies.

C. 26:2D-19 Information to be submitted to department; issuance of certificate.

2. a. Any person seeking to obtain such a certificate shall submit to the department, not less than 7 business days prior to the storage or transporting of any of the materials specified in section 1 of this act, the following information:

(1) Name of shipper, (2) Name of carrier, (3) Type and quantity of radioactive material, (4) Date and time of shipment, (5) Starting point, scheduled route, and destination, (6) Location and manner of storage, and (7) Other information required by the department.

b. The department, after consultation with the Chief of the State Police, shall issue the "certificate of handling" upon a finding that the storage or transporting such material shall be accomplished in a manner necessary to protect public health and safety of the citizens of the State. The department, in its discretion, may require changes in the location or manner of storage or changes in dates, routes or time of transporting such material if necessary to maximize protection to public health and safety.

C. 26:2D-20 Radioactive discharge; recovery of costs.

3. In the event of a discharge of radioactivity, or threat thereof, resulting from a radiation source in storage or transit in this State, the department may recover from any shipper, carrier, bailor, bailee, or any other person responsible for the storage or transportation of such radiation source, the costs incurred by the department for the prevention or abatement of such discharge or the removal of the effects thereof.

C. 26:2D-21 Rules and regulations.

4. Without limiting or impairing in any way the powers heretofore provided by the act to which this act is a supplement, the commission is hereby empowered and directed to adopt, pursuant to the provisions of the "Administrative Procedure Act" P. L. 1968, c. 410 (C. 52:14B–1 et seq.) such rules and regulations necessary to carry out the provisions of this act.

C. 26:2D-22 Violation of act; penalty.

5. Any person who violates any provision of this act shall be guilty of a misdemeanor.

6. This act shall take effect immediately.

Approved September 26, 1977.

CHAPTER 234

AN ACT concerning taxation and amending sections 54:2–3, and 54:2–12 of the Revised Statutes, and supplementing chapter 2 of Title 54 of the Revised Statutes.

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

1. R. S. 54:2–3 is amended to read as follows:

Division of tax appeals; judges; qualifications.

54:2–3. The Division of Tax Appeals in the Department of the Treasury shall consist of 11 judges who shall be citizens of the State and not more than six of whom shall belong to the same political party. At least six judges shall be attorneys-at-law of the State of New Jersey of at least 10 years' standing. Judges shall be chosen because of their special qualifications, knowledge and experience in matters concerning the valuation and taxation of property, particularly of real property.

2. R. S. 54:2–12 is amended to read as follows:

Clerical and other assistants; appointment; duties and compensation.

54:2–12. The Presiding Judge shall appoint, subject to the provisions of Title 11, Civil Service, such clerical, technical and other assistance, as may be necessary for the expeditious and efficient processing and disposition of matters pending in the division. He shall prescribe the duties and fix the compensation for all appointees, subject to the appropriations made therefor, and subject to the provisions of Title 11, Civil Service, except where otherwise provided by statutes.

C. 54:2-48 Small claims bureau; creation; jurisdiction.

3. (New section) The Small Claims Bureau is hereby created in the Division of Tax Appeals. The Small Claims Bureau shall have jurisdiction of the following classes of cases:

a. A proceeding for refund with respect to any year for which the amount of refund claimed does not exceed $1,000.00, exclusive of interest and penalties.

b. A proceeding to set aside additional taxes assessed or taxes assessed with respect to any year for which the amount in controversy does not exceed $1,000.00, exclusive of interest and penalties.

c. A proceeding by a taxpayer from a determination of a county board of taxation where said board has determined that either the parcel of land or the total improvements thereon, has a true value not in excess of $50,000.00 or that personal property has a true value not in excess of $10,000.00.

C. 54:2-49 Assignment of cases.

4. (New section) The Presiding Judge of the Division of Tax Appeals shall assign cases to the Small Claims Bureau when he finds from an examination of the petition that jurisdiction exists under section 3 hereof.

C. 54:2-50 Hearing.

5. (New section) The hearing in the Small Claims Bureau shall be informal, and the judge may hear such testimony and receive such evidence as he deems necessary or desirable for a just and equitable determination of the case, except that all testimony shall be given under oath. A party may appear on his own behalf or may be represented or accompanied by an attorney, certified public accountant or such other person as the court may permit to be present and participate in the proceeding before the Small Claims Bureau.

C. 54:2-51 Judgment.

6. (New section) The judgment in the Small Claims Bureau shall be conclusive upon all parties and may include orders to correct an assessment roll or a tax roll, or both, modify or cancel an assessment, pay or allow a refund, to take such other action as may be necessary to effectuate the judgment.

7. This act shall take effect immediately.

Approved September 26, 1977.

CHAPTER 235

AN ACT authorizing the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sum of $120,000,000.00 for medical education facilities, their construction, reconstruction, development, extension, improvement, rehabilitation, refinancing and equipment; providing the ways and means to pay the interest of said debt, and also to pay and discharge the principal thereof; and providing for the submission of this act to the people at a general election; and providing an appropriation therefor.

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

1. This act shall be cited as the "New Jersey Medical Education Facilities Bond Act of 1977."

2. The Legislature hereby finds that:

a. It is the public policy of the State of New Jersey to promote the economical construction of medical education facilities to assure the people of New Jersey superior medical service and professional care.

b. To this end, the New Jersey Health Care Facilities Financing Authority in 1974 issued $109.3 million of revenue bonds at a net interest cost of 8.37% to provide for construction of the Teaching Hospital of the College of Medicine and Dentistry of New Jersey.

c. By refinancing the teaching hospital project with proceeds from the sale of bonds of the State of New Jersey, the State will realize substantial interest cost savings which can be applied to other needed medical education facilities. For a level of State appropriation support equivalent to that provided for the teaching hospital project, the State can finance not only the teaching hospital but other vital hospital and medical education facilities.

3. Except as the context may otherwise require:

a. "Medical education facilities" shall mean buildings, structures, facilities and equipment owned or to be acquired, constructed or operated in whole or in part by or on behalf of the State or a State institution of medical education, necessary for the operation of State institutions of medical education.

b. "Construction of medical education facilities" means the planning, erection, acquisition, improvement, rehabilitation, reconstruction, development and extension of facilities including all equipment necessary to the operation thereof and includes the acquisition of land necessary for said purposes.

c. "Commission" means the New Jersey Commission on Capital Budgeting and Planning.

d. "Chancellor" means the Chancellor of the Department of Higher Education or any other official who succeeds to the duties, functions, powers and responsibilities of the Chancellor of Higher Education with respect to medical education facilities as herein defined.

e. "Department" means the Department of Higher Education, or any other department of the Executive Branch which succeeds to the duties, functions, powers and responsibilities of the Department of Higher Education with respect to medical education facilities as herein defined.

f. "Teaching hospital project" means the teaching hospital under construction at the College of Medicine and Dentistry of New Jersey at Newark.

g. "Authority" means the New Jersey Health Care Facilities Financing Authority.

h. "Refinancing" means the provision of moneys for the extraordinary redemption of Authority Bonds.

i. "Authority Bonds" means the bonds of the New Jersey Health Care Facilities Financing Authority issued to finance the Teaching Hospital Project.

4. The chancellor shall issue and promulgate such rules and regulations as are necessary and appropriate to carry out the provisions of this act. The chancellor shall review and consider the findings and recommendations of the commission in the administration of the provisions of this act.

5. Bonds of the State of New Jersey in the sum of $120,000,000.00 are hereby authorized for the purpose of refinancing the teaching hospital project and for the construction of medical education facilities as defined herein including the completion of the teaching hospital at Newark.

6. Said bonds shall be serial bonds and known as "Medical Education Facilities Bonds" and, as to each series, the last annual installment thereof (subject to redemption prior to maturity) shall mature and be paid not later than 35 years from the date

of its issuance, but may be issued in whole or in part for a shorter term.

7. The Governor, State Treasurer and Comptroller of the Treasury or any two of such officials (hereinafter referred to as "the issuing officials") are hereby authorized to carry out the provisions of this act relating to the issuance of said bonds, and shall determine all matters in connection therewith subject to provisions hereof. In case any of said officials shall be absent from the State or incapable of acting for any reason, his powers and duties shall be exercised and performed by such person as shall be authorized by law to act in his place as a State official.

8. Said bonds shall be issued from time to time as the issuing officials herein named shall determine.

9. Bonds issued in accordance with the provisions of this act shall be a direct obligation of the State of New Jersey and the faith and credit of the State are pledged for the payment of the interest thereon as same shall become due and the payment of the principal at maturity. The principal and interest of such bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

10. Said bonds shall be signed in the name of the State by the Governor or by his facsimile signature, under the Great Seal of the State, and attested by the Secretary of State, or an assistant Secretary of State, and shall be countersigned by the facsimile signature of the Comptroller of the Treasury. Interest coupons attached to said bonds shall be signed by the facsimile signature of the Comptroller of the Treasury. Such bonds may be issued notwithstanding that any of the officials signing them or whose facsimile signatures appear on the bonds or coupons shall cease to hold office at the time of such issue or at the time of the delivery of such bonds to the purchaser.

11. a. Such bonds shall recite that they are issued for the purposes set forth in section 5 of this act and that they are issued in pursuance of this act and that the act was submitted to the people of the State at the general election held in the month of November, 1977, and that it received the approval of the majority of votes cast for and against it at such election. Such recital in said bonds shall be conclusive evidence of the authority of the State to issue said bonds and of their validity. Any bonds containing such recital shall in any suit, action or proceeding involving

their validity be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with all other provisions of statutes applicable thereto, and shall be incontestable for any cause.

b. Such bonds shall be issued in such denominations and in such form or forms, whether coupon or registered as to both principal and interest, and with or without such provisions for interchangeability thereof, as may be determined by the issuing officials.

12. When the bonds are issued from time to time the bonds of each issue shall constitute a separate series to be designated by the issuing officials. Each series of bonds shall bear such rate or rates of interest as may be determined by the issuing officials, which interest shall be payable semiannually; provided, that the first and last interest periods may be longer or shorter, in order that intervening semiannual payments may be at convenient dates.

13. Said bonds shall be issued and sold at such price not less than the par value thereof and accrued interest thereon, and under such terms, conditions and regulations, as the issuing officials may prescribe, after notice of said sale, 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 the city of New York or in New Jersey, the first notice to be at least 5 days prior to the day of bidding. The said notice of sale may contain a provision to the effect that any or all bids in pursuance thereof may be rejected. In the event of such rejection or of failure to receive any acceptable bid, the issuing officials, at any time within 60 days from the date of such advertised sale, may sell such bonds at private sale at such price not less than the par value thereof and accrued interest thereon and under such terms and conditions as the issuing officials may prescribe. The issuing officials may sell all or part of the bonds of any series as issued to any State fund or to the Federal Government or any agency thereof, at private sale, without advertisement.

14. Until permanent bonds can be prepared, the issuing officials may, in their discretion, issue in lieu of such permanent bonds temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the issuing officials.

15. The proceeds from the sale of the bonds shall be held by the State Treasurer in a separate fund and be deposited in such deposi-

tories as may be selected by him to the credit of the fund, which fund shall be known as the "Medical Education Facilities Fund." Moneys in said fund or so much thereof as may be necessary for the redemption of all of the authority bonds shall be paid in such manner as may be directed by the State Treasurer for the redemption of the authority bonds. All funds held by the trustee for the authority bonds which are not applied to the payment of authority bonds shall, upon redemption of all of the authority bonds or payment thereof within the meaning of the authority's bond resolution pertaining thereto, be delivered to the State Treasurer. The State Treasurer shall deposit the amount received from the construction fund held by such trustee in a special fund and shall use the same to pay the balance of the authorized cost of the teaching hospital project. The proceeds of all other funds received by the State Treasurer from the trustee shall be deposited in the Medical Education Facilities Fund.

16. a. The moneys in said "Medical Education Facilities Fund" are hereby specifically dedicated and shall be applied to the cost of the purposes set forth in section 5 of this act, and all such moneys are hereby appropriated for such purposes, and no such moneys shall be expended for such purpose (except as otherwise hereinbelow authorized) without the specific appropriation thereof by the Legislature, but bonds may be issued as herein provided notwithstanding that the Legislature shall not have then adopted an act making specific appropriation for any of said moneys. There is hereby appropriated from the Medical Education Facilities Fund for the redemption of the authority bonds an amount sufficient to pay the cost of redemption of the authority bonds. There is hereby appropriated for the payment of the cost of completion of the teaching hospital project the amount, if any, received by the State Treasurer from the construction fund as provided in section 15 of this act.

b. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is hereby authorized to transfer from any available money in the treasury of the State to the credit of the "Medical Education Facilities Fund" such sum as he may deem necessary. Said sum so transferred shall be returned to the treasury of this State by the treasurer thereof from the proceeds of the sale of the first issue of bonds.

c. Pending their application to the purpose provided in this act, moneys in the "Medical Education Facilities Fund" may be invested and reinvested as other trust funds in the custody of the

State Treasurer in the manner provided by law. Net earnings received from the investment or deposit of such fund shall be paid into the General Fund.

17. In case any coupon bonds or coupons thereunto appertaining or any registered bond shall become lost, mutilated or destroyed, a new bond shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bonds or coupons, upon the owner furnishing to the issuing officials evidence satisfactory to them of such loss, mutilation or destruction, proof of ownership and such security and indemnity and reimbursement for expenses as the issuing officials may require.

18. Accrued interest received upon the sale of said bonds shall be applied to the discharge of a like amount of interest upon said bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, legal or other services necessary to carry out the duties imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of said bonds, by the State Treasurer upon warrant of the Comptroller of the Treasury, in the same manner as other obligations of the State are paid.

19. Bonds of each series issued hereunder shall mature in annual installments commencing not later than the tenth year and ending not later than the thirty-fifth year from the date of issue of such series, and in such amounts as shall be determined by the issuing officials, and the issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem all or any of such bonds prior to maturity at such price or prices and upon such terms and conditions as may be provided in such bonds.

20. The issuing officials may at any time and from time to time issue refunding bonds for the purpose of refunding in whole or in part an equal principal amount of the bonds of any series issued and outstanding hereunder, which by their terms are subject to redemption prior to maturity, provided such refunding bonds shall mature at any time or times not later than the latest maturity date of such series, and the aggregate amount of interest to be paid on the refunding bonds, plus the premium, if any, to be paid on the bonds refunded, shall not exceed the aggregate amount of interest which would be paid on the bonds refunded if such bonds were not so refunded. Refunding bonds shall constitute direct obligations of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the principal thereof and the interest

thereon. The proceeds received from the sale of refunding bonds shall be held in trust and applied to the payment of the bonds refunded thereby. Refunding bonds shall be entitled to all the benefits of this act and subject to all its limitations except as to the maturities thereof and to the extent herein otherwise expressly provided.

21. To provide funds to meet the interest and principal payment requirements for the bonds issued under this act and outstanding, there is hereby appropriated in the order following:

a. Revenue derived from the collection of taxes as provided by the "Sales and Use Tax Act" (P. L. 1966, c. 30) as amended and supplemented, or so much thereof as may be required; and

b. If in any year or at any time funds, as hereinabove appropriated, necessary to meet interest and principal payments upon outstanding bonds issued under this act, be insufficient or not available, then and in that case there shall be assessed, levied and collected annually in each of the municipalities of the counties of this State a tax on real and personal property upon which municipal taxes are or shall be assessed, levied and collected, sufficient to meet the interest on all outstanding bonds issued hereunder and on such bonds as it is proposed to issue under this act in the calendar year in which such tax is to be raised and for the payment of bonds falling due in the year following the year for which the tax is levied. The tax thus imposed shall be assessed, levied and collected in the same manner and at the same time as other taxes upon real and personal property are assessed, levied and collected. The governing body of each municipality shall cause to be paid to the county treasurer of the county in which such municipality is located, on or before December 15 in each year, the amount of tax herein directed to be assessed and levied, and the county treasurer shall pay the amount of said tax to the State Treasurer on or before December 20 in each year.

If on or before December 31 in any year the issuing officials shall determine that there are moneys in the General State Fund beyond the needs of the State, sufficient to meet the principal of bonds falling due and all interest payable in the ensuing calendar year, then and in the event such issuing officials shall by resolution so find and shall file the same in the office of the State Treasurer, whereupon the State Treasurer shall transfer such moneys to a separate fund to be designated by him, and shall pay the principal and interest out of said fund as the same shall become due and

payable, and the other sources of payment of said principal and interest provided for in this section shall not then be available, and the receipts for said year from the tax specified in subsection b. of this section shall thereon be considered and treated as part of the General State Fund, available for general purposes.

22. Should the State Treasurer, by December 31 of any year, deem it necessary, because of insufficiency of funds to be collected from the sources of revenues as hereinabove provided, to meet the interest and principal payments for the year after the ensuing year, then the treasurer shall certify to the Comptroller of the Treasury the amount necessary to be raised by taxation for such purposes, the same to be assessed, levied and collected for and in the ensuing calendar year. In such case the Comptroller of the Treasury shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected as herein set forth in each county. Such calculation shall be based upon the corrected assessed valuation of such county for the year preceding the year in which such tax is to be assessed, but such tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The Comptroller of the Treasury shall certify said amount to the county board of taxation and the county treasurer of each county. The said county board of taxation shall include the proper amount in the current tax levy of the several taxing districts of the county in proportion to the ratables as ascertained for the current year.

23. For the purpose of complying with the provisions of the State Constitution this act shall, at the general election to be held in the month of November, 1977, be submitted to the people. In order to inform the people of the contents of this act it shall be the duty of the Secretary of State, after this section shall take effect, and at least 15 days prior to the said election, to cause this act to be published in at least 10 newspapers published in the State and to notify the clerk of each county of this State of the passage of this act, and the said clerks respectively, in accordance with the instructions of the Secretary of State, shall cause to be printed on each of the said ballots, the following:

If you approve the act entitled below, make a cross (×), plus (+), or check (√) mark in the square opposite the word "Yes."

If you disapprove the act entitled below, make a cross (×), plus (+), or check (√) mark in the square opposite the word "No."

If voting machines are used, a vote of "Yes" or "No" shall be equivalent to such markings respectively.

	Yes.	MEDICAL EDUCATION FACILITIES BOND ISSUE Should the "New Jersey Medical Education Facilities Bond Act of 1977" which authorizes the State to issue bonds in the amount of $120,000,000.00 for the refinancing of the Teaching Hospital project of the College of Medicine and Dentistry of New Jersey and for the construction and renovation of medical education facilities to provide improved hospital service and professional care for the people of New Jersey; and to provide the means to pay the principal and interest on these bonds, be approved?
	No.	INTERPRETIVE STATEMENT Approval of this act would authorize the sale of $120,000,000.00 in bonds to be used for refinancing the Teaching Hospital project of the College of Medicine and Dentistry of New Jersey at a substantial interest cost savings to the State; and for the construction of additional hospital and medical education facilities, the costs to be offset in whole or in part by these savings. It is expected that $25,000,000.00 will be available for the construction of new medical education facilities and $95,000,000.00 will be used for the refinancing.

The fact and date of the approval or passage of this act, as the case may be, may be inserted in the appropriate place after the title in said ballot. No other requirements of law of any kind or character as to notice or procedure except as herein provided need be adhered to.

The said votes so cast for and against the approval of this act by ballot or voting machine, shall be counted and the result thereof returned by the election officer, and a canvass of such election had in the same manner as is provided for by law in the case of the election of a Governor, and the approval or disapproval of this act so determined shall be declared in the same manner as the result of an election for a Governor, and if there shall be a majority of all the votes cast for and against it at such election in favor of the approval of this act, then all the provisions of this act not made effective theretofore shall take effect forthwith.

24. The chancellor shall submit to the State Treasurer, the Joint Appropriations Committee, the Office of Fiscal Affairs and the the New Jersey Commission on Capital Budgeting and Planning with the department's annual budget request a plan for the expenditure of funds from the "Medical Education Facilities Fund" for the upcoming fiscal year. This plan shall include the following information: a performance evaluation of the expenditures made from the fund to date; a description of programs planned during the upcoming fiscal year; a copy of the regulations in force governing the operation of programs that are financed, in part or in whole, by funds from the "Medical Education Facilities Fund"; and an estimate of expenditures for the upcoming fiscal year.

25. Immediately following the submission to the Legislature of the Governor's Annual Budget Message the commissioner shall submit to the Joint Appropriations Committee, the Office of Fiscal Affairs, the Institutions, Health and Welfare Committees of the Senate and General Assembly and the special joint legislative committee created pursuant to Assembly Concurrent Resolution No. 66 of the 1968 Legislature, as reconstituted and continued by the Legislature from time to time, a copy of the plan called for under section 24 of this act, together with such changes therein as may have been required by the Governor's budget message.

26. Not less than 30 days prior to the chancellor entering into any contract, lease, obligation, or agreement to effectuate the purposes of this act the chancellor shall report to and consult with the special joint legislative committee created pursuant to Assembly Concurrent Resolution No. 66 of the 1968 Legislature as reconstituted and continued from time to time by the Legislature, except that this section shall not apply to the refinancing of the teaching hospital project or to any construction and construction-

related activities for said project. Any contract, lease, obligation or agreement for the construction of new medical education facilities shall be subject to the requirements of "The Law Against Discrimination" (P. L. 1945, c. 169; C. 10:5–1 et seq.).

27. There is hereby appropriated the sum of $5,000.00 to the Secretary of State for expenses in connection with the publication of notice pursuant to section 23 of this act.

28. This section and sections 23 and 27 of this act shall take effect immediately and the remainder of the act shall take effect as and when provided in section 23 of this act.

Approved September 26, 1977.

CHAPTER 236

AN ACT authorizing the establishment of the New Jersey Wild and Scenic Rivers System; providing for the acquisition, designation, administration, and regulation of such rivers and their designated adjacent areas; and relating to the powers, duties, and responsibilities of the Department of Environmental Protection.

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

C. 13:8-45 Short title.

1. This act shall be known and may be cited as the "New Jersey Wild and Scenic Rivers Act."

C. 13:8-46 Legislature's findings.

2. The Legislature hereby finds and declares that many of the rivers of New Jersey, or sections thereof, together with adjacent land areas, possess outstanding scenic, recreational, geologic, fish and wildlife, floral, historic, cultural, or similar values which are of benefit and enjoyment to present and future generations of this State; that selected rivers, or sections thereof, are a public trust and should be preserved and protected so as to insure that this and succeeding generations have the opportunity to enjoy the aesthetic and recreational qualities of such rivers; and that it shall, therefore be the policy of this State to preserve, protect, and enhance

the natural and recreational values of such rivers through the establishment of a New Jersey Wild and Scenic Rivers System, and by prescribing the procedures and criteria for designating, protecting and administering the system and for adding new components to it from time to time.

C. 13:8-47 Definitions.

3. As used in this act, unless the context clearly indicates otherwise:

a. "Commissioner" means the Commissioner of the Department of Environmental Protection.

b. "Department" means the Department of Environmental Protection.

c. "Designated adjacent area of land" means those lands immediately adjacent to rivers or sections of rivers included in the system which have been delineated by the department as a floodway, flood fringe area or flood hazard area, as determined by the department, pursuant to the provisions of P. L. 1962, c. 19 (C. 58:16A–50 et seq.), as amended by P. L. 1972, c. 185, as well as any additional lands to which the department acquires a fee simple interest or scenic easement in accordance with the provisions of this act.

d. "Free of impoundment," as applied to any river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other significant modification of the waterway; provided, however, that the existence of low dams, diversion works, and other minor structures at the time any river or section of river is proposed for inclusion in the system shall not necessarily bar its consideration for such inclusion.

e. "River" means a flowing body of water or estuary or a section, portion, or tributary thereof, including but not limited to rivers, streams, creeks, runs, kills, rills, and small lakes.

f. "River area" means rivers and designated adjacent areas of land which are included in the system.

g. "Scenic easement" means a perpetual easement in land which (1) is held for the benefit of the public; (2) is specifically enforceable by its holder or beneficiary; and (3) limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of activities conducted thereon, the object of such limitations and obligations being the maintenance or enhancement of the natural beauty of the land in question or of the areas affected by it; provided, however, that nothing herein contained shall be construed as to affect, without the owner's con-

sent, any normal or usual use of land or water exercised prior to the acquisition of a scenic easement therein.

h. "System" means the New Jersey Wild and Scenic Rivers System established pursuant to this act.

C. 13:8-48 New Jersey wild and scenic rivers system; establishment; administration; classification of river areas.

4. The department is hereby authorized, empowered and directed to establish a State system of rivers to be known as the New Jersey Wild and Scenic Rivers System, which shall comprise river areas classified, designated and administered as wild, scenic, recreational, or developed recreational rivers. Such river areas shall be administered by the department or by a local commission as provided in section 9 of this act. Such administration shall reflect the classification of such river area so as to prevent incompatible management or development which could detract from the quality or alter the character of such area. The administration of all State-owned lands within any wild river area shall be consistent with the administration of lands included within the New Jersey Natural Areas System pursuant to the provisions of P. L. 1975, c. 363 (C. 13:1B–15.12a et seq.); provided, however that such lands within such river areas shall be deemed to be in addition to, and not a part of, the New Jersey Natural Areas System for the purposes of section 4 of P. L. 1975, c. 363 (C. 13:1B–15.12a3). Such classifications shall be as follows:

a. Wild river areas, which are those rivers, or sections thereof, that are free of impoundment and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and undeveloped and waters unpolluted.

b. Scenic river areas, which are those rivers, or sections thereof, that are free of impoundment, with watersheds or shorelines still largely primitive and undeveloped, but accessible in places by road.

c. Recreational river areas, which are those rivers, or sections thereof, that are readily accessible, that may have some development along their shorelines, and that may have undergone some impoundment or diversion prior to their inclusion in the New Jersey Scenic River System.

d. Developed recreational rivers, which are those rivers, or sections thereof, that are readily accessible, that may have substantial development along their shorelines, that may have undergone substantial impoundment or diversion, but which remain suitable for a variety of recreational uses.

C. 13:8-49 Inclusion in system of suitable rivers.

5. In order to determine the suitability of any river for inclusion in the system, the department shall:

a. Complete the delineation of the flood hazard area for such river as required by section 3 of P. L. 1962, c. 19 (C. 58:16A–52).

b. Conduct such studies as are necessary in order to prepare a report containing the following information concerning the proposed river area: a map portraying the location and boundaries of such area; a summary of the current and potential ownership and uses of such lands; a discussion of the environmental and economic impact upon local communities and the State which would result from the inclusion of such area in the system; a recommendation concerning the proper classification and use of such proposed river area; and, an estimation of the cost which would be incurred by the State in designating such area as a component of the system. Such report shall be made available to the Assembly Agriculture and Environment Committee, the Senate Energy and Environment Committee and to the public at least 30 days prior to the public hearing required by this section.

c. Conduct a public hearing in a location convenient to all interested parties at least 30 days prior to designating any river area as a component of the system. Public notices of such hearings shall be published in at least two newspapers circulating within the affected counties not less than 3 weeks prior to the hearings. At least 2 weeks prior to the date set for such hearing, a copy of the public notice shall be sent by certified mail to each owner having a recorded interest in the lands within the proposed river area as shown in the municipal tax office wherein such land is located. Such notice shall be mailed to the address shown in the records of the municipal tax office. Following any such public hearing, the commissioner shall consider the testimony presented thereat and evaluate any reasonable alternative to, or revision of, the designation of such proposed river area.

d. Subsequent to the fulfillment of the above requirements, the commissioner may designate such river area as a component of the system. Upon such designation, the commissioner shall cause notice thereof, including a map portraying the boundaries of the river area, to be published in the New Jersey Register.

C. 13:8-50 Use of State-owned lands; agreements with individuals, municipalities or counties for use of lands within system; acquisition of easements.

6. a. The department may use for the purposes of the system lands owned by the State, with the concurrence of the head of the

administering agency, and acquire scenic easements in such lands by written cooperative agreement, donation, or purchase with donated or appropriated funds, or agree to manage any such lands in a manner consistent with the provisions of this act.

b. The department may enter into such agreements with landowners, counties, municipalities, private organizations and individuals for the use of lands within the designated boundaries of any river area of the system in accordance with the provisions of this act, or may acquire therefor scenic easements by donation or purchase with donated or appropriated funds.

C. 13:8-51 Expenditure of funds.

7. The department is hereby authorized to apply for, accept and expend funds from any public or private source for the planning or acquisition of lands, scenic easements thereto, or the development of facilities for the system as provided by this act.

C. 13:8-52 Rules and regulations.

8. a. The department is hereby empowered and directed, pursuant to the "Administrative Procedure Act" (C. 52:14B–1 et seq.), and after public hearings thereon, to promulgate rules and regulations concerning the development and use of designated adjacent areas of land, which rules and regulations shall also serve as minimum standards for the adoption of appropriate rules and regulations by any commission created by the affected municipalities in accordance with section 9 of this act; provided, however, that such rules and regulations shall not be construed so as to affect any use of such lands which exists at the time of the effective date of this act; provided, further, however, that such rules and regulations shall not be construed so as to prohibit or adversely affect the expansion of any agricultural use of such lands which exists at the time of the effective date of this act.

b. The department is further authorized, pursuant to the aforesaid "Administrative Procedure Act," and after public hearings thereon, to adopt, amend or repeal such other rules and regulations as are necessary to effectuate the purposes of this act.

c. The department shall transmit copies of all rules and regulations proposed pursuant to this section to the Assembly Agriculture and Environment Committee and to the Senate Energy and Environment Committee.

d. The department shall further transmit copies of all rules and regulations proposed pursuant to this section to the Senate and General Assembly on a day on which both Houses shall be meeting

in the course of a regular or special session. The provisions of the aforesaid "Administrative Procedure Act" or any other law to the contrary notwithstanding, no such rule or regulation shall take effect if, within 60 days of the date of its transmittal to the Senate and General Assembly, the Legislature shall pass a concurrent resolution stating in substance that the Legislature does not favor such proposed rule or regulation.

C. 13:8-53 Wild and scenic river commission; creation; rules and regulations; membership; appointment; enforcement of existing State rules and regulations.

9. a. Within 6 months of the adoption of rules and regulations pursuant to subsection a. of section 8 of this act, each affected municipality may, singly or jointly, create a commission to be known and designated as "the . . . wild and scenic river commission." Any existing environmental commission or joint environmental commission established pursuant to P. L. 1968, c. 245 (C. 40:56A–1 et seq.), by any affected municipality or municipalities may be designated as such a wild and scenic river commission. Such commission shall have authority to adopt, amend and administer, with the approval of the commissioner, rules and regulations concerning the development and use of the appropriate designated adjacent area of land; provided, however, that no such rules and regulations shall be less restrictive than the minimum standards promulgated by the department pursuant to section 8 of this act. Members of such commissions shall be appointed by the governing body of municipalities creating same. The method, number, and terms of such appointments shall be determined by such governing bodies with the approval of the commissioner.

b. If any affected municipality fails to create, or join in the creation of, such a commission, or if any such commission fails to adopt and enforce such rules and regulations, the department shall enforce existing State rules and regulations applicable to such land.

C. 13:8-54 Development of facilities on State-owned lands.

10. Nothing in this act shall be construed so as to prohibit the department from developing facilities on any State-owned land within a component river area of the system to provide for the public welfare, including recreational use and enjoyment of such area; provided, however, that such facilities shall be consistent with the relevant classification of the river area and with rules and regulations promulgated by the department or a local commission pursuant to this act.

C. 13:8-55 Guidelines for preparation of reports.

11. Within 1 year of the effective date of this act, the commissioner shall promulgate guidelines for the preparation of the reports required for designation of component river areas of the system and for the management of the four classes of rivers herein established, including the goals, objectives, policies, and State rules and regulations which shall also serve as minimum standards for local rules and regulations concerning the development and use of designated adjacent areas of land.

C. 13:8-56 Granting of easements and rights-of-way; reclassification of designation of component river area.

12. a. The department may grant easements and rights-of-way upon, over, under, across, or through any State-owned land within a component river area of the system in accordance with the laws and rules and regulations applicable to the department; provided, however, that any conditions precedent to granting such easements and rights-of-way shall be related to the policy and purposes of this act.

b. Subsequent to the designation procedure provided in section 5 of this act, the commissioner may reclassify the designation of any component river area of the system.

C. 13:8-57 Violation of act; injunctive relief.

13. Any person who violates the provisions of any rule or regulation adopted by the department pursuant to this act shall be guilty of a disorderly persons offense. If such violation is of a continuing nature, each day in which it continues shall constitute an additional, separate and distinct offense. The department is hereby empowered to institute any action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation, and such court may proceed in a summary manner.

C. 13:8-58 Use of appropriated sums.

14. The commissioner may use any sum hereafter appropriated by any act from the proceeds of the sale of bonds under the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974" (P. L. 1974, c. 102), which is intended for the State acquisition of lands or interests in lands for recreation and conservation purposes, and such other sums as may be appropriated for like purposes for the acquisition of lands or scenic easements thereto for the purposes of this act.

C. 13:8-59 Flood hazard area, State park and wildlife refuge areas within system; applicability of act.

15. Any portion of a component river area included in the system which is delineated as within the boundaries of a flood

hazard area pursuant to section 3 of P. L. 1962, c. 19 (C. 58:16A–52), or which is or shall become a part of any State park, wildlife refuge or similar area shall be subject to the provisions of this act and the acts under which such other areas may be administered; in the case of conflict between the provisions of such acts, the more restrictive provisions shall apply.

C. 13:8-60 Application and agreements concerning inclusion in national wild scenic rivers system.

16. The Governor is hereby authorized to make application on behalf of the State for the inclusion of component river areas of the New Jersey Wild and Scenic Rivers System in the National Wild and Scenic Rivers System. The Governor is further authorized to enter into written cooperative agreements concerning such inclusion and for the joint Federal-State administration of a New Jersey component river area of such system; provided, however, that no such agreement for the administration of such area shall be less restrictive than the provisions of this act or the rules and regulations promulgated pursuant hereto.

C. 13:8-61 Partial invalidity.

17. If any provision of this act or the application thereof to any person or circumstance is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

C. 13:8-62 Construction.

18. This act shall be liberally construed to effectuate the purpose and intent hereof.

C. 13:8-63 Portion of Mullica river and Cedar Creek designated as initial components of system.

19. The department shall, within 1 year of the effective date of this act, complete all of the necessary requirements as herein provided for the designation of that portion of the Mullica river from Lake Atsion at State Highway 206 to Burlington County Route 542 at Pleasant Mills and that creek known as Cedar creek, which has headwaters in Lacey, Berkeley, Manchester and Ocean townships in Ocean county, and flows thence easterly to a terminus in Barnegat bay, or portions thereof, as the initial components of the system.

20. This act shall take effect immediately.

Approved September 29, 1977.

CHAPTER 237

AN ACT concerning disclosure of certain information relating to the operation of nursing homes and supplementing chapter 2 of Title 26 of the Revised Statutes.

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

C. 26:2H-32 Definitions.

1. The following words or phrases, as used in this act, shall have the following meanings, unless the context otherwise requires:

a. "Nursing home" means a facility providing therein nursing care to sick, invalid, infirm, disabled or convalescent persons in addition to lodging and board or health-related service, or any combination of the foregoing and in addition thereto, providing nursing care and health-related service, or either of them, to persons who are not occupants of the facility.

b. "Affiliate" means (1) with respect to a partnership, each partner thereof; (2) with respect to a corporation, each officer, director, principal stockholder or controlling person thereof; (3) with respect to a natural person (a) each member of said person's immediate family, (b) each partnership and each partner thereof of which said person or any affiliate of said person is a partner, and (c) each corporation in which said person or any affiliate of said person is an officer, director, principal stockholder or controlling person.

c. "Controlling person" of any corporation, partnership or other entity means any person who has the ability, directly or indirectly, to direct or cause the direction of the management or policies of said corporation, partnership or other entity.

d. "Immediate family" of any person includes each parent, child, spouse, brother, sister, first cousin, aunt and uncle of such person, whether such relationship arises by birth, marriage or adoption.

e. "Principal stockholder" of a corporation means any person who beneficially owns, holds or has the power to vote, 10% or more of any class of securities issued by said corporation.

C. 26:2H-33 Annual report; form and contents.

2. Every nursing home operating in the State shall, within 90 days after the end of its fiscal year, file an annual report with the

State Commissioner of Health. Such annual report shall be in such form and shall contain such information as shall be prescribed by the commissioner, including the following:

a. A balance sheet of the nursing home as of the end of such fiscal year, setting forth assets and liabilities at such date including all capital, surplus, reserve, depreciation and similar accounts;

b. A statement of operations of the nursing home for such fiscal year, setting forth all revenues, expenses, taxes, extraordinary items and other credits or charges;

c. The name and address of each of the following persons:

(1) The operator of the nursing home;

(2) Any person who, directly or indirectly, beneficially owns any interest in the land on which the nursing home is located;

(3) Any person who, directly or indirectly, beneficially owns any interest in the building in which the nursing home is located;

(4) Any person who, directly or indirectly, beneficially owns a 10% or greater interest in any mortgage, note, deed of trust or other obligation secured in whole or in part by the land on which or building in which the nursing home is located;

(5) Any person who, directly or indirectly, has any interest as lessor or lessee in any lease or sublease of the land on which or the building in which the nursing home is located;

(6) Any person who, directly or indirectly, beneficially owns a 10% or greater interest in any mortgage, note, deed of trust or other obligation which, although not secured by the land on which or building in which the nursing home is located, is considered an outstanding liability on the books of the nursing home and was executed to finance directly or indirectly the purchase of the nursing home, land, building, lease or sublease pertaining thereto;

d. If the nursing home or any person named in response to subsection c. is a partnership, then the name and address of each partner;

e. If the nursing home or any person named in response to subsection c. is a corporation, other than a corporation whose shares are traded on a national securities exchange or a commercial bank, savings bank or savings and loan association, then the name and address of each officer, director, principal shareholder and controlling person of such corporation;

f. If any corporation named in response to subsection c. is a corporation whose shares are traded on a national securities exchange or which is a commercial bank, savings bank or savings and loan association, then the name and address of the principal

executive officers and each director, principal stockholder and controlling person of said corporation;

g. If the nursing home paid or received an aggregate of $2,500.00 or more during the fiscal year in connection with transactions with any person named in response to subsections c., d., e., or f., or any affiliate of said person, a description of the transactions, naming the parties thereto and describing the relationships which require the transactions to be described and the goods, services, payment or other consideration received by each party to the transactions.

C. 26:2H-34 Written statement included in report.

3. Every report required to be filed by a nursing home pursuant to this act shall contain a written statement, sworn to by or on behalf of such nursing home and the operator of such nursing home to the effect that the report is true and complete and prepared in accordance with the provisions of this act.

C. 26:2H-35 Violation of act; penalty.

4. Any person, firm, association, partnership or corporation who fails to file a statement as required by this act or willfully files a false statement shall be liable to a penalty of not less than $10.00 nor more than $100.00 for each day that such failure continues or such false statement remains uncorrected. The penalties prescribed and authorized by this act shall be recovered in a summary civil proceeding brought in the name of the State in the Superior Court, a County Court or a county district court pursuant to the Penalty Enforcement Law (N. J. S. 2A:58–1 et seq.).

5. This act shall take effect 90 days after its enactment.

Approved September 29, 1977.

CHAPTER 238

AN ACT promoting the health, safety and welfare of residents in certain health care facilities.

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

C. 26:2H-36 Legislature's findings.

1. The Legislature finds:

a. Many senior citizens in the State are residing in boarding homes or nursing homes. Their life, safety, health and welfare is largely dependent upon the conditions and care provided in these homes;

b. Some homes are providing inadequate medical and nursing care, inadequate living conditions, and are in substantial or habitual violation of Federal or State laws or regulations concerning health, safety or resident care;

c. It is necessary in order to protect the public welfare and the residents of the homes that a summary statutory procedure be established to eliminate substantial or habitual deficiencies in resident care or living conditions or violations of Federal or State laws or regulations in these homes.

C. 26:2H-37 Definitions.

2. As used in this act, and unless the context otherwise requires:

a. "Boarding or nursing home" or "home" means a private nursing home or convalescent home regulated under chapter 11 of Title 30 of the Revised Statutes or a facility or institution, private or public, regulated and licensed as an extended care facility, skilled nursing home, nursing home or intermediate care facility pursuant to P. L. 1971, c. 136 (C. 26:2H–1 to 26:2H–26) or a boarding home, rest home or other home for sheltered care of adult persons 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 to 26:2H–26).

b. "Owner" means the holder or holders of the title in fee simple to the property on which the home is located.

c. "Licensee" means the holder or holders of a license to operate a boarding or nursing home pursuant to chapter 11 of Title 30 of the Revised Statutes, P. L. 1953, c. 212 (C. 30:11A–1 to 30:11A–14) or P. L. 1971, c. 136 (C. 26:2H–1 to 26:2H–26).

d. "Department" means the State Department of Health.

C. 26:2H-38 Proceeding in court to remedy violations.

3. A proceeding by the State Department of Health, or any other State governmental agency having an interest in the matter, a resident or residents or the guardian of a resident of a boarding or nursing home for a judgment directing the appointment of a receiver for the purposes of remedying a condition or conditions of a home in substantial violation of the standards of health, safety or resident care established under Federal or State law or regula-

tions or of remedying a pattern and practice of habitual violations of the standards of health, safety or resident care established under Federal or State law or regulations may be maintained in a court of competent jurisdiction. If the action is not brought by the department, a copy of the complaint shall be served upon it.

C. 26:2H-39 Complaint.

4. The complaint shall:

a. (1) Set forth material facts showing that there exists in the boarding or nursing home a condition or conditions in substantial violation of the standards of health, safety or resident care established under Federal or State law or regulations or any other conditions dangerous to life, health or safety or (2) that there exists in the boarding or nursing home a pattern and practice of habitual violation of the standards of health, safety or patient care established under Federal or State law or regulations.

b. Set forth that the facts set forth in subsection a. of this section have been brought to the attention of the owner and licensee of the home and that the condition or conditions have not been remedied within a reasonable period of time or that the condition or conditions although periodically remedied habitually exists in the home as pattern and practice.

c. Set forth a brief description of what is necessary to remedy the condition and an estimate of the cost thereof.

d. State the relief sought.

C. 26:2H-40 Sufficient defense.

5. It shall be a sufficient defense to the proceeding if the owner or licensee establishes that the condition or conditions alleged in the complaint do not in fact exist or that such condition or conditions have been removed or remedied or that such condition or conditions, although periodically remedied, have not habitually existed as pattern and practice.

C. 26:2H-41 Proceeding in court judgment.

6. The court shall proceed in a summary manner and shall render a judgment either:

a. Dismissing the complaint for failure to affirmatively establish the allegations thereof or because of the affirmative establishment by the owner or licensee of a defense specified in this act; or

b. Ordering the appointment of a receiver in accordance with the provisions of this act; or

c. Granting such other and further relief as the court deems just and proper.

C. 26:2H-42 Authority to appoint receiver; exceptions; powers of receiver.

7. a. The court is authorized and empowered to appoint as a receiver any responsible person or persons except that no owner, licensee or administrator of the home shall be appointed as receiver.

b. The receiver, in his discretion, may either (1) assume the role of administrator or manager and take control of all day-to-day operations, or (2) direct the administrator or manager on actions and procedure to be taken to eliminate or rectify the conditions specified in the complaint.

c. With the approval of the court the receiver shall have any or all of the following powers:

(1) To hire any consultants or to undertake any studies of the home he deems appropriate.

(2) To make any repairs, improvements or expenditures to eliminate the conditions specified in the complaint and to direct the method or procedures by which this shall be accomplished.

(3) To hire or discharge any employees including the administrator or manager.

(4) To receive or expend in a reasonable and prudent manner the revenues of the home due on the date of the entry of such judgment and to become due under such judgment.

(5) To continue the business of the home and the care of the residents of the home in all its aspects.

(6) To do all acts necessary or appropriate to conserve the property and promote the health, safety or resident care of the residents in the home.

(7) To exercise such other powers as he deems necessary or appropriate to implement the court order.

d. No provision in this section shall limit the right of any owner to sell or mortgage any home subject to receivership under this act.

C. 26:2H-43 Order permitting performance of work in lieu of rendering judgment; violation of order; final judgment.

8. a. If, after a trial, the court shall determine that the evidence warrants the granting of the relief sought and if the owner or licensee of the home shall apply to the court to be permitted to remove or remedy the conditions specified in the complaint and shall demonstrate the ability to promptly undertake and complete the work required, than the court, in lieu of rendering judgment as provided in this act, may issue an order permitting such person to perform the work in accordance with a time schedule and subject

to such conditions, including the posting of a bond as security for the performance of the work, as may be fixed by the court.

b. If, after the issuance of an order pursuant to subsection a. of this section, it shall appear that the person permitted to do the same is not proceeding in accordance with the time schedule or in accordance with the conditions imposed by the court, the plaintiff may apply to the court on notice to those persons who have appeared in the proceeding for a hearing to determine whether judgment should be rendered immediately as provided in subsection c. of this section.

c. If, upon a hearing authorized in subsection b. hereof, the court shall determine the owner or licensee is not proceeding in accordance with the time schedule or with the conditions imposed by the court, the court shall issue a final judgment appointing a receiver as authorized in the act. If the person has posted a bond to secure completion of the work, the security or such part of the security as is necessary may be used by the receiver to remedy the conditions.

C. 26:2H-44 Reports of action and accounts itemizing revenues and expenditures; filing; presentation or settlement of accounts.

9. The court shall require the filing, at periodic intervals, of reports of action taken by the receiver and of accounts itemizing the revenues and expenditures. The reports shall be open to inspection to all parties to the case. Upon motion of the court or the receiver or of the owner, or licensee, the court may require a presentation or settlement of the accounts. Notice of a motion for presentation or settlement of such accounts shall be served on the owner, licensee and any party of record who appeared in the proceeding and any party in interest in such revenues and expenditures.

C. 26:2H-45 Motion to terminate receivership; grounds.

10. The receiver, owner or licensee may make a motion to terminate the receivership on grounds that the conditions complained of have been eliminated or remedied. The court may immediately terminate the receivership, or terminate the receivership subject to such terms as the court feels necessary or appropriate to prevent the condition or conditions complained of from recurring.

C. 26:2H-46 Receiver's compensation; requirement of bond; payment by home.

11. The court shall allow from the revenues of the home a reasonable amount of compensation for the expenditures and services of a receiver appointed under the provisions of this act. The receiver

so appointed may be required to furnish a bond, the amount and form of which shall be approved by the court. The cost of such bond shall be paid for by the home.

12. This act shall take effect immediately.

Approved September 29, 1977.

CHAPTER 239

AN ACT concerning the health, safety, welfare, civil and human rights of elderly persons, establishing the Office of the Ombudsman for the Institutionalized Elderly, and making an appropriation.

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

C. 52:27G-1 Legislature's findings.

1. The Legislature hereby finds that in recognition of the different health and health related problems experienced by the various age groups in the general population, numerous health care facilities have been constructed and placed in operation to provide specialized health and health related services to particular such groups; that in providing such services to the elderly it is essential to recognize that while the members of this age group possess the same civil and human rights as members of every other age group, such rights may be far more difficult for certain of the elderly to secure since such persons may be afflicted with physical and mental infirmities, deprived of the comfort and counsel of family and friends, and forced to exist with minimum economic resources, all of which may preclude them from defending and acting in their own best interests; and, that to the degree that certain of the elderly may experience difficulty in securing their civil and human rights as patients, residents and clients of the health care facilities created to serve their specialized needs and problems, it is the obligation of the State to take appropriate action through the creation of an adequate legal framework by which those difficulties may be eliminated.

The Legislature, therefore, declares that it is the public policy of this State to secure for elderly patients, residents and clients of health care facilities serving their specialized needs and problems,

the same civil and human rights guaranteed to all citizens; and that to this end there should be established as an agency of the State Government the Office of the Ombudsman for the Institutionalized Elderly, to receive, investigate and resolve complaints concerning certain health care facilities serving the elderly, and to initiate actions to secure, preserve and promote the health, safety and welfare, and the civil and human rights, of the elderly patients, residents and clients of such facilities.

C. 52:27G-2 Definitions.

2. As used in this act, unless the context clearly indicates otherwise:

a. An "act" of any facility or government agency shall be deemed to include any failure or refusal to act by such facility or government agency;

b. "Administrator" means any person who is charged with the general administration or supervision of a facility whether or not such person has an ownership interest in such facility, and whether or not such person's functions and duties are shared with one or more other persons;

c. "Facility" means any facility or institution, whether public or private, offering health or health related services for the institutionalized elderly, and which is subject to regulation, visitation, inspection, or supervision by any government agency. Facilities include, but are not limited to, nursing homes, skilled nursing homes, intermediate care facilities, extended care facilities, convalescent homes, rehabilitation centers, homes for the aged, special hospitals, veterans hospitals, chronic disease hospitals, psychiatric hospitals, mental hospitals, mental retardation centers or facilities, day care facilities for the elderly, medical day care centers, and boarding homes or other homes for the sheltered care;

d. "Government agency" means any department, division, office, bureau, board, commission, authority, or any other agency or instrumentality created by the State, or to which the State is a party, or by any county or municipality, which is responsible for the regulation, visitation, inspection or supervision of facilities, or which provides services to patients, residents or clients of facilities;

e. "Guardian" means any person with the legal right to manage the financial affairs and protect the rights of any patient, resident or client of a facility who has been declared a mental incompetent by a court of competent jurisdiction;

f. "Institutionalized elderly" or "elderly" means any adult person 60 years of age or older who is a patient, resident or client of any facility;

g. "Office" means the Office of the Ombudsman for the Institutionalized Elderly established herein;

h. "Ombudsman" means the administrator and chief executive officer of the Office of the Ombudsman for the Institutionalized Elderly;

i. "Patient, resident or client" means any elderly person who is receiving treatment or care in any facility in all its aspects including, but not limited to, admission, retention, confinement, commitment, period of residence, transfer, discharge, and any instances directly related to such status.

C. 52:27G-3 Office of the ombudsman for the institutionalized elderly; establishment.

3. There is hereby established in the Executive Branch of the State Government the Office of the Ombudsman for the Institutionalized Elderly. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the Office of the Ombudsman for the Institutionalized Elderly is hereby allocated to the Department of Community Affairs, but, notwithstanding said allocation, the said office shall be independent of any supervision or control by the department or by any board or officer thereof.

C. 52:27G-4 Ombudsman; appointment; term; salary; vacancy.

4. The administrator and chief executive officer of the office shall be the ombudsman, who shall be a person qualified by training and experience to perform the duties of the office. The ombudsman shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor during the Governor's term of office and until the appointment and qualification of the ombudsman's successor. He shall devote his entire time to the duties of his position and shall receive such salary as shall be provided by law. Any vacancy occurring in the position of ombudsman shall be filled in the same manner as the original appointment; provided, however, that whenever the ombudsman dies, resigns, becomes ineligible to serve for any reason, or is removed from office, the Governor shall appoint an acting ombudsman who shall serve until the appointment and qualification of the ombudsman's successor, but in no event longer than 6 months from the occurrence of the vacancy, and who shall exercise during such

period all the powers and duties of the ombudsman pursuant to the provisions of this act.

C. 52:27G-5 Powers and duties of ombudsman.

5. The ombudsman, as administrator and chief executive officer of the office, shall:

a. Administer and organize the work of the office and establish therein such administrative subdivisions as he may deem necessary, proper and expedient. He may formulate and adopt rules and regulations and prescribe duties for the efficient conduct of the business, work and general administration of the office. He may delegate to subordinate officers or employees in the office such of his power as he may deem desirable to be exercised under his supervision and control;

b. Appoint and remove such stenographic, clerical and other secretarial assistants as may be required for the proper conduct of the office, subject to the provisions of Title 11 (Civil Service) of the Revised Statutes, and other applicable statutes, and within the limits of funds appropriated or otherwise made available therefor. In addition, and within such funding limits, the ombudsman may appoint, retain or employ, without regard to the provisions of the said Title 11 (Civil Service), or any other statutes, such officers, investigators, experts, consultants or other professionally qualified personnel on a contract basis or otherwise as he deems necessary.

c. Appoint and employ, notwithstanding the provisions of P. L. 1944, c. 20 (C. 52:17A–1 et seq.), a general counsel and such other attorneys or counsel as he may require, for the purpose, among other things, of providing legal advice on such matters as the ombudsman may from time to time require, of attending to and dealing with all litigation, controversies and legal matters in which the office may be a party or in which its rights and interests may be involved, and of representing the office in all proceedings or actions of any kind which may be brought for or against it in any court of this State. With respect to all of the foregoing, such counsel and attorneys shall be independent of any supervision or control by the Attorney General or by the Department of Law and Public Safety, or by any division or officer thereof;

d. Have authority to adopt and promulgate pursuant to law such rules and regulations as he deems necessary to carry out the purposes of this act;

e. Maintain suitable headquarters for the office and such other quarters as he shall deem necessary to the proper functioning of the office;

f. Solicit and accept grants of funds from the Federal Government and from other public and any private sources for any of the purposes of this act; provided, however, that any such funds shall be expended only pursuant to an appropriation made by law;

g. Perform such other functions as may be prescribed in this act or by any other law.

C. 52:27G-6 Objective of office.

6. The Office of the Ombudsman for the Institutionalized Elderly shall have as its basic objective that of promoting, advocating and insuring, as a whole and in particular cases, the adequacy of the care received, and the quality of life experienced, by elderly patients, residents and clients of facilities within this State. In determining what elements are essential to adequate care and quality of life, the ombudsman shall consider the unique medical, social and economic needs and problems of the elderly as patients, residents and clients of facilities and as citizens and community members.

C. 52:27G-7 Procedures for receiving and resolving complaints.

7. a. The office shall establish and implement procedures for eliciting, receiving, processing, responding to and resolving complaints from patients, residents or clients of facilities, the relatives or guardians of such persons, or from interested citizens, public officials, or government agencies having an interest in the matter.

b. When the office receives a complaint or otherwise encounters a deficiency that pertains to compliance with State or Federal laws or regulations or rules administered by any government agency, it shall make referral thereof directly to the appropriate government agency for action.

c. When the complaint received or the investigation conducted by the office discloses facts that it determines warrants the institution of civil proceedings by a government agency against any person or government agency, the matter shall be referred to the government agency with authority to institute such proceedings.

d. When the complaint received or the investigation conducted by the office reveals information in relation to the misconduct or breach of duty of any officer or employee of a facility or a government agency, it shall refer the matter to the appropriate authorities for such action as may be necessary.

e. When the complaint received or the investigation conducted by the office discloses information or facts indicating the commission of criminal offenses or violations of standards of professional conduct, it shall refer the matter, as appropriate, to the Attorney General, county prosecutor, or any other law enforcement official that has jurisdiction to prosecute the crime, or to the professional licensing board concerned.

f. The government agency, prosecuting agency or professional licensing board, as the case may be in this section, shall report to the office on its findings and actions with respect to all such referrals within 30 days after receipt thereof and every 30 days thereafter until final action on each such referral. The office shall monitor all such referrals and responses and maintain a record thereof. The office shall be authorized to make disclosure of such information as appropriate and as may be necessary to resolve the matter referred.

g. In the event that the complaint of a patient, resident or client or class of patients, residents or clients of a facility or facilities cannot be resolved satisfactorily through negotiation with the facility or the appropriate government agency or that an act, practice, policy or procedure of a facility or government agency does or may adversely affect the health, safety, welfare or civil or human rights of a patient resident or client or class of patients, residents or clients of a facility or facilities the office may recommend to the appropriate authorities civil litigation on behalf of such patient, resident or client or class of patients, residents or clients as it deems appropriate. The office may institute actions for injunctive relief or civil damages.

C. 52:27G-8 Procedures for conducting investigations.

8. a. The office shall establish and implement procedures for conducting investigations.

b. Acting on complaint, the office may, notwithstanding any referral pursuant to section 7. b. of this act, investigate any act, practice, policy or procedure of any facility or government agency that does or may adversely affect the health, safety, welfare or civil or human rights of any patient, resident or client of a facility.

c. Acting on its own initiative, the office may investigate any act, practice, policy or procedure of any facility or government agency which it determines does or may adversely affect the health, safety, welfare or civil or human rights of any patient, resident or client in a facility.

d. In an investigation the office may:

(1) Make the necessary inquiries and obtain such information as it deems necessary;

(2) Hold private hearings or public hearings;

(3) Enter, without notice, and, after notifying the person in charge of its presence, inspect the premises of a facility or government agency and inspect there any books, files, medical records or other records that pertain to patients, residents or clients and are required by law to be maintained by the facility or government agency;

(4) Compel at a specific time and place, by subpena, the appearance and sworn testimony of any person who the office reasonably believes may be able to give information relating to a matter under investigation; or

(5) Compel any person to produce at a specific time and place, by subpena any documents, books, records, papers, objects, or other evidence which the office reasonably believes may relate to a matter under investigation.

e. The office need not investigate any complaint where it determines that:

(1) The complaint is trivial, frivolous, vexatious or not made in good faith;

(2) The complaint has been too long delayed to justify present investigation;

(3) The resources available, considering the established priorities, are insufficient for an adequate investigation; or

(4) The matter complained of is not within the investigatory authority of the office.

C. 52:27G-9 Acknowledging complaints; reporting findings; making recommendations; disseminating information, etc.

9. The office shall acknowledge complaints, report its findings, make recommendations, gather and disseminate information and other material, and publicize its existence, all as herein provided:

a. If a complaint identifies the complainant, the office shall acknowledge the receipt of such complaint and advise the complainant of any action taken or opinions and recommendations made by it in connection with the matter complained of.

b. Following an investigation the office may report its opinions or recommendations to the party involved. The office may request the party affected by such opinions or recommendations to notify it within a specified time of any action taken by such party on its recommendations. The office, may make public the complaint, the

act, practice, policy or procedure of a facility or government agency that does or may adversely affect the health, safety, welfare or civil or human rights of a patient, resident or client, its opinions or recommendations, the response of the facility or government agency to such opinions or recommendations or any further opinions or recommendations of the office.

c. The office may recommend to the relevant government agency changes in the rules and regulations adopted or proposed by such government agency, which do or may adversely affect the health, safety, welfare or civil or human rights of any patient, resident or client in a facility.

d. The office may propose regulations to and petition any government agency to adopt such regulations, or regulations similar in content, that affect the health, safety, welfare or civil or human rights of any patient, resident or client in a facility.

e. The office may recommend to the relevant government agency that a facility shall no longer be permitted to receive patients or residents or payments under the New Jersey Medical Assistance and Health Services Act, P. L. 1968, c. 413 (C. 30:4D–1 et seq.).

f. The office may recommend to the relevant government agency that it initiate procedures for assessment of penalties, revocation, suspension, the placing on probationary or provisional license or denial of a license against a facility or a proposed facility as appropriate.

g. The office may publicize its existence, function and activities through public relations with government and private organizations and groups and the public at large in general and with patients, residents and clients in facilities in particular.

h. The office shall report to the Governor and the Legislature on or before September 30 of each year, which report shall summarize its activities for the preceding fiscal year, document the significant problems in the systems of care and services for the elderly, indicate and analyze the trends in such systems of care and services, and set forth any opinions or recommendations which will further the State's capacity in resolving complaints, encouraging quality care and ensuring the health, safety, welfare or civil and human rights of elderly patients, residents and clients of facilities, including suggestions or recommendations for legislative consideration and for changes in the policy or rules and regulations of government agencies. The annual report shall be available to the public.

C. 52:27G-10 Volunteer programs; councils.

10. a. The office shall promote community contact and involvement with patients, residents and clients of facilities through the use of volunteers and volunteer programs. The volunteers, as private citizens, may exercise, but need not be limited to, such functions as visitation, consultation, problem solving, eliciting complaints, and, generally serving as advocates on behalf of the institutionalized elderly.

The office shall develop and propose programs for use, training, and coordination of volunteers and may:

(1) Establish and conduct recruitment programs for volunteers;

(2) Establish and conduct training seminars, meetings and other programs for volunteers and supply personnel, written materials and such other reasonable assistance including publicizing their activities as may be deemed necessary;

(3) Elicit the support of, and cooperate with, appropriate private, nonprofit and voluntary agencies and community groups in the development and coordination of volunteer programs and activities;

(4) Establish a reporting system volunteers can use to document the major problems and concerns affecting the patients, residents or clients of facilities;

(5) Reimburse volunteers for some or all their actual expenses, including, but not limited to, telephone and mileage incurred in performance of their duties under this act;

(6) Encourage, cooperate with and assist the development and operation of referral services where current, valid and reliable information on facilities and alternatives to institutionalization can be secured by elderly persons in need of these services and the general public;

(7) Request the participation and advice of such government agencies and other entities or persons as the office may deem appropriate or necessary to the development of volunteer programs and the effective use of volunteers;

(8) Establish and conduct meetings and other programs for administrators, professional personnel, and other personnel employed by or in contract with the facilities.

b. The office may assist in the development and use, by patients, residents or clients of facilities, of councils and other forums which permit such patients, residents or clients to discuss and communicate, on a continuing basis, their views on the strengths and weaknesses of the operations of the facility and on the quality

of care provided and quality of life fostered. Memberships on such councils shall be determined by the patients, residents or clients of the particular facility and may include, but shall not be limited to, such patients, residents or clients, interested relatives, friends or community persons. Assistance by the office may include, but shall not be limited to, conference with administrators, operators or managers of facilities on the purpose and function of such councils and, upon request, participation in the formation of a council which the office deems appropriate to the individual needs of the facility and its patients, residents or clients.

In implementing the provisions of this section the ombudsman shall coordinate the efforts of the office concerning volunteers and councils with all relevant government agencies, and with the administrators of such private facilities as he may deem appropriate, to insure coordination and avoid duplication of effort, so that the volunteer programs and councils developed and supported by the office may genuinely serve the interests of the institutionalized elderly without in any way disrupting the legitimate functioning of any facility in this State.

C. 52:27G-11 Correspondence or written communication; distribution of notice to facilities; contents of notice; distribution to residents; posting; information relating to rights of residents; facilitating the filing of complaints.

11. a. Any correspondence or written communication from any patient, resident or client of a facility to the office shall, if delivered to or received by the facility, be promptly forwarded, unopened, by the facility to the office. Any correspondence or written communication from the office to any patient, resident or client of a facility shall, if delivered to or received by the facility, be promptly forwarded, unopened, by the facility to such patient, resident, or client.

b. The office shall prepare and distribute to each facility written notices which set forth the address and telephone number of the office, a brief explanation of the function of the office, the procedure to follow in filing a complaint and other pertinent information.

The administrator of each facility shall ensure that such written notice is given to every patient, resident or client or his guardian upon admission to the facility and to every person already in residence or his guardian. The administrator shall also post such written notice in a conspicuous, public place in the facility in the number and manner set forth in the guidelines adopted by the office.

c. The office shall inform patients, residents or clients, their guardians or their families, of their rights and entitlements under

State and Federal laws and rules and regulations by means of the distribution of educational materials and group meetings.

d. The office shall facilitate the filing of complaints with the office concerning matters within the authority of the office. The measures taken in connection therewith shall include, but need not be limited to, maintenance of a toll-free telephone, either by the office or in conjunction with the Division on Aging, at least during regular working hours of the office for the filing of complaints.

C. 52:27G-12 Cooperation with other governmental agencies.

12. The office may request from any government agency, and said agency is hereby authorized and directed to provide, such cooperation and assistance, services and data as will enable the office properly to perform or exercise any of its functions, duties and powers under the provisions of this act.

C. 52:27G-13 Confidentiality with respect to complaints or investigations.

13. a. The office shall maintain confidentiality with respect to all matters in relation to any complaint or investigation together with identities of the complainants, witnesses or patients, residents or clients involved, unless such persons authorize, in writing, the release of such information, except for such disclosures as may be necessary to enable the office to perform its duties and to support any opinions or recommendations that may result from a complaint or investigation. The investigatory files of the office, including all complaints and responses of the office to complaints, shall be maintained as confidential information. Release of pertinent records shall be at the discretion of the ombudsman. Nothing herein contained shall preclude the use by the office of material in its files, otherwise confidential, for the preparation and disclosure of statistical, case study and other pertinent data, provided that in any such use there shall be no disclosure of the identity or the means for discovering the identity of particular persons.

b. Any person conducting or participating in any examination of a complaint or an investigation who shall disclose to any person other than the office, or those authorized by the ombudsman to receive it, the name of any witness examined, or any information obtained or given upon such examination or investigation is a disorderly person.

c. Any statement or communication made by the office relevant to a complaint received by, proceedings before, or investigative activities of, the office, and any complaint or information made or provided in good faith by any person, shall be absolutely privileged

and such privilege shall be a complete defense in any action which shall allege libel or slander.

d. The office shall not be required to testify in any court with respect to matters held to be confidential in this section except as the court may deem necessary to enforce the provisions of this act.

C. 52:27G-14 Communication with office; disclosure of information in good faith; violations; penalty; suit in court.

14. a. No discriminatory, disciplinary or retaliatory action shall be taken against any officer or employee of a facility or government agency by such facility or government agency or against any patient, resident, or client of a facility or guardian or family member thereof, or volunteer, for any communication by him with the office or for any information given or disclosed by him in good faith to aid the office in carrying out its duties and responsibilities. Any person who knowingly or willfully violates the provisions of this subsection is guilty of a misdemeanor.

b. Any person who willfully hinders the lawful actions of the office or willfully refuses to comply with its lawful demands, including the demand of immediate entry into and inspection of a facility or government agency or the demand of immediate access to a patient, resident or client thereof, or who offers any compensation, gratuity, or promise thereof to the office in an effort to affect the outcome of any matter which is being investigated, or is likely to be investigated shall be subject to a penalty of not more than $1,000.00. Such penalty shall be recoverable by the State in a civil action by a summary proceeding under "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.). The county district court of the county in which the offense is alleged to have occurred shall have jurisdiction to enforce said penalty enforcement law upon complaint of the office or any other person. Each violation of this act shall constitute a separate offense.

c. The office may bring suit in any court of competent jurisdiction to enforce any of the powers enumerated in this act.

C. 52:27G-15 Legislative review and oversight.

15. The Legislature through the Senate and Assembly Standing Committees on Institutions, Health and Welfare, or such other committee or committees as may be designated from time to time by the President of the Senate and Speaker of the General Assembly, respectively shall review, on a continuous basis, the development, administration and operation of the office provided for in this act. To facilitate this review and oversight, the office shall submit to the committees the reports required by this act,

and such other reports as shall be called for by the committees from time to time.

C. 52:27G-16 Partial invalidity.

16. If any section, subsection, paragraph, sentence or other part of this act is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which said judgment shall have been rendered.

17. There is hereby appropriated to the Office of the Ombudsman for the Institutionalized Elderly the sum of $150,000.00.

18. This act shall take effect immediately.

Approved September 29, 1977.

CHAPTER 240

AN ACT concerning substitutions with respect to prescription drugs and the advertising of prescription drug prices, establishing a Drug Utilization Review Council in the Department of Health, amending R. S. 45:14–12 and making an appropriation therefor.

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

C. 24:6E-1 Short title.

1. This act shall be known and may be cited as the "Prescription Drug Price and Quality Stabilization Act."

2. R. S. 45:14–12 is amended to read as follows:

Refusal of examination; suspension or revocation of certificate; grounds; acts constituting grossly unprofessional conduct.

45:14–12. The board may refuse an application for examination or may suspend or revoke the certificate of a registered pharmacist or a registered assistant pharmacist for any of the following causes: When the application or registration is shown to have been obtained by misrepresentation or fraudulent means or when the applicant or registrant is guilty of chronic or persistent inebriety, or has been adjudged guilty of violating any State or Federal law or any law of the District of Columbia or of any territory of the United States relating to the practice of pharmacy, or relating to the dispensing of drugs, or has been convicted of a crime involving

moral turpitude, or has impersonated an applicant for registration before the board or has been convicted of knowingly, intentionally or fraudulently adulterating or causing to be adulterated drugs, chemicals or medicinal preparations or has sold or caused to be sold adulterated drugs, chemicals or medicinal preparations knowing, or having reason to know, that same were adulterated, or has procured or attempted to procure registration for another by misrepresentation or fraudulent means, and the board shall refuse an application for examination or suspend or revoke the certificate of a registered pharmacist or a registered assistant pharmacist when the applicant or registrant is shown to be addicted to the use of narcotic drugs, or has been convicted of violating any law of this or any other state or of the United States relating to narcotic drugs or has been adjudicated an incompetent, or is shown to have any abnormal physical or mental condition which threatens the safety of persons to whom said applicant or registrant might sell or dispense prescriptions, drugs, chemicals, medicinal preparations or devices or for whom he might manufacture, prepare or package, or supervise the manufacturing, preparation or packaging of prescriptions, drugs, chemicals, medicinal preparations or devices. In addition, the board may refuse an application for examination or may suspend or revoke the certificate of a registered pharmacist or a registered assistant pharmacist upon proof satisfactory to the board that such registered pharmacist or such registered assistant pharmacist is guilty of grossly unprofessional conduct and the following acts are hereby declared to constitute grossly unprofessional conduct for the purpose of this act:

a. Paying rebates or entering into an agreement for payment of rebates to any physician, dentist or other person for the recommending of the services of any person.

b. The providing or causing to be provided to a physician, dentist, veterinarian or other persons authorized to prescribe, prescription blanks or forms bearing the pharmacist's or pharmacy's name, address or other means of identification.

c. (Deleted by amendment.)

d. The claiming of professional superiority in the compounding or filling of prescriptions or in any manner implying professional superiority which may reduce public confidence in the ability, character or integrity of other pharmacists.

e. Fostering the interest of one group of patients at the expense of another which compromises the quality or extent of professional services or facilities made available.

f. The distribution of premiums or rebates of any kind whatever in connection with the sale of drugs and medications provided, however, that trading stamps and similar devices shall not be considered to be rebates for the purposes of this chapter and provided further that discounts, premiums and rebates may be provided in connection with the sale of drugs and medications to any person who is 62 years of age or older. Before a certificate shall be refused, suspended or revoked, the accused person shall be furnished with a copy of the complaint and given a hearing before the board. Any person whose certificate is so suspended or revoked shall be deemed an unregistered person during the period of such suspension or revocation, and as such shall be subject to the penalties prescribed in this chapter, but such person may, at the discretion of the board, have his certificate reinstated at any time without an examination, upon application to the board. Any person to whom a certificate shall be denied by the board or whose certificate shall be suspended or revoked by the board shall have the right to review such action by appeal to the Appellate Division of the Superior Court in lieu of prerogative writ.

g. Advertising of prescription drug prices in a manner inconsistent with rules and regulations promulgated by the Director of the Division of Consumer Affairs; provided, however, no such advertising of any drug or substance shall be authorized unless the Commissioner of Health shall have determined that such advertising is not harmful to public health, safety and welfare.

C. 24:6E-2 Rules and regulations.

3. (New section) In conformance with the Administrative Procedure Act, P. L. 1968, c. 410 (C. 52:14B–1 et seq.), the Director of the Division of Consumer Affairs shall promulgate rules and regulations governing the advertising of prescription drugs. Such rules and regulations shall include, but shall not be limited to, the following: (1) provisions governing the content of advertisements, including price quotations in conformance with usual and customary prescription amounts, dosage form, and services offered; (2) provisions prohibiting reference to the quality of a drug or its beneficial use; (3) provisions prohibiting the advertising for sale of a prescription drug at a retail price below the acquisition cost of the drug to the retail seller; (4) provisions governing the mandatory dissemination over the telephone of price information. Such rules and regulations shall be consistent, insofar as practicable, with Federal laws and regulations concerning advertising of prescription drugs, and the director may make any such Federal

law or regulation applicable to the advertising of prescription drugs within this State by rule or regulation.

C. 24:6E-3 Price information.

4. (New section) It shall be unlawful for any individual, group or association to restrain, directly or indirectly, the flow of prescription drug price information to the public.

C. 24:6E-4 Definitions.

5. (New section) As used in this act unless the context clearly indicates otherwise:

a. "Drug product" means a dosage form containing one or more active therapeutic ingredients along with other substances included during the manufacturing process.

b. "Brand name" means the proprietary name assigned to a drug by the manufacturer thereof.

c. "Established name" with respect to a drug or ingredient thereof, means (1) the applicable official name designated pursuant to the Federal Food, Drug and Cosmetic Act (Title 21, USC 301 et seq.), or (2) if there is no such official name and such drug or ingredient is recognized in an official compendium, then the official title thereof in such compendium, except that where a drug or ingredient is recognized in the United States Pharmacopœia and in the Homeopathic Pharmacopœia under different official titles, the official title used in the United States Pharmacopœia shall apply unless it is labeled and offered for sale as a homeopathic drug, in which case the official title used in the Homeopathic Pharmacopœia shall apply, or (3) if neither (1) nor (2) is applicable, then the common or usual name, if any, of such drug or ingredient.

d. "Prescription" means an order for drugs or combinations or mixtures thereof, written or signed by a duly licensed physician, dentist, veterinarian or other medical practitioner licensed to write prescriptions intended for the treatment or prevention of disease in man or animals, and includes orders for drugs or medicines or combinations or mixtures thereof transmitted to pharmacists through word of mouth, telephone, telegraph or other means of communication by a duly licensed physician, dentist, veterinarian or other medical practitioner licensed to write prescriptions intended for the treatment or prevention of disease in man or animals.

e. "Council" means the Drug Utilization Review Council.

f. "Chemical equivalents" means those drug products that con-

tain the same amounts of the same therapeutically active ingredients in the same dosage forms and that meet present compendial standards.

g. "Reference drug product" means the product which is adopted by the council as the standard for other chemically equivalent drugs in terms of testing for the therapeutic equivalence. In all cases, the reference drug product shall be a currently marketed drug which is the subject of a full (not abbreviated) new drug application approved by the Federal Food and Drug Administration.

h. "Therapeutic equivalents" means chemical equivalents which, when administered to the same individuals in the same dosage regimen, will provide essentially the same efficacy or toxicity as their respective reference drug products.

i. "Bioavailability" means the extent and rate of absorption from a dosage form as reflected by the time-concentration curve of the administered drug in the systemic circulation.

j. "Bioequivalents" means chemical equivalents which, when administered to the same individuals in the same dosage regimen, will result in comparable bioavailability.

k. "Pharmaceutical equivalents" means those drug products that contain the same amounts of the same therapeutically active ingredients in the same dosage form and that meet established standards.

l. "Interchangeable drug products" means pharmaceutical equivalents or bioequivalents that are determined to be therapeutic equivalents by the council.

m. "Present compendial standards" means the official standards for drug excipients and drug products listed in the latest revision of the United States Pharmacopœia (USP) and the National Formulary (NF).

C. 24:6E-5 Drug utilization review council; establishment; membership; appointment; terms; vacancies; compensation; meetings; clerical and other assistants.

6. (New section) There is hereby established in the Department of Health a Drug Utilization Review Council to consist of nine members appointed by the Governor, the Commissioner of Health and the Director of the Division of Consumer Affairs in the Department of Law and Public Safety or their designees. Of the members to be appointed by the Governor, two shall be licensed pharmacists, two shall be licensed physicians, who have pharmacological experience either through teaching, clinical research, or specific application of technical expertise, three shall be persons with pro-

fessional scientific or research experience in pharmacology, who shall have specific expertise in the area of medical pharmacology and pharmaceutical agents, their interaction and potential toxicity, and two shall be members of the general public. The members appointed by the Governor shall serve for a term of 5 years and until their successors have been appointed and qualified, but of those first appointed, two shall be appointed for a term of 2 years, two for a term of 3 years, two for a term of 4 years, and three for a term of 5 years.

Vacancies shall be filled in the same manner as the original appointments but only for the unexpired term. Council members shall serve without compensation but the members appointed by the Governor shall be entitled to reimbursement for any necessary and reasonable expenses incurred in the performance of their duties hereunder, provided that the amount of such reimbursement shall not exceed $1,000.00 annually.

The council shall meet annually and elect a chairman and secretary from among its members. The chairman and secretary shall serve for a term of 1 year. The council shall meet at such other times to carry out its functions and duties at the call of the chairman or a majority of its members. The council shall be entitled to employ such advisory, technical, and clerical personnel as it deems necessary within the limits of any appropriations made available therefor.

C. 24:6E-6 List of interchangeable drug products; preparation; public hearing; requirement to submit information to council; evaluation of drug products; compliance with standards established by Title 21 USC and department of health; distribution of list; rules and regulations.

7. (New section) a. The council shall prepare a list of interchangeable drug products. This list shall be periodically reviewed in accordance with a schedule of and procedure for such review as shall be established by the council. In development of the list, distinctions shall be made when: (1) evidence of bioequivalence is considered critical and when it is not; (2) when levels of toxicity are considered critical and when they are not. The list may include interchangeable drug products used by the United States Government and its agencies, where the government or such agency has established the reliability of the drug products interchanged.

b. No drug products shall be included in such list until after a public hearing has been held thereon after at least 20 days notice. Such notice shall be mailed to every drug company that is authorized to do business in the State of New Jersey and to all persons

who have made a timely request of the council for advance notice of its public hearings and shall be published in the New Jersey Register.

c. Manufacturers shall, upon the request of the council, be required to submit any information in their files that relates manufacturing processes and in vivo and in vitro tests to the bioavailability of any drug product. This requirement shall also apply to technical information obtained during research related to the development of new drug products, even when such information bears only an indirect relationship to the final dosage form. The council shall not make such information public when there is a proprietary interest on the part of the manufacturer.

d. Any manufacturer of drug products shall have the right to request the council to evaluate its drug products for the purpose of inclusion on the list of interchangeable drug products, or to request that the council consider removal of any drug product from the list. Any such request shall be accompanied by such information as the council shall require, and any drug product involved shall be evaluated in the same manner and shall be subject to the same procedures and requirements as all other drug products evaluated by the council for inclusion on or removal from the list.

e. Prior to any drug product being approved by the council, the manufacturer shall be required to demonstrate that it has complied with the standards set forth in the Current Good Manufacturing Practices of Title 21 USC or in such standards relating to drug manufacturing practices as may be promulgated by the Department of Health from time to time and must show evidence of a satisfactory inspection by the Federal Food and Drug Administration or the Department of Health.

f. The council shall distribute copies of the list of interchangeable drug products and revisions thereof and additions thereto among physicians and other authorized prescribers and licensed pharmacists, and shall supply a copy to any person upon request, upon payment of the price established by the council.

g. The council shall be authorized to adopt reasonable rules and regulations, in accordance with the provisions of the Administrative Procedure Act, P. L. 1966, c. 410 (C. 54:14B–1 et seq.), to carry out its functions and duties under this act and to effectuate its purposes.

C. 24:6E-7 Prescription blank; contents.

8. (New section) Every prescription blank shall be imprinted with the words, "substitution permissible" and "do not substitute"

and shall contain space for the physician's or other authorized prescriber's initials next to the chosen option. Notwithstanding any other law, unless the physician or other authorized prescriber explicitly states that there shall be no substitution when transmitting an oral prescription or, in the case of a written prescription, indicates that there shall be no substitution by initialing the prescription blank next to "do not substitute," a different brand name or nonbrand name drug product of the same established name shall be dispensed by a pharmacist if such different brand name or nonbrand name drug product shall reflect a lower cost to the consumer and is contained in the latest list of interchangeable drug products published by the council; provided, however, where the prescriber indicates "substitution permissible, and requests the pharmacist to notify him of the substitution," the pharmacist shall transmit notice, either orally or by written notice to be mailed no later than the end of the business day, to the prescriber specifying the drug product actually dispensed and the name of the manufacturer thereof. However, no drug interchange shall be made unless a savings to the consumer results, and the pharmacist passes such savings on to the consumer in full by charging no more than the regular and customary retail price for the drug to be substituted. For prescriptions filled other than by mail, the consumer may, if a substitution is indicated and prior to having his prescription filled, request the pharmacist or his agent to inform him of the price savings that would result from substitution. If the consumer is not satisfied with said price savings he may, upon request, be dispensed the drug product prescribed by the physician. The pharmacist shall make a notation of such request upon the prescription blank.

C. 24:6E-8 Substitution of brand name or nonbrand name drug products; authorization and approval by prescriber.

9. (New section) Notwithstanding any other law, where a different brand name or nonbrand name drug product of the same established name shall reflect a lower cost to the consumer and no drug product of such established name is included in the latest list of interchangeable drug products published by the council, or where in the professional judgment of the pharmacist there is no valid proof of efficacy for the drug product prescribed, or the pharmacist's patient profile record discloses drug sensitivity, allergies or adverse reactions to the drug product prescribed, or there exists a more appropriate drug product than the drug product prescribed, a different brand name or nonbrand name drug product

shall be dispensed by the pharmacist, provided, however, that such action by a pharmacist shall be authorized only if in each case the pharmacist notifies the prescriber of the drug product to be dispensed and the name of the manufacturer thereof, and receives the approval of the prescriber to substitute such drug product for the drug product prescribed. The pharmacist shall be required to indicate on the prescription the date and time of the prescriber's approval and whether the approval was communicated orally or in writing.

C. 24:6E-9 Label on nonbrand name drug product.

10. (New section) If a nonbrand name drug product is dispensed, the pharmacist shall include on the label of such drug product dispensed pursuant to a prescription, the established name or the name of the manufacturer, except where the prescriber indicates to the contrary on the prescription.

C. 24:6E-10 Sign at entrance to store or pharmacy; contents; size.

11. (New section) Every pharmacy, drug store, or drug department selling prescription drugs shall post a sign at the entrance and where prescription drugs are sold disclosing the fact that upon request, before a prescription drug is dispensed, a consumer shall be told the price of such drug, whether such drug is to be substituted from a list of interchangeable drug products, and of his right to be informed of the price savings resulting from substitution for such drug and to be dispensed the drug as prescribed by the physician, if not satisfied with said price savings. Such sign shall not be less than 12 inches by 12 inches.

C. 24:6E-11 Violation of act; penalty; suspension or revocation of certificate.

12. (New section) Any person violating any provision of this act shall be liable to a penalty of not less than $100.00 for the first offense, and not less than $200.00 for each subsequent offense. Such penalty shall be collected and enforced by summary proceedings pursuant to the Penalty Enforcement Law (N. J. S. 2A:58–1 et seq.). Process shall issue at the suit of the Board of Pharmacy or the Attorney General, and shall be either in the nature of a summons or warrant. In addition, the Board of Pharmacy may suspend or revoke the certificate of a registered pharmacist for violating any provision of this act. However, failure of the prescriber to utilize the form of prescription designated in section 8 of this act shall not invalidate the prescription as written, if said prescription is otherwise valid.

C. 24:6E-12 Applicability of act to institutions with permits.

13. (New section) The provisions of sections 5 through 12 shall not be applicable to drug products dispensed under institutional permits when the institution involved has its own drug substitution mechanism.

C. 24:6E-13 Partial invalidity.

14. (New section) If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of the act which can be given effect without such invalid provision or application, and to this end the provisions of this act are declared to be severable.

15. (New section) There is hereby appropriated $75,000.00 for the council for the purposes of this act.

16. This act shall take effect immediately.

Approved September 29, 1977.

CHAPTER 241

AN ACT extending homestead rebates to resident shareholders in nonprofit residential cooperatives and mutual housing corporations, and amending P. L. 1976, c. 72, P. L. 1976, c. 63 and N. J. S. 54A:4–3.

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

1. Section 1 of P. L. 1976, c. 72 (C. 54:4–3.80) is amended to read as follows:

C. 54:4-3.80 Homestead rebate; additional rebate for citizen over 65, disabled persons or their widows over 55; definitions.

1. a. Every citizen and resident of this State shall be entitled, annually, to a homestead rebate on a dwelling house and the land upon which such dwelling house is situated, or on a dwelling house assessed as real estate situated on land owned by another or others which constitutes the place of his domicile and which is owned and used by him as his principal residence. If such citizen and resident of this State is of the age of 65 or more years, or is less than 65 years of age yet permanently and totally disabled, as

"disabled" is defined in the "New Jersey Gross Income Tax Act" (54A:1–2f), or is the surviving spouse of a deceased citizen and resident of this State who during his lifetime received a real property tax deduction pursuant to this act or P. L. 1963, c. 172 (C. 54:4–8.40 et seq.), upon the same conditions, with respect to real property, notwithstanding that said surviving spouse is under the age of 65 and is not permanently and totally disabled, provided that said surviving spouse was 55 years of age or older at the time of death of said citizen and resident and remains unmarried, said taxpayer shall annually, upon proper claim being made therefor, be entitled to an additional rebate as set forth in section 2 of this act. The said requirement of ownership shall be satisfied by the holding of the beneficial interest where the legal title thereto is held by another for the benefit of the said citizen and resident, or for a resident shareholder in a nonprofit cooperative or mutual housing corporation as defined herein.

A person who is a tenant for life or a tenant under a lease for 99 years or more or a person who is entitled to and actually takes possession of the land and dwelling house under an executory contract for the sale thereof or under an agreement with a lending institution which holds title as security for a loan, shall be deemed to be an owner for the purpose of this act.

b. As used in this act "dwelling house" includes any residential property assessed as real property consisting of not more than four units of which not more than one may be used for business or commercial purposes.

c. As used in this act "nonprofit cooperative" means a residential cooperative considered as nonprofit for Federal tax purposes under the Internal Revenue Code of 1954 as of the date of this amendatory act.

d. As used in this act "mutual housing corporation" means a corporation not-for-profit incorporated under the laws of New Jersey on a mutual or cooperative basis within the scope of Section 607 of the Lanham Act (National Defense Housing) P. L. 849, 76th Congress, 54 Stat. 1125, 42 U. S. C. 1521 et seq., as amended, which acquired a National Defense Housing Project pursuant to said act.

2. Section 4 of P. L. 1976, c. 72 (C. 54:4–3.83) is amended to read as follows:

C. 54:4-3.83 Application; filing date; approval; application for rebate by residents of nonprofit cooperatives and mutual housing corporations.

4. a. An application for a homestead rebate hereunder shall be filed with the assessor of the taxing district on or before December 1 annually and shall reflect the prerequisites for rebate on October 1 of the respective pretax year; provided, however, that the director may, by rule, waive the requirement for filing an annual application for any year or years subject to any limitations and conditions he may deem appropriate. If an application is approved by the assessor, he shall allow a homestead rebate on the real property assessed to the claimant as described therein and shall indicate upon the assessment list and duplicates or as the director may otherwise prescribe the approval thereof in such manner as shall be prescribed by rules of the Director of the Division of Taxation together with the proportionate share of such property deemed to be owned by the claimant for the purposes of this act if he is not the sole owner thereof. In addition, the director may require such approval to be indicated and further tax duplicate to be filed with him on or before January 10 of the tax year.

b. An application for rebate may be filed on or before December 31 of the pretax year setting forth the prerequisites for rebate as of October 1 of said pretax year by any property owner subject to tax for the ensuing tax year who has not previously filed a claim for rebate or has previously filed a claim for rebate and there has taken place subsequent thereto with respect to said property an added or omitted assessment or a change in the status of the property owner.

c. For the tax year 1977, qualified residents of nonprofit residential cooperatives and mutual housing corporations as defined in section 1. of this act shall file applications for homestead rebates within 45 days of the effective date of this act.

3. Section 7. of P. L. 1976, c. 72 (C. 54:4–3.86) is amended to read as follows:

C. 54:4-3.86 Claim of rebate by joint tenants, tenants in common, tenants by entirety, partners or fiduciaries.

7. Where title to property as to which a homestead rebate is claimed is held by claimant and other or others, either as tenants in common or as joint tenants, claimant shall not be allowed a homestead rebate in an amount in excess of his proportionate share of the taxes assessed against said property, which proportionate share, for the purposes of this act, shall be deemed to be equal to that of each of the other tenants, unless it is shown that the interests in question are not equal, in which event claimant's proportionate

share shall be as shown. Nothing herein shall preclude more than one tenant, whether title be held in common or joint tenancy, from claiming a homestead rebate but no more than the equivalent of one full homestead rebate shall be allowed in any year, and in any case in which the claimants cannot agree as to the apportionment thereof, such rebate shall be apportioned between or among them in proportion to their interest. Property held by husband and wife, as tenants by the entirety, shall be deemed wholly owned by each tenant, but no more than one homestead rebate in regard to such property shall be allowed in any year. Right to claim a homestead rebate hereunder shall extend to property the title to which is held by a partnership, to the extent of the claimant's interest as a partner therein, and by a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be entitled to claim such rebate hereunder, but not to property the title to which is held by a corporation, except as heretofore provided in section 1 of this amendatory act.

4. Section 13 of P. L. 1976, c. 72 (C. 54:4–3.92) is amended to read as follows:

C. 54:4-3.92 Lists of persons entitled to rebate and amount due; nonpayment to delinquent taxpayers; certification of amounts withheld; notice to taxpayers; payment of homestead rebate; payment to municipalities for credit towards amount of delinquency.

13. a. After review, the director may prepare a list of persons entitled to the rebate, together with the respective amounts due. Such lists may be forwarded to the State Treasurer, the Director of the Division of Budget and Accounting and to such other officials as he may deem appropriate. The director may inspect all records in the office of the collector and the assessor with respect to claims and allowances for homestead rebates.

b. Each tax collector shall, on or before February 1 and June 30 of each year furnish director with a list of delinquent property tax owners in his district for taxes due and payable for the year immediately preceding and the amounts of such delinquencies. No homestead payment under this act shall be made to any property owner while such delinquency remains provided, however that for the purposes of this act, property which is on appeal and for which the statutory percentage of the tax has been paid shall not be regarded as delinquent.

c. Where delinquencies remain on February 1 or June 30, as the case may be, the director shall ascertain the amounts of homestead rebates withheld because of such delinquencies in each municipality

in the State, and shall certify such amounts to the State Treasurer as soon thereafter as may be practicable.

On or before June 1 and on or before November 1, the director shall notify each taxpayer whose homestead rebate has been withheld because of delinquency that the amount of such rebate to which he otherwise would have been entitled will be sent to the tax collector in his municipality to be credited against his delinquency.

d. The State Treasurer semiannually on or before April 1 and on or before October 1 commencing in the year 1977, upon the certification of the Director of the Division of Taxation and upon the warrant of the State Comptroller, shall pay and distribute, in equal installments, the amount of the homestead rebate to each qualified property owner as certified by the director, except that for the tax year 1977 the homestead rebate shall be paid to qualified residents of nonprofit cooperatives and mutual housing corporations as defined in section 1. of this amendatory act, in full on October 1, 1977.

e. Upon certification by the director as to the amount of rebates withheld because of delinquency in the several municipalities, the State Treasurer upon the warrant of the State Comptroller, shall pay such amount on or before June 1 and on or before November 1 commencing in the tax year 1977 to the tax collector in each municipality.

f. The tax collector in each municipality shall credit the tax delinquency of each property owner who appears on the delinquency list set forth in subsection b. above in the amount that otherwise would have been returned to him as a rebate. In the event that the amount so credited exceeds the amount of delinquency, the tax collector may return the difference to the taxpayer or credit such amount to the subsequent tax bill.

5. Section 2 of P. L. 1976, c. 63 (C. 54:4–6.3) is amended to read as follows:

C. 54:4-6.3 Definitions.

2. As used in this act unless the context clearly indicates a different meaning:

a. "Qualified real rental property" means any real property containing a mobile home park or two or more spaces which are rented or leased or offered for rent or lease for occupancy by mobile homes, or any building or structure or complex of buildings or structures in which housing units are rented or leased or offered for rental or lease for residential purposes except hotels, motels

or other guesthouses serving transient or seasonal guests, residents of a nonprofit residential cooperative or mutual housing corporation who are entitled to a homestead rebate pursuant to section 1 of P. L. 1976, c. 72 (C. 54:4–3.80), and owner-occupied structures of three units or less.

b. "Property tax reduction" means 0.65 times the difference between the amount of property tax paid or payable in any year on any qualified real rental property, exclusive of improvements not included in the assessment on the real property for the base year, and the amount of property tax paid in the base year, but such calculations for the property tax reduction shall exclude reductions resulting from judgments entered by county boards of taxation, the Division of Tax Appeals in the Department of the Treasury, or by courts of competent jurisdiction. "Property tax reduction" shall also include 0.65 times any rebate or refund of school property taxes which may be provided pursuant to P. L. 1976, c. 113. "Property tax reduction" shall not include any amount in excess of that which is identified herein. Any such amount shall be retained by the property owner.

c. "Base year" means, for qualified real rental property rented or leased or offered for rent or lease on the effective date of this act, the calendar year prior to the year in which this act takes effect, and for qualified real rental property which is first rented or leased or offered for rent or lease after the effective date of this act, the calendar year in which it is first offered for rent or lease.

6. N. J. S. 54A:4–3 is amended to read as follows:

Homestead credit for tenant.

54A:4–3. Homestead credit for tenant. a. Any qualified residential tenant or shareholder in a cooperative, other than residents of a nonprofit residential cooperative or mutual housing corporation who are entitled to a homestead exemption pursuant to section 1 of P. L. 1976, c. 72 (C. 54:4–3.80), shall be entitled to a homestead credit of $65.00 against the tax otherwise due hereunder. Any qualified residential tenant or shareholder in a cooperative not eligible for a homestead exemption shall be entitled to an additional homestead credit of $35.00 if such resident is (1) permanently and totally disabled, (2) 65 years of age or over, or (3) a surviving spouse of a person qualified under (2) above who has remained unmarried since becoming a widow or widower at the age of 55 years or over.

b. Husband and wife. A married couple who elect to file separate New Jersey returns shall each be entitled to one-half of the credit otherwise allowable under subsection a.

c. Special limitations. (1) If more than one qualified resident tenant, other than a husband and wife, qualify for the credit allowed under this section by reason of their having occupied the same rented homestead, it shall be presumed that the tenant's credit otherwise allowed under this section shall be equally divided among such taxpayers. A tenant, however, may claim a credit which shall bear the same proportion as the rent he pays to the total rent paid by all members of the unit.

(2) A taxpayer shall not be entitled to more than one homestead credit in any one year. A taxpayer who claims a homestead credit under this section may not claim a homestead exemption for the same year under any other law.

(3) The amount of the homestead credit shall be prorated in the proportion that the number of days the qualified tenant occupied residential property in the year bears to 365 days.

(4) Where more than one tenant occupies a single dwelling unit not more than one qualified tenant credit shall be claimed. No tenant homestead credit shall be allowed for occupants of rooming houses, hotels or motels unless the rooms rented to the tenant are equipped with kitchen and bathroom facilities and unless such person is a permanent resident thereof.

7. This act shall take effect immediately and shall be applicable retroactively to all applications for homestead exemptions received on or after August 30, 1976.

Approved October 3, 1977.

CHAPTER 242

AN ACT to amend and supplement "An act extending homestead rebates to resident shareholders in nonprofit residential cooperatives and mutual housing corporations and amending P. L. 1976, c. 72, P. L. 1976, c. 63, and N. J. S. 54A:4–3," now awaiting action by the Governor as Assembly Bill No. 2358 (Second Official Copy Reprint). (P. L. 1977, c. 241)

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

1. Section 1 of P. L. 1976, c. 72 (C. 54:4–3.80) is amended to read as follows:

C. 54:4-3.80 Homestead rebate; additional rebate for citizens over 65, disabled persons or their widows over 55; definitions.

1. a. Every citizen and resident of this State shall be entitled, annually, to a homestead rebate on a dwelling house and the land upon which such dwelling house is situated, or on a dwelling house assessed as real estate situated on land owned by another or others which constitutes the place of his domicile and which is owned and used by him as his principal residence. If such citizen and resident of this State is of the age of 65 or more years, or is less than 65 years of age yet permanently and totally disabled, as "disabled" is defined in the "New Jersey Gross Income Tax Act" (54A:1–2f), or is the surviving spouse of a deceased citizen and resident of this State who during his lifetime received a real property tax deduction pursuant to this act or P. L. 1963, c. 172 (C. 54:4–8.40 et seq.), upon the same conditions, with respect to real property, notwithstanding that said surviving spouse is under the age of 65 and is not permanently and totally disabled, provided that said surviving spouse was 55 years of age or older at the time of death of said citizen and resident and remains unmarried, said taxpayer shall annually, upon proper claim being made therefor, be entitled to an additional rebate as set forth in section 2 of this act. The said requirement of ownership shall be satisfied by the holding of the beneficial interest where the legal title thereto is held by another for the benefit of the said citizen and resident, or for a resident shareholder in a cooperative or mutual housing corporation as defined herein.

A person who is a tenant for life or a tenant under a lease for 99 years or more or a person who is entitled to and actually takes possession of the land and dwelling house under an executory contract for the sale thereof or under an agreement with a lending institution which holds title as security for a loan, shall be deemed to be an owner for the purpose of this act.

b. As used in this act "dwelling house" includes any residential property assessed as real property consisting of not more than four units of which not more than one may be used for business or commercial purposes.

c. As used in this act "residential shareholder in a cooperative" means a tenant-stockholder in a cooperative housing corporation

who may deduct property taxes on his Federal tax return pursuant to the provisions of section 216 of the Internal Revenue Code of 1954 as of the date of this amendatory act.

d. As used in this act "mutual housing corporation" means a corporation not-for-profit incorporated under the laws of New Jersey on a mutual or cooperative basis within the scope of section 607 of the Lanham Act (National Defense Housing) P. L. 849, 76th Congress; 54 Stat. 1125, 42 U. S. C. 1521 et seq., as amended, which acquired a National Defense Housing Project pursuant to said act.

2. Section 4 of P. L. 1976, c. 72 (C. 54:4–3.83) is amended to read as follows:

C. 54:4-3.83 Application; filing date; approval; application for rebate by residents of residential cooperatives and mutual housing corporations.

4. a. An application for a homestead rebate hereunder shall be filed with the assessor of the taxing district on or before December 1 annually and shall reflect the prerequisites for rebate on October 1 of the respective pretax year; provided, however, that the director may, by rule, waive the requirement for filing an annual application for any year or years subject to any limitations and conditions he may deem appropriate. If an application is approved by the assessor, he shall allow a homestead rebate on the real property assessed to the claimant as described therein and shall indicate upon the assessment list and duplicates or as the director may otherwise prescribe the approval thereof in such manner as shall be prescribed by rules of the Director of the Division of Taxation together with the proportionate share of such property deemed to be owned by the claimant for the purposes of this act if he is not the sole owner thereof. In addition, the director may require such approval to be indicated and further tax duplicate to be filed with him on or before January 10 of the tax year.

b. An application for rebate may be filed on or before December 31 of the pretax year setting forth the prerequisites for rebate as of October 1 of said pretax year by any property owner subject to tax for the ensuing tax year who has not previously filed a claim for rebate or has previously filed a claim for rebate and there has taken place subsequent thereto with respect to said property an added or omitted assessment or a change in the status of the property owner.

c. For the tax year 1977, qualified residents of residential cooperatives and mutual housing corporations as defined in section 1.

of this act shall file applications for homestead rebates within 45 days of the effective date of this act.

3. Section 13 of P. L. 1976, c. 72 (C. 54:4–3.92) is amended to read as follows:

C. 54:4-3.92 Lists of persons entitled to rebate and amount due; nonpayment to delinquent taxpayers; certification of amounts withheld; notice to taxpayers; payment of homestead rebate; payment to municipalities for credit towards amount of delinquency.

13. a. After review, the director may prepare a list of persons entitled to the rebate, together with the respective amounts due. Such lists may be forwarded to the State Treasurer, the Director of the Division of Budget and Accounting and to such other officials as he may deem appropriate. The director may inspect all records in the office of the collector and the assessor with respect to claims and allowances for homestead rebates.

b. Each tax collector shall, on or before February 1 and June 30 of each year furnish the director with a list of delinquent property tax owners in his district for taxes due and payable for the year immediately preceding and the amounts of such delinquencies. No homestead payment under this act shall be made to any property owner while such delinquency remains provided, however that for the purposes of this act, property which is on appeal and for which the statutory percentage of the tax has been paid shall not be regarded as delinquent.

c. Where delinquencies remain on February 1 or June 30, as the case may be, the director shall ascertain the amounts of homestead rebates withheld because of such delinquencies in each municipality in the State, and shall certify such amounts to the State Treasurer as soon thereafter as may be practicable.

On or before June 1 and on or before November 1, the director shall notify each taxpayer whose homestead rebate has been withheld because of delinquency that the amount of such rebate to which he otherwise would have been entitled will be sent to the tax collector in his municipality to be credited against his delinquency.

d. The State Treasurer semiannually on or before April 1 and on or before October 1 commencing in the year 1977, upon the certification of the Director of the Division of Taxation and upon the warrant of the State Comptroller, shall pay and distribute, in equal installments, the amount of the homestead rebate to each qualified property owner as certified by the director, except that for the tax year 1977 the homestead rebate shall be paid to qualified residents of cooperatives and mutual housing corporations

as defined in section 1. of this amendatory act, in full on October 1, 1977.

e. Upon certification by the director as to the amount of rebates withheld because of delinquency in the several municipalities, the State Treasurer upon the warrant of the State Comptroller, shall pay such amount on or before June 1 and on or before November 1 commencing in the tax year 1977 to the tax collector in each municipality.

f. The tax collector in each municipality shall credit the tax delinquency of each property owner who appears on the delinquency list set forth in subsection b. above in the amount that otherwise would have been returned to him as a rebate. In the event that the amount so credited exceeds the amount of delinquency, the tax collector may return the difference to the taxpayer or credit such amount to the subsequent tax bill.

4. Section 2 of P. L. 1976, c. 63 (C. 54:4–6.3) is amended to read as follows:

C. 54:4-6.3 Definitions.

2. As used in this act unless the context clearly indicates a different meaning:

a. "Qualified real rental property" means any real property containing a mobile home park or two or more spaces which are rented or leased or offered for rent or lease for occupancy by mobile homes, or any building or structure or complex of buildings or structures in which housing units are rented or leased or offered for rental or lease for residential purposes except hotels, motels or other guesthouses serving transient or seasonal guests, residents of a residential cooperative or mutual housing corporation who are entitled to a homestead rebate pursuant to section 1 of P. L. 1976, c. 72 (C. 54:4–3.80), and owner-occupied structures of three units or less.

b. "Property tax reduction" means 0.65 times the difference between the amount of property tax paid or payable in any year on any qualified real rental property, exclusive of improvements not included in the assessment on the real property for the base year, and the amount of property tax paid in the base year, but such calculations for the property tax reduction shall exclude reductions resulting from judgments entered by county boards of taxation, the Division of Tax Appeals in the Department of the Treasury, or by courts of competent jurisdiction. "Property tax reduction" shall also include 0.65 times any rebate or refund of

school property taxes which may be provided pursuant to P. L. 1976, c. 113. "Property tax reduction" shall not include any amount in excess of that which is identified herein. Any such amount shall be retained by the property owner.

c. "Base year" means, for qualified real rental property rented or leased or offered for rent or lease on the effective date of this act, the calendar year prior to the year in which this act takes effect, and for qualified real rental property which is first rented or leased or offered for rent or lease after the effective date of this act, the calendar year in which it is first offered for rent or lease.

5. N. J. S. 54A:4–3 is amended to read as follows:

Homestead credit for tenant.

54A:4–3. Homestead credit for tenant. a. Any qualified residential tenant or shareholder in a cooperative, other than residents of a residential cooperative or mutual housing corporation who are entitled to a homestead exemption pursuant to section 1 of P. L. 1976, c. 72 (C. 54:4–3.80), shall be entitled to a homestead credit of $65.00 against the tax otherwise due hereunder. Any qualified residential tenant or shareholder in a cooperative not eligible for a homestead exemption shall be entitled to an additional homestead credit of $35.00 if such resident is (1) permanently and totally disabled, (2) 65 years of age or over, or (3) a surviving spouse of a person qualified under (2) above who has remained unmarried since becoming a widow or widower at the age of 55 years or over.

b. Husband and wife. A married couple who elect to file separate New Jersey returns shall each be entitled to one-half of the credit otherwise allowable under subsection a.

c. Special limitations. (1) If more than one qualified resident tenant, other than a husband and wife, qualify for the credit allowed under this section by reason of their having occupied the same rented homestead, it shall be presumed that the tenant's credit otherwise allowed under this section shall be equally divided among such taxpayers. A tenant, however, may claim a credit which shall bear the same proportion as the rent he pays to the total rent paid by all members of the unit.

(2) A taxpayer shall not be entitled to more than one homestead credit in any one year. A taxpayer who claims a homestead credit under this section may not claim a homestead exemption for the same year under any other law.

(3) The amount of the homestead credit shall be prorated in the proportion that the number of days the qualified tenant occupied residential property in the year bears to 365 days.

(4) Where more than one tenant occupies a single dwelling unit not more than one qualified tenant credit shall be claimed. No tenant homestead credit shall be allowed for occupants of rooming houses, hotels or motels unless the rooms rented to the tenant are equipped with kitchen and bathroom facilities and unless such person is a permanent resident thereof.

C. 54:4-3.80a Application; contents; determination of assumed assessed value; withholding rebate; payment to municipalities.

6. (New section) a. Each application filed pursuant to section 1 of P. L. 1976, c. 72 (C. 54:4–3.80) shall set forth such information as the director shall prescribe and shall include, without limitation, the name and address of the cooperative or mutual housing corporation, location of the property and the amount of real property taxes attributed to the cooperative or mutual housing residential unit, as indicated in the official notice furnished by the cooperative or mutual housing owner for the same year, as in the case of all other homestead rebate applicants. Each such applicant must meet all prerequisites for the homestead rebate as prescribed in the act to which this act is supplementary.

b. A local tax assessor shall determine from the application filed with him the assumed assessed value of the cooperative or mutual housing residential unit by dividing the amount of real property taxes reported under paragraph a. hereof by the general local property tax rate for the same tax year.

c. In the event that the nonprofit cooperative or mutual housing corporation is delinquent in the payment of its property taxes as prescribed in the act to which this act is supplementary, any rebate that may be due any individual residents shall be withheld until the tax delinquency has been satisfied. If such delinquency has not been satisfied by December 31, 1977 and thereafter by the dates prescribed in section 13 of P. L. 1976, c. 72 (C. 54:4–3.92), the State Treasurer shall pay over to the tax collector of the municipality, within 30 days thereafter, the amount of all rebates due to the individual residents. The tax collector shall credit the property owner with such payments and the property owner shall, in turn, credit the individual unit owners to the extent of their rebate. The tax collector shall notify the property owner of the amount to be credited.

7. (New section) Any rebate due and payable under this act shall be reduced by the amount of a tenant's tax credit taken by the cooperative or mutual housing resident under and pursuant to the "New Jersey Gross Income Tax Act" (N. J. S. 54A:1–1 et seq.).

8. This act shall take effect immediately.

Approved October 3, 1977.

CHAPTER 243

AN ACT authorizing the joint development and operation of park and recreational facilities by two or more county park commissions in certain cases, and supplementing chapter 37 of Title 40 of the Revised Statutes.

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

C. 40:37-17.1 Joint development and operation of park and recreational facilities.

1. The county park commissions of any two or more adjoining counties may by joint agreement provide for the joint development and operation of park and recreational facilities in or upon areas bordering a common boundary line between the counties or in or upon shore areas of any lake or other body of water bordering upon or comprising all or part of said common boundary line.

2. This act shall take effect immediately.

Approved October 3, 1977.

CHAPTER 244

AN ACT relating to the consumption of specified alcoholic beverages in certain unlicensed premises and providing a penalty for violations thereof.

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

C. 2A:170-25.21 Consumption of alcoholic beverages in restaurants without license.

1. No person owning or operating any restaurant, dining room or other public place where food or liquid refreshments are sold or served to the general public, and for which premises a license or permit authorizing the sale of alcoholic beverages for on-premises consumption has not been issued:

a. Shall permit or allow the consumption of alcoholic beverages, other than wine or a malt alcoholic beverage, in a portion of the premises which is open to the public; or

b. Shall charge any admission fee or cover, corkage or service charge or advertise inside or outside of such premises that patrons may bring and consume their own wine or malt alcoholic beverages in a portion of the premises which is open to the public.

c. Shall permit or allow the consumption of wine or malt alcoholic beverages at times or by persons to whom the service or consumption of alcoholic beverages on licensed premises is prohibited by State or municipal law or regulation.

C. 2A:170-25.22 Right of municipality or owner to restrict consumption of alcoholic beverages.

2. Nothing in this act shall restrict the right of a municipality or an owner or operator of a restaurant, dining room or other public place where food or liquid refreshments are sold or served to the general public from prohibiting the consumption of alcoholic beverages on such premises referred to herein.

C. 2A:170-25.23 Violation of act; penalty.

3. Any person violating any provision of this act is a disorderly person, and the court, in addition to such sentence as may be imposed for the disorderly person violation, may by its judgment bar any owner or operator violating this act from permitting or allowing consumption of wine or malt alcoholic beverages in his premises as authorized by this act.

4. This act shall take effect immediately.

Approved October 3, 1977.

CHAPTER 245

AN ACT to amend "An act prescribing uniform policy provisions for policies of fire insurance, and other provisions relating to policies of fire insurance, and repealing 'An act prescribing a standard form of fire insurance policy, endorsements and supplemental contracts, and repealing sections 17:36–3, 17:36–4, 17:36–5 and 17:36–7 of the Revised Statutes,' approved April 20, 1944 (P. L. 1944, c. 171)," approved January 12, 1955 (P. L. 1954, c. 268).

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

1. Section 6 of P. L. 1954, c. 268 (C. 17:36–5.20) is amended to read as follows:

C. 17:36-5.20 Standard provisions.

6. Every such fire insurance policy shall contain certain standard provisions which shall be in the words and in the order hereinafter set forth:

SECOND PAGE OF STANDARD FIRE POLICY

Concealment, fraud. This entire policy shall be void if, whether before or after a loss, the insured has wilfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

Uninsurable and excepted property. This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts.

Perils not included. This Company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by: (a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; (j) nor shall this Company be liable for loss by theft.

Other insurance. Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring

(a) while the hazard is increased by any means within the control or knowledge of the insured; or

(b) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or

(c) as a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

Other perils or subjects. Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

Added provisions. The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

Waiver provisions. No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

Cancellation of policy. This policy shall be cancelled at any time at the request of the insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be cancelled at any time by this Company by giving to the insured a five days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

Mortgagee interests and obligations. If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be cancelled by giving to such mortgagee a ten days' written notice of cancellation.

If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this Company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

Pro rata liability. This Company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

Requirements in case loss occurs. The insured shall give immediate written notice to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed; **and within sixty days after the loss, unless such time is extended in writing by this Company, the insured shall render to this Company a proof of loss,** signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: the time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

Appraisal. In case the insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this Company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item, and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

Company's options. It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required.

Abandonment. There can be no abandonment to this Company of any property.

When loss payable. The amount of loss for which this Company may be liable shall be payable thirty days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

Suit. No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within twelve months next after inception of the loss.

Subrogation. This Company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.

2. This act shall take effect immediately.

Approved October 3, 1977.

CHAPTER 246

AN ACT concerning alcoholic beverage control and supplementing Title 33 of the Revised Statutes.

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

C. 33:1-12.39 Unused class C license; nonrenewal.

1. No Class C license, as the same is defined in R. S. 33:1–12, shall be renewed if the same has not been actively used in connection with the operation of a licensed premises within a period of 2 years prior to the commencement date of the license period for which the renewal application is filed unless the director, for good cause and after a hearing, authorizes a further application for renewal; provided, however that, if the licensee has been deprived of the use of the licensed premises as a result of eminent domain fire or other casualty, and establishes by affidavit filed with the director that he is making a good faith effort to resume active use of the license in connection with the operation of a licensed premise then the period of 2 years provided for in this section shall be automatically extended for an additional period of 2 years.

2. This act shall take effect immediately.

Approved October 3, 1977.

CHAPTER 247

AN ACT to provide for economic and environmental impact statements for certain proposed legislation.

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

C. 52:13F-1 Short title.

1. This act shall be known and may be cited as the "Economic and Environmental Impact Statement Act of 1976."

C. 52:13F-2 Legislature's findings.

2. The Legislature hereby recognizes the need for a balance between New Jersey's economic and environmental needs.

The Legislature further recognizes that information on the environmental and economic impact of legislation under consideration is essential to maintaining a balance between New Jersey's economic and environmental needs.

C. 52:13F-3 Economic impact statement; preparation.

3. An economic impact statement on a specific legislative bill shall be prepared by the Commissioner of Labor and Industry when so directed by a majority of the legislative committee considering that bill. The legislative committee shall set a time limit up to 90 days for completion of the economic impact statement. The legislative committee shall specify, but not limit, areas of impact to be covered by the statement, including the short and long term economic impact of such bill and any potential alternative thereto. In preparing the economic impact statement, the Commissioner of Labor and Industry is authorized to obtain essential information from other State agencies.

C. 52:13F-4 Environmental impact statement; preparation.

4. An environmental impact statement on a specific legislative bill shall be prepared by the Commissioner of Environmental Protection when so directed by a majority of the legislative committee considering that bill. The legislative committee shall set a time limit up to 90 days for completion of the environmental impact statement. The legislative committee shall specify, but not limit areas of impact to be covered by the statement, including the short and long term environmental impact of such bill and any potential alternative thereto. In preparing the environmental impact statement, the Commissioner of Environmental Protection is authorized to obtain essential information from other State agencies.

C. 52:13F-5 Obligation to comply with other laws; act supplementary.

5. Nothing in this act shall affect a specific statutory obligation of a State agency to comply with criteria or standards prescribed by other law. The policies set forth in this act are supplementary to those set forth in existing authorizations of State agencies.

6. This act shall take effect immediately.

Approved October 3, 1977.

CHAPTER 248

AN ACT concerning certain exempt firemen and amending N. J. S. 40A:14–56.

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

1. N. J. S. 40A:14–56 is amended to read as follows:

Exempt fireman certificate; eligibility.

40A:14–56. Any member of the fire department and force of a municipality shall be entitled to an exempt fireman certificate when it appears that at the time of his appointment he was a resident of the municipality, a citizen of the United States, of good moral character and was not under 18 or over 40 years of age and that he had performed during a period of 7 years, 60% of fire duty, in each year, respectively. In cases where the appointment was made during the war years the age limit shall be extended 10 years. Service in the United States Armed Forces during said war years shall be considered as fire duty service.

Service in more than one municipal fire department, for separate periods not concurrent, amounting in the aggregate to 7 years, shall be deemed equivalent to 7 years service in a single municipal fire department and any fireman so serving shall be entitled to an exempt fireman certificate from the department and force in the municipality wherein he is serving at the time when he becomes entitled to said certificate. The prior service shall be certified by the chief executive officer of the municipality or municipalities wherein said member served and attested by the municipal clerk or clerks.

2. This act shall take effect immediately.

Approved October 3, 1977.

CHAPTER 249

A SUPPLEMENT to the "Farmland Assessment Act of 1964", approved May 11, 1964 (P. L. 1964, c. 48, C. 54:4–23.1 et seq.).

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

1. In the case of any real estate property tax for land devoted to agricultural or horticultural use under P. L. 1964, c. 48 (C. 54:4–23.1 et seq.), owned by a religious or charitable organization, for which an application by the owner of such land for its valuation, assessment and taxation as land actively devoted to agricultural or horticultural use for the tax year 1973 was not submitted on or before August 1, 1972, such owner may file an application with the tax assessor of the local taxing district in which such land is situated on the forms prescribed by the Director of the Division of Taxation, and such application filed with the assessor after August 1, 1973 and prior to the thirtieth day following the effective date of this act, shall be deemed to have been timely made for the tax year 1973, and the taxes of any such religious or charitable organization whose land qualifies for valuation, assessment and taxation as land actively devoted to agricultural or horticultural use shall be adjusted accordingly for the tax year 1973 and credited or debited, as the case may be, against any taxes due or to become due on such lands, notwithstanding any provision to the contrary of the act to which this act is a supplement or of any other law, rule or regulation.

2. This act shall take effect immediately.

Approved October 3, 1977.

CHAPTER 250

AN ACT to amend the "Health Care Facilities Planning Act," approved May 10, 1971 (P. L. 1971, c. 136).

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

1. Section 12 of P. L. 1971, c. 136 (C. 26:2H–12) is amended to read as follows:

C. 26:2H-12 Health care facility; requirements to operate; license; application and fees; issuance; renewals.

12. a. No health care facility shall be operated unless it shall: (1) possess a valid license issued pursuant to this act, which license shall specify the kind or kinds of health care services the facility is authorized to provide; (2) establish and maintain a uniform

system of cost accounting approved by the commissioner; (3) establish and maintain a uniform system of reports and audits meeting the requirements of the commissioner; (4) prepare and review annually a long range plan for the provision of health care services, which plan shall be compatible with the State Health Plan established pursuant to the "Comprehensive Health Planning and Public Health Services Amendments of 1966" (Federal Law 89-749) as related to medical health services, health care services, and health manpower; and (5) in the case of skilled and intermediate care nursing facilities, establish and maintain a centralized, coordinated system of discharge planning which assures every patient a planned program of continuing care and which meets the requirements of the commissioner which requirements shall, where feasible, equal or exceed those standards and regulations established by the Federal Government for all Federally-funded nursing facilities but shall not require any person who is not in receipt of State or Federal assistance to be discharged from a skilled or intermediate care nursing facility against his will.

b. (1) Application for a license for a health care facility shall be made upon forms prescribed by the department. The department shall charge such nonrefundable fees, not less than $50.00 and not more than $250.00 for the filing of an application for a license and any renewal thereof, as it shall from time to time fix in rules or regulations. The application shall contain the name of the health care facility, the kind or kinds of health care service to be provided, the location and physical description of the institution, and such other information as the department may require. (2) A license shall be issued by the department upon its findings that the premises, equipment, personnel, including principals and management, finances, rules and bylaws, and standards of health care service are fit and adequate and there is reasonable assurance the health care facility will be operated in the manner required by this act and rules and regulations thereunder.

c. A license issued before the effective date of this act to a health care facility for its operation, upon the first renewal date thereafter, may be extended for a 1-year period of time, provided the facility then meets the requirements for licensure at the time said license was issued and submits an acceptable plan to meet current requirements at the end of said period of time.

2. This act shall take effect immediately.

Approved October 4, 1977.

CHAPTER 251

AN ACT to amend the "Health Care Facilities Planning Act," approved May 10, 1971 (P. L. 1971, c. 136).

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

1. Section 2 of P. L. 1971, c. 136 (C. 26:2H–2) is amended to read as follows:

C. 26:2H-2 Definitions.

2. The following words or phrases, as used in this act, shall have the following meanings, unless the context otherwise requires:

a. "Health care facility" means the facility or institution whether public or private, engaged principally in providing services for health maintenance organizations, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, home health care agency, boarding home or other home for the sheltered care of adult persons and bioanalytical laboratory or central services facility serving one or more such institutions but excluding institutions that provide healing solely by prayer.

b. "Health care service" means the preadmission, outpatient, inpatient and post-discharge care provided in or by a health care facility, and such other items or services as are necessary for such care, which are provided by or under the supervision of a physician for the purpose of health maintenance organizations, diagnosis or treatment of human disease, pain, injury, disability, deformity or physical condition, including, but not limited to, nursing service, home care nursing and other paramedical service, ambulance service, service provided by an intern, resident in training or physician whose compensation is provided through agreement with a health care facility, laboratory service, medical social service, drugs, biologicals, supplies, appliances, equipment, bed and board, but excluding services provided by a physician in his private practice or by practitioners of healing solely by prayer, and services provided

by volunteer first aid, rescue and ambulance squads as defined in the "New Jersey Highway Safety Act of 1971," P. L. 1971, c. 351.

c. "Construction" means the erection, building, or substantial acquisition, alteration, reconstruction, improvement, renovation, extension or modification of a health care facility, including its equipment, the inspection and supervision thereof; and the studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto.

d. "Board" means the Health Care Administration Board established pursuant to this act.

e. "Government agency" means a department, board, bureau, division office, agency, public benefit or other corporation, or any other unit, however described, of the State or political subdivision thereof.

f. "State Health Planning Council" means the existing State Health Planning Council formed under the provisions of Federal Law 89–749, as amended and supplemented.

g. "Comprehensive area-wide-health planning agency" means an officially recognized health planning agency formed under the provisions of Federal Law 89–749, as amended and supplemented.

h. "Area planning council" means a voluntary nonprofit organization composed of persons representative of hospitals, nursing homes, and consumers of medical care services, formed for the purpose of planning the health facilities in a definite geographical area which is recognized by the commissioner through referral of applications for certificate of need as provided by this act.

i. "Department" means the State Department of Health.

j. "Commissioner" means the State Commissioner of Health.

k. "Private long-term health care facility" means a nursing home, skilled nursing home or intermediate care facility presently in operation and licensed as such prior to the adoption of the 1967 Life Safety Code by the State Department of Health in 1972 and which has a maximum 50-bed capacity and which does not accommodate Medicare and Medicaid patients.

2. Section 5 of P. L. 1971, c. 136 (C. 26:2H–5) is amended to read as follows:

C. 26:2H-5 Commissioner's powers.

5. a. The commissioner, to effectuate the provisions and purposes of this act, shall have the power to inquire into health care services and the operation of health care facilities and to conduct periodic inspections of such facilities with respect to the fitness and adequacy

of the premises, equipment, personnel, rules and bylaws and the adequacy of financial resources and sources of future revenues.

b. The commissioner, with the approval of the board, shall adopt and amend rules and regulations in accordance with the Administrative Procedure Act, P. L. 1968, c. 410 (C. 52:14B–1 et seq.) to effectuate the provisions and purposes of this act, including but not limited to: (1) the establishment of requirements for a uniform Statewide system of reports and audit relating to the quality of health care provided, health care facility utilization and costs; (2) certification by the department of schedules of rates, payments, reimbursement, grants and other charges for health care services as provided in section 18; and (3) standards and procedures relating to the licensing of health care facilities and the institution of additional health care services.

c. The commissioner may enter into contracts with any government agency, institution of higher learning, voluntary nonprofit agency, or appropriate planning agency or council; and such entities are authorized to enter into contracts with the commissioner to effectuate the provisions and purposes of this act.

d. The commissioner may provide consultation and assistance to health care facilities in operational techniques, including but not limited to, planning, principles of management, and standards of health care services.

e. At the request of the commissioner, health care facilities shall furnish to the Department of Health such reports and information as it may require to effectuate the provisions and purposes of this act, excluding confidential communications from patients.

f. The commissioner may institute or cause to be instituted in a court of competent jurisdiction proceedings to compel compliance with the provisions of this act or the determinations, rules, regulations and orders of the commissioner.

g. Notwithstanding any rules and regulations governing private long-term health care facilities and enforcing the 1967 Life Safety Code, as amended and supplemented, the commissioner shall permit third floor occupancy of such facilities by owners, members of their immediate families, and licensed professionals employed at such facilities.

3. Notwithstanding any other provision of this act, any individual occupant of the third floor of a private long-term health care facility at the time of the enactment of this act, whether or not

such individual is an owner, a member of his immediate family, or a licensed professional, shall be permitted by the Commissioner of the Department of Health to remain in such occupancy until such time as that individual ceases to be employed by such facility.

4. This act shall take effect immediately.

Approved October 4, 1977.

CHAPTER 252

AN ACT to amend the "Sales and Use Tax Act," approved April 27, 1966 (P. L. 1966, c. 30).

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

1. Section 3 of P. L. 1966, c. 30 (C. 54:32B–3) is amended to read as follows:

C. 54:32B-3 Imposition of sales tax.

3. Imposition of sales tax. On and after July 1, 1966 and continuing through February 28, 1970 there is hereby imposed and there shall be paid a tax of 3%, and on and after March 1, 1970 there is hereby imposed and there shall be paid a tax of 5% upon:

(a) The receipts from every retail sale of tangible personal property, except as otherwise provided in this act.

(b) The receipts from every sale, except for resale, of the following services:

(1) Producing, fabricating, processing, printing or imprinting tangible personal property, performed for a person who directly or indirectly furnishes the tangible personal property, not purchased by him for resale, upon which such services are performed.

(2) Installing tangible personal property, or maintaining, servicing, repairing tangible personal property not held for sale in the regular course of business, whether or not the services are performed directly or by means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction therewith, except (i) such services rendered by an individual who is engaged directly by a private homeowner or lessee in or about his residence and who is not in a regular trade or business offering his services to the public, (ii)

such services rendered with respect to personal property exempt from taxation hereunder pursuant to subsection (a) of section 8, (iii) services rendered with respect to trucks, tractors, trailers or semitrailers by a person who is not engaged, directly or indirectly through subsidiaries, parents, affiliates or otherwise, in a regular trade or business offering such services to the public, (iv) any receipts from laundering, dry cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining, and (v) services rendered in installing property which, when installed, will constitute an addition or capital improvement to real property, property or land.

(3) Storing all tangible personal property not held for sale in the regular course of business and the rental of safe deposit boxes or similar space.

(4) Maintaining, servicing or repairing real property, other than a residential heating system unit serving not more than three families living independently of each other and doing their cooking on the premises, whether the services are performed in or outside of a building, as distinguished from adding to or improving such real property, by a capital improvement, but excluding services rendered by an individual who is not in a regular trade or business offering his services to the public, and excluding interior cleaning and maintenance services, garbage removal and sewer services performed on a regular contractual basis for a term of not less than 30 days, other than window cleaning, and rodent and pest control.

(5) Advertising services except advertising services for use directly and primarily for publication in newspapers and magazines.

Wages, salaries and other compensation paid by an employer to an employee for performing as an employee the services described in this subsection are not receipts subject to the taxes imposed under this subsection (b).

(c) Receipts from the sale of food and drink except alcoholic beverages as defined in the Alcoholic Beverage Tax Law, in or by restaurants, taverns or other establishments in this State, or by caterers, including in the amount of such receipts any cover, minimum, entertainment or other charge made to patrons or customers:

(1) In all instances where the sale is for consumption on the premises where sold;

(2) In those instances where the vendor or any person whose services are arranged for by the vendor, after the delivery of the food or drink by or on behalf of the vendor for consumption off the premises of the vendor, serves or assists in serving, cooks,

heats or provides other services with respect to the food or drink, except for meals especially prepared for and delivered to homebound elderly, age 60 or older, and to disabled persons, or meals prepared and served at a group-sitting at a location outside of the home to otherwise homebound elderly persons, age 60 or older, and otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization; and

(3) In those instances where the sale is for consumption off the premises of the vendor, and consists of a meal, or food prepared and ready to be eaten, of a kind obtainable in restaurants as the main course of a meal, including a sandwich, except where food other than sandwiches is sold in an unheated state and is of a type commonly sold in the same form and condition in food stores other than those which are principally engaged in selling prepared foods.

The tax imposed by this subsection (c) shall not apply to food or drink which is sold to an air line for consumption while in flight.

(d) The rent for every occupancy of a room or rooms in a hotel in this State, except that the tax shall not be imposed upon (1) a permanent resident, or (2) where the rent is not more than at the rate of $2.00 per day.

(e) (1) Any admission charge where such admission charge is in excess of $0.75 to or for the use of any place of amusement in the State, including charges for admission to race tracks, baseball, football, basketball or exhibitions, dramatic or musical arts performances, motion picture theatres, except charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or a lease or a license, other than a season ticket, for the use of a box or seat at place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee, and shall be paid by the holder, licensee or lessee.

(2) The amount paid as charge of a roof garden, cabaret or other similar place in this State, to the extent that a tax upon such charges has not been paid pursuant to subsection (c) hereof.

2. This act shall take effect immediately.

Approved October 4, 1977.

CHAPTER 253

AN ACT to amend and supplement "The Evidence Act, 1960," approved June 20, 1960 (P. L. 1960, c. 52).

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

1. Section 21 of P. L. 1960, c. 52 (C. 2A:84A–21) is amended to read as follows:

C. 2A:84A-21 Newspaperman's privilege.

21. Rule 27. Newspaperman's privilege. Subject to Rule 37, a person engaged on, engaged in, connected with, or employed by news media for the purpose of gathering, procuring, transmitting, compiling, editing or disseminating news for the general public or on whose behalf news is so gathered, procured, transmitted, compiled, edited or disseminated has a privilege to refuse to disclose, in any legal or quasi-legal proceeding or before any investigative body, including, but not limited to, any court, grand jury, petit jury, administrative agency, the Legislature or legislative committee, or elsewhere.

a. The source, author, means, agency or person from or through whom any information was procured, obtained, supplied, furnished, gathered, transmitted, compiled, edited, disseminated, or delivered; and

b. Any news or information obtained in the course of pursuing his professional activities whether or not it is disseminated.

The provisions of this rule insofar as it relates to radio or television stations shall not apply unless the radio or television station maintains and keeps open for inspection, for a period of at least 1 year from the date of an actual broadcast or telecast, an exact recording, transcription, kinescopic film or certified written transcript of the actual broadcast or telecast.

C. 2A:84A-21a Definitions.

2. (New section) Unless a different meaning clearly appears from the context of this act, as used in this act:

a. "News media" means newspapers, magazines, press associations, news agencies, wire services, radio, television or other similar printed, photographic, mechanical or electronic means of disseminating news to the general public.

b. "News" means any written, oral or pictorial information gathered, procured, transmitted, compiled, edited or disseminated by, or on behalf of any person engaged in, engaged on, connected with or employed by a news media and so procured or obtained while such required relationship is in effect.

c. "Newspaper" means a paper that is printed and distributed ordinarily not less frequently than once a week and that contains news, articles of opinion, editorials, features, advertising, or other matter regarded as of current interest, has a paid circulation and has been entered at a United States post office as second class matter.

d. "Magazine" means a publication containing news which is published and distributed periodically, has a paid circulation and has been entered at a United States post office as second class matter.

e. "News agency" means a commercial organization that collects and supplies news to subscribing newspapers, magazines, periodicals and news broadcasters.

f. "Press association" means an association of newspapers or magazines formed to gather and distribute news to its members.

g. "Wire service" means a news agency that sends out syndicated news copy by wire to subscribing newspapers, magazines, periodicals or news broadcasters.

h. "In the course of pursuing his professional activities" means any situation, including a social gathering, in which a reporter obtains information for the purpose of disseminating it to the public, but does not include any situation in which a reporter intentionally conceals from the source the fact that he is a reporter, and does not include any situation in which a reporter is an eyewitness to, or participant in, any act involving physical violence or property damage.

3. This act shall take effect immediately.

Approved October 5, 1977.

CHAPTER 254

AN ACT to amend the "Department of the Public Advocate Act of 1974," approved May 13, 1974 (P. L. 1974, c. 27).

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

1. Section 47 of P. L. 1974, c. 27 (C. 52:27E–46) is amended to read as follows:

C. 52:27E-46 Annual report.

47. The Public Advocate shall present a detailed report of the operation of Article IV and sections 11, 12 and 13 of this act to the Governor and to each member of the Legislature on December 1 of each year.

2. This act shall take effect immediately.

Approved October 5, 1977.

CHAPTER 255

AN ACT to amend "An act concerning juveniles, jurisdiction and proceedings in the juvenile and domestic relations court and repealing portions of the statutory law," approved December 14, 1973 (P. L. 1973, c. 306).

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

1. Section 24 of P. L. 1973, c. 306 (C. 2A:4–65) is amended to read as follows:

C. 2A:4-65 Disclosure of juvenile records; penalties for disclosure.

24. Disclosure of juvenile records: penalties for disclosure. a. Social, medical, psychological, legal and other records of the court and probation department, and records of law enforcement agencies, pertaining to juveniles charged under this act, shall be strictly safeguarded from public inspection. Such records shall be made available only to:

(1) Any court or probation department;

(2) The Attorney General or county prosecutor;

(3) The parents or guardian and to the attorney of the juvenile;

(4) The Division of Youth and Family Services, if providing care or custody of the juvenile;

(5) Any institution to which the juvenile is currently committed;

(6) Any person or agency interested in a case or in the work of the agency keeping the records, by order of the court for good cause shown; and

(7) Any law enforcement agency when such records are necessary in connection with the investigation of particular acts of delinquency or crime, or when such records are necessary to assist in the protection, apprehension or location of a particular juvenile.

b. Information as to the identity of a juvenile, the offense charged, the adjudication and disposition may be disclosed to the victim or a member of the victim's immediate family.

c. Information as to the identity of a juvenile 14 years of age or older adjudicated delinquent, the offense, the adjudication and the disposition may be disclosed to the public where the offense for which the juvenile has been adjudicated delinquent involved violence to the person or, if committed by an adult, would constitute a high misdemeanor, murder, manslaughter, destruction or damage to property to an extent of $500.00 or more, or the manufacture or distribution of a narcotic drug, unless upon application at the time of disposition and for good cause shown, or upon its own motion, the court orders the withholding from public dissemination of all or a portion of such information on the grounds that public disclosure would not serve the best interests of the juvenile and the public.

d. Whoever, except as provided by law, knowingly discloses, publishes, receives, or makes use of or knowingly permits the unauthorized use of information concerning a particular juvenile derived from records listed in subsection a. or acquired in the course of court proceedings, probation, or police duties, shall, upon conviction thereof, be guilty of a disorderly person's offense.

2. This act shall take effect immediately.

Approved October 5, 1977.

CHAPTER 256

AN ACT providing for the exemption from taxation of solar energy heating and cooling systems, 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. 54:4-3.113 Definitions.

1. As used in this act:

a. "Solar energy" means energy which has recently originated in the Sun, including direct and indirect solar radiation and intermediate solar energy from such as wind and sea thermal gradients;

b. "Solar heating and cooling system" means any system which uses solar energy to provide all or a portion of the heating and cooling needs of a building through, but not limited to, such means as nocturnal heat radiation, evaporation cooling towers, flat plate or focusing solar collectors, photovoltaic solar cells or windmills.

c. "Commissioner" means the State Commissioner of Community Affairs.

d. "Enforcing agency" means the enforcing agency in any municipality provided for under the State Uniform Construction Code Act, P. L. 1975, c. 217 (C. 52:27D–119 et seq.) and regulations promulgated thereunder.

e. "Board of appeals" means the municipal or county board provided for under the State Uniform Construction Code Act and regulation promulgated thereunder.

C. 54:4-3.114 Exemption from taxation of certified solar heating or cooling system.

2. Any solar heating and cooling system installed in any building, whether residential, commercial or industrial, which has been certified by the enforcing agency as a solar heating or cooling system shall be exempt from taxation under the chapter to which this act is a supplement.

C. 54:4-3.115 Application for certification.

3. No certification shall be made by the enforcing agency as provided herein, except upon written application heretofore, which application shall be made under oath on a form prescribed by the Director, Division of Taxation, in the Department of the

Treasury, and provided for the use of claimant hereunder by the local enforcing agency. The enforcing agency may at any time inquire into the right of a claimant to the exemption hereunder and for that purpose he may require the filing of a new application or the submission of such proof as he shall deem necessary to determine the right of the claimant to the continuance of such exemption, and the enforcing agency shall have the right to make an inspection of the premises which are the subject of the claim for exemption under this act.

C. 54:4-3.116 Certification by enforcing agency; form and contents of certification; forwarding copy to assessor; effective date of exemption.

4. The enforcing agency, when requested for any such certification, shall certify a system as being a solar heating and cooling system whenever he finds the equipment, facility, device, or system installed, was designed primarily as a solar heating or cooling system in accordance with regulations prescribed by the commissioner. Said certificate shall contain information identifying the system and the cost thereof and shall be in such form and detail as the Director of the Division of Taxation shall prescribe and, further, said certificate shall be submitted to the applicant therefor with a copy retained on file by the enforcing agency, and a copy thereof shall be sent to the assessor of the taxing district in which such facilities are located and have been installed; and the exemption from taxation for such equipment, facility or device shall become effective for the tax year following the year in which certification has been granted and thereafter during its use primarily for such purposes.

C. 54:4-3.117 Revocation of certificate; grounds.

5. The enforcing agency, after giving notice to the holder of a solar energy certificate may revoke such certificate whenever any of the following appears:

a. The certificate was obtained by fraud or misrepresentation;

b. The claimant for tax exemption has failed substantially to proceed with the construction, reconstruction, installation or acquisition of a solar heating and cooling system;

c. The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of providing solar energy and is being used for a different primary purpose;

d. The claimant for tax exemption hereunder has so departed from the equipment, design and construction previously certified by the enforcing agency that, in the opinion of said enforcing

agency, the solar heating and cooling system is not suitable and reasonably adequate for the purpose of providing solar energy.

C. 54:4-3.118 Grievance procedures.

6. a. Any person aggrieved by any action of the enforcing agency may seek review before the board of appeals.

b. Any person aggrieved by any action of the assessor or of the Director of the Division of Taxation may seek a review before the Director of the Division of Taxation pursuant to the Administrative Procedure Act, P. L. 1968, c. 410 (C. 52:14B–1 et seq.).

C. 54:4-3.119 Annual exemption from assessed valuation.

7. The owner of real property which is equipped with a certified solar heating and cooling system may have exempted annually from the assessed valuation of the real property a sum equal to the remainder of the assessed valuation of the real property with the solar heating and cooling system included, minus the assessed valuation of the real property without the solar heating and cooling system.

C. 54:4-3.120 Rules and regulations; standards.

8. Subject to the "Administrative Procedure Act" P. L. 1968, c. 410 (C. 52:14B–1 et seq.), the Director of the Division of Taxation is authorized to adopt all rules and regulations necessary for the proper certification of any tax exemption, the form of any certificate to be issued and any other matter related to the exemption. The Administrator of the State Energy Office shall establish standards with respect to the technical sufficiency of solar energy systems for the purposes of qualification for exemption.

9. This act shall take effect January 1, next following enactment, and shall expire on December 31 of the fifth year following enactment.

Approved October 11, 1977.

CHAPTER 257

AN ACT establishing a Permanent Council on Armed Forces Liaison in the Department of Labor and Industry, providing for appointment of its members and prescribing the powers, functions and duties of the council.

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

C. 34:1A-57 Legislature's findings.

1. a. Existing military and naval installations in the State make a major contribution to the total defense posture of the nation;

b. The continued operation of such installations is highly desirable because of the available employment opportunities which they provide as well as for other economic benefits accruing to the areas in which such facilities are located;

c. There has been an alarming tendency in recent years to close many military and naval installations located in the State, and to transfer major units from this State to other states;

d. Past efforts to insure that facilities in this State be retained have been characterized primarily by local efforts without the effectiveness that a coordinated local-State effort can achieve;

e. There is a need for greater liaison with the Federal Government concerning the various military and naval installations located within the State of New Jersey.

C. 34:1A-58 Permanent council on armed forces liaison; membership; appointment; terms; vacancies.

2. A council to be known as the "Permanent Council on Armed Forces Liaison" is established in the Department of Labor and Industry. The council shall consist of eight members, two to be appointed by the President of the Senate, both of whom shall be members of the Senate, two to be appointed by the Speaker of the General Assembly, both of whom shall be members of the General Assembly, the Commissioner of Labor and Industry, and three public members to be appointed by the Governor. Each member except the public members, shall serve for a term of 2 years from the date of his appointment and until his successor is appointed and qualified. Each public member shall serve for a term of 3 years from the date of his appointment and until his successor is appointed and qualified; except that of the first appointments hereunder: one shall be for a term of 1 year, one for 2 years, and one for 3 years. Vacancies resulting from causes other than by expiration of term shall be filled for the unexpired term only and shall be filled in the same manner as the original appointments were made.

C. 34:1A-59 Compensation.

3. All members of the council shall serve without compensation, but they shall be entitled to be reimbursed for all necessary expenses incurred in the performance of their duties.

C. 34:1A-60 Chairman and secretary.

4. The council shall select from among its members a chairman and also shall select a secretary who need not be a member of the council.

C. 34:1A-61 Powers and functions of council.

5. The council is authorized, empowered and directed to function as a structural liaison and public relations body on behalf of the State of New Jersey in all matters relating to Federal military and naval installations located within this State or proposed to be located herein. The council shall communicate and cooperate with the President of the United States and with all other Federal officials and employees and private persons for the effectuation of the purposes of this act.

C. 34:1A-62 Annual report.

6. The council shall report its findings and recommendations to the Governor and the Legislature annually on the second Tuesday in January and at such other times as it deems necessary or desirable.

C. 34:1A-63 Hearings; subpena of witnesses; staff; compensation.

7. The council may hold hearings in any part of the State and by its subpena may compel the attendance of witnesses and the production of books, papers and records. It shall be entitled to the assistance and services of any State, county, municipal and school district employees as may be required, and the council may employ such competent counsel, expert advisors and such other assistants as may be required for the proper accomplishment of the purposes of this act; provided, that the compensation to be paid to such counsel, advisors and assistants shall be within the limits of the appropriation made therefor.

8. This act shall take effect immediately.

Approved October 12, 1977.

CHAPTER 258

AN ACT to amend the "Local Health Services Act," approved March 3, 1976 (P. L. 1975, c. 329).

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

1. Section 4 of P. L. 1975, c. 329 (C. 26:3A2–4) is amended to read as follows:

C. 26:3A2-4 County board of health; establishment; procedure; counties with health agencies.

4. a. The board of chosen freeholders of any county in this State, on its own initiative or upon petition from three or more municipalities in that county, after public hearing may, by ordinance or resolution, establish a county board of health. Notice of the public hearing shall be published at least 15 days prior to that hearing in a newspaper circulated throughout the county.

b. In any county in which the board of chosen freeholders has established a county health agency there may be established a county board of health, pursuant to this act. Said existing county health agency shall be continued as a county health department, as provided herein. In any county having a board of health and vital statistics, organized pursuant to chapter 11 of Title 26 of the Revised Statutes, that board shall be continued as a county board of health as provided herein.

2. This act shall take effect immediately.

Approved October 12, 1977.

CHAPTER 259

AN ACT providing for the regulation of the transportation of bulk commodities in intrastate commerce, designating the Division of Motor Vehicles in the Department of Law and Public Safety to be responsible therefor, providing penalties for the violation thereof, and making an appropriation therefor.

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

C. 39:5E-1 Short title.

1. This act shall be known and may be cited as the "Bulk Commodities Transportation Act."

C. 39:5E-2 Declaration of policy.

2. It is hereby declared to be the policy of this State to regulate transportation of bulk commodities by motor vehicle in a fair and impartial manner; to promote safety of operations upon the public

highways; to protect the interest of the public; to recognize and preserve the inherent advantages of, and to foster sound economic conditions in, such transportation by, haulers of bulk commodities and other carriers; and to cooperate with Federal Government and the several states of the United States, and duly authorized officials thereof in matters relating to highway transportation, and with bulk commodity hauler associations in the administration of this act.

C. 39:5E-3 Definitions.

3. The words and phrases used herein shall have the following meaning:

a. "Person" means any individual, copartnership, association, company, or corporation, and includes any trustee, receiver, assignee, leasee, or personal representative of any person herein defined.

b. "Director" means the Director of the Division of Motor Vehicles in the Department of Law and Public Safety.

c. "Hauler of bulk commodities" or "bulk commodity hauler" means any common carrier or contract carrier as defined herein.

d. "Motor vehicle" means any vehicle, machine, tractor, truck trailer, or semi-trailer, or any combination thereof, propelled, driven or drawn by mechanical power, and used upon the public highways in the transportation of bulk commodities in intrastate commerce defined herein.

e. "Intrastate commerce" means the shipment of property wholly between points in this State, or at a single location, in which the highways within or without this State are used by the transporting motor vehicle.

f. "Public highway" or "highway" means any public street, road, thoroughfare, bridge and way in this State open to the use of the public for purposes of motor vehicular travel, including those that impose toll charges.

g. "Bulk commodities" means liquids or gases, not in containers, and dry fungible commodities, not in containers; slurries not in containers; waste liquid and dry bulk waste not in containers; loaded in bulk in a carrier's vehicle and unloaded in bulk from a carrier's vehicle. It shall not include agricultural, farm or dairy products in their natural, processed, concentrated or treated states, whether packaged or unpackaged.

h. "Common carrier" means any person who or which engages in or holds itself out to the general public to engage in the trans-

portation of bulk commodities by motor vehicle for compensation in intrastate commerce in this State.

i. "Contract carrier" means any person who or which engages in transportation of bulk commodities by motor vehicle in intrastate commerce for compensation under continuing contracts with one person or a limited number of persons either (a) for the furnishing of transportation services through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served or (b) for the furnishing of transportation services designed to meet the distinct need of each individual customer.

j. "Certificate" means the certificate of public convenience and necessity issued by the director to a common carrier to operate as such over the public highways of this State, or at a single location.

k. "Permit" means the permit issued by the director to contract carriers to operate as such over the public highways of this State, or at a single location.

l. "Property" shall include all of the articles in the definition of bulk commodities.

C. 39:5E-4 Applicability of provisions of act on certain motor vehicles.

4. The provisions of this act shall not be construed to include motor vehicles owned or operated by:

a. The United States, the State, or any local government subdivision, agency or instrumentality thereof;

b. Persons transporting property in intrastate commerce without compensation or transporting property of which such person is the owner and where said transportation is not performed as a subterfuge to avoid regulations hereunder.

C. 39:5E-5 Powers and duties of director.

5. The director shall regulate the transportation of bulk commodities in intrastate commerce and to that end shall establish reasonable requirements with respect to proper and adequate service by the persons engaged therein; shall prescribe a uniform system of accounts, records, reports and the preservation thereof; shall prescribe reasonable qualifications for persons providing said service with respect to financial responsibility, adequacy and safety of equipment, safe operation of equipment by the drivers thereof. The director shall administer, execute, and enforce all provisions of this act and adopt rules, regulations and procedures for such administration in accordance with the provisions of the "Administrative Procedure Act" P. L. 1968, c. 410 (C. 52:14B–1 et seq.) unless otherwise excepted herein.

C. 39:5E-6 Advisory board; membership; appointment; terms; vacancies.

6. There is hereby established an advisory board which shall advise the director regarding transportation policy concerning the regulation of intrastate commerce as defined herein and for said purpose the director and the board shall meet at his call at least twice annually. The advisory board shall be composed of 4 members as follows: one bulk commodities shipper, one representative of the tank truck carriers' association, one representative of the New Jersey State Safety Council, and one private citizen.

Members of the board shall be appointed by the Governor, for terms of 3 years except that those members first appointed shall serve terms as follows: one for 3 years, two for 2 years, and one for 1 year. Should any member fail, for whatever reason, to serve the full term for which he was appointed, the vacancy shall be filled by the Governor by appointment for the unexpired term. When the term of any member expires he shall continue to serve until a successor has been appointed.

C. 39:5E-7 Certificate or permit; application; form and contents; issuance; denial; burden of proof.

7. No common or contract carrier shall engage in the business of transporting bulk commodities in intrastate commerce as defined herein unless there is in force with respect to such common carrier a certificate of public convenience and necessity, and with respect to such contract carrier a permit, issued by the director authorizing such transportation service.

a. Application for a certificate or permit shall be made in writing to the director in such form and contain such information and be accompanied by such proof of notice to interested parties as he may by rule or regulation require.

b. A certificate or permit shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing and able to properly perform the service of a bulk commodities hauler and to conform to the provisions of this act and the lawful requirements, rules and regulations adopted thereunder, and that the proposed service, to the extent authorized by the certificate of permit, is in the public interest and consistent with the transportation policy declared in this act, is or will be required by public convenience and necessity; otherwise, said application shall be denied.

(1) In determining whether issuance of a certificate or permit is in the public interest and consistent with the transportation

policy declared in this act, the director shall consider the financial responsibility of the applicant, his business reputation, moral character and his observance of motor vehicle laws in the operation of his business.

(2) In the case of an application for a contract carrier's permit, the director shall also consider the number of shippers to be served by the applicant, the nature of the service proposed, the effect granting of the permit would have upon the protesting carriers, the effect denial of the permit would have upon the applicant or its shipper.

c. In any application for authority or additional authority the burden of proof shall be upon the applicant to establish the need for the service or additional services, inadequacy of existing service and that any prior violation of this act or other laws, or of rules and regulations of the director on the limitations of any prior authority did not result from deliberate disregard thereof.

C. 39:5E-8 Certificate or permit to hauler of bulk commodities; issuance.

8. The director shall issue a certificate or permit to any hauler of bulk commodities, or his successor in interest, who was in operation as such within this State 1 year prior to the effective date of this act provided that:

a. The operation was continuous since that date or if interrupted said interruption of service was due to circumstances beyond the control of the applicant or his predecessor in interest.

b. The applicant or his predecessor in interest had a permanent place of business within this State on or before 1 year prior to the effective date of this act.

c. The applicant owned or operated under lease at least one motor vehicle registered in this State used in the transportation of bulk commodities on or before 1 year prior to the effective date of this act.

C. 39:5E-9 Certificate or permit; when not issued.

9. No certificate or permit shall be issued to any person or officer, director, partner or associate thereof, who has made a misstatement of fact on the application therefor, or who has committed any act which if committed by a certificate or permit holder would be cause for suspension or revocation of the certificate or permit.

C. 39:5E-10 Continuation of operation pending disposition of application.

10. Any hauler of bulk commodities who is in business as such within this State on the effective date of this act may lawfully continue in operation pending the disposition of his application for a

certificate or permit provided said application is filed with the director within 120 days following the effective date of this act.

C. 39:5E-11 Procedure for disposition of application.

11. Upon receipt of an application for a certificate or a permit, the director may, in his discretion, hold hearings, or notwithstanding any other act, employ a modified procedure, to best facilitate the fact finding process prior to a final disposition of an application. If the director determines that a hearing shall be held, the director may delegate the actual conduct of said hearing to designated representatives, said hearing to be conducted in accordance with the provisions of the "Administrative Procedure Act," P. L. 1968, c. 4 (C. 52:14B–1 et seq.).

a. The director shall cause each application to be published in the New Jersey Register. Interested parties shall have the right to protest the issuance of a certificate or permit within 20 days following publication of the application. The protest shall be in writing, and be verified under oath, in such form and contain such information as the director may by rule or regulation require. A copy of the protest shall be served on the applicant and proof of service shall accompany the original filed with the director. The director shall consider any protests and accord them appropriate weight in making his determination on the disposition of the application.

b. The director, upon receipt of the record including the hearing officer's report and recommendation, exceptions thereto, and whatever protests are filed, shall render a final administrative decision, setting forth findings of fact and conclusions of law, either granting or rejecting said application and setting forth any limitations, conditions or terms thereon.

c. The director shall cause the certificate or permit issued pursuant to his final decision to be published in the New Jersey Register.

C. 39:5E-12 Modified procedure.

12. Modified procedure may be ordered on the Director's initiative, or upon his approval of a request filed by any party that the modified procedure shall be observed. An order directing modified procedure shall list the names and addresses of the persons who at that time are interested parties to the proceeding, and direct that they comply with the modified procedure rules.

The modified procedure shall be administered as follows:

a. Upon receipt of an application requesting a certificate or permit, the director shall determine whether modified procedure

should be implemented. The director shall give notice of the intent to implement modified procedure by publication in the New Jersey Register.

b. The applicant shall have 20 days in which to supply the director and all interested parties, with a statement of facts and legal arguments; exhibits and affidavits of witnesses, in support of the application. Exhibits shall identify the party submitting them and shall be serially numbered. No oral testimony shall be taken, nor shall a hearing be held in a modified procedure unless a specific request for cross-examination of a witness, concerning a material fact, is made in either protestant's papers or applicant's reply. The director shall have the discretion to determine whether or not to allow said cross-examination, notwithstanding any other act.

c. Upon receipt of applicant's petition and affidavits, protestants shall have 20 days from the date of receipt to admit or deny in writing every specific allegation made by the applicant. Protestant's statement and applicant's reply shall specify those statements of fact and arguments of the opposite party to which exception is taken, and include a statement of facts and arguments in support of such exception. Protests shall be filed with the director and the applicant, and proof of service on the applicant shall be filed with the director. Applicant's statement of reply shall be confined to a rebuttal of protestant's statement and shall be submitted within 10 days of the receipt of protestant's statement. No extensions of time shall be granted unless good cause is shown.

d. If within any time period provided in the modified procedure rules a party fails to file a pleading required by those rules, or otherwise fails to comply therewith, such party shall be deemed to be in default and to have waived any further hearing; thereafter the proceeding may be disposed of without further notice to the defaulting party, and without other formal proceedings as to such party. Persons permitted to intervene under modified procedure shall file and serve pleadings in conformity with the provisions relating to the parties in whose behalf they intervene.

e. Procedure subsequent to that provided in the modified procedure rules shall be the same as that in proceedings not handled under modified procedure.

C. 39:5E-13 Terms, conditions and limitations.

13. Certificates and permits issued under section 7 shall specify the service to be rendered and the points between which or territory within which, the hauler of bulk commodities is authorized to

operate or serve. There shall, at the time of issuance of such certificate or permit and from time to time thereafter, be attached to the exercise of privileges granted by the certificate or permit such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require; provided that no terms, conditions, or limitations shall restrict the right of the hauler to add to, or dispose of, its equipment and facilities within the territory specified in the certificate or permit as the development of the business and the demands of the public shall require. Certificates or permits issued pursuant to section 8 of this act shall authorize operations over irregular routes between all points within the State.

C. 39:5E-14 Issuance of receipt or bill of lading.

14. Every hauler of bulk commodities subject to this act, receiving bulk commodities for transportation in intrastate commerce shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof in accordance with the provisions of Title 12A of New Jersey Statutes (Uniform Commercial Code).

C. 39:5E-15 Limitations on holding certificates and permits.

15. Unless, for good cause shown, the director shall find, or shall have found, that both a certificate and a permit may be so held consistently with the public interest and with the transportation policy declared in this act:

a. No person, or any person controlling, controlled by, or under common control with such person, shall hold a certificate as a common carrier authorizing operation for the transportation of property by motor vehicle over a route or within a territory, if such person, or any such controlling person, controlled person, or person under common control, holds a permit as a contract carrier authorizing operation for the transportation of property by motor vehicle over the same route or within the same territory; and

b. No person, or any person controlling, controlled by, or under common control with such person, shall hold a permit as a contract carrier authorizing operation for the transportation of property by motor vehicle over a route or within a territory, if such person, or any such controlling person, controlled person, or person under common control, holds a certificate as a common carrier authorizing operation for the transportation of property by motor vehicle over the same route or within the same territory.

C. 39:5E-16 Temporary authority and approval.

16. To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory

having no carrier service capable of meeting such need, the director may, in his discretion and without hearings or other proceedings, grant temporary authority for such service by a common carrier or a contract carrier by motor vehicle, as the case may be. Such temporary authority, unless suspended or revoked for good cause, shall be valid for such time as the director shall specify but not more than an aggregate of 180 days, and shall create no presumption that corresponding permanent authority will be granted thereafter.

a. Pending the determination of an application filed with the director for approval of a consolidation or merger of the properties of two or more motor carriers, or a purchase lease, or contract to operate the properties of one or more motor carriers, the director may, in his discretion, and without hearings or other proceedings, grant temporary approval of the operation of the motor carrier properties sought to be acquired by the person proposing in such pending application to acquire such properties, if it shall appear that failure to grant such temporary approval may result in destruction of or injury to such motor carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public.

b. Transportation service rendered under such temporary authority shall be subject to all applicable provisions of this act and to the rules, regulations and requirements of the director promulgated thereunder.

C. 39:5E-17 Effective date of certificates and permits; amendments; revocation or suspension; transfer.

17. Certificates or permits shall be effective from the date specified therein, and shall remain in effect until suspended or terminated as herein provided. Any such certificates or permits may upon application of the holder thereof, in the discretion of the director and upon public notice, be amended or revoked, in whole or in part, or may upon complaint or on the director's own initiative after notice and hearing, be suspended, changed, or revoked, in whole or in part; for willful failure to comply with any provisions of this act, or with any lawful order, rule or regulation of the director promulgated thereunder, or with any term, condition or limitation of such certificate or permit; provided that subject to the provisions of paragraph c of this section, no such certificate or permit shall be revoked (except upon application of the holder) unless the holder thereof willfully fails to comply, within a

reasonable time, but not less than 30 days, to be fined by the director after a lawful order of the director commanding obedience to the provision of this act or to the rules or regulations of the director promulgated thereunder, or to the terms, conditions or limitations of such certificates or permits found by the director to have been violated by such holder; and provided, further, that the right to engage in operations as a hauler of bulk commodities in this State by virtue of any certificate or permit, or any application filed pursuant to the provisions of section 7, or temporary authority under section 16 may be suspended by the director upon reasonable notice of not less than 15 days to the hauler, but without hearing or other proceedings, for failure to comply, and until compliance, with the provisions of this act or with any lawful order, rule or regulation of the director promulgated thereunder.

Any certificate or permit may be transferred pursuant to such rules and regulations as the director may prescribe, including notice by the director to haulers of bulk commodities having an interest therein; provided the applicant established (1) that the transferee is fit, willing and able to operate pursuant to the terms of said certificate or permit, as provided in section 9 of this act; (2) that operations authorized by such certificate or permit are being conducted in accordance with the terms of the certificate and (3) that if the authority sought to be acquired is to be joined with other authority held by the transferee, such resulting authority will not adversely affect existing authorized service.

Where for the continuous period of 1 year a holder of a certificate or permit fails to render any bulk commodity hauler service in intrastate commerce under said certificate or permit, except for reasons not within the control of said holder of such certificate or permit, the director, on his own motion, or upon the complaint of any interested party, may direct the revocation of said certificate or permit, only after reasonable opportunity for hearing to interested parties. No order of revocation shall be issued under this subparagraph solely for failure to render service in any part of the State, as long as any bulk commodity hauler service has been rendered by said holder.

C. 39:5E-18 Actions at law for recovery of charges; claims and suits.

18. All actions at law by haulers of bulk commodities subject to this act for recovery of their charges, or any part thereof, or for the recovery of overcharges shall be begun within 3 years from the time the cause of action accrues, and not after.

All claims against any hauler of bulk commodities for damage to property shall be filed in writing with the hauler of bulk commodities within 6 months from the time the cause of action accrues, and not after, and all suits in respect thereof shall be instituted within 1 year, such period of institution to be computed from the day that notice in writing is given by the mover to the claimant that the mover has disallowed the claim or any part or parts thereof specified in the notice.

C. 39:5E-19 Fees.

19. There shall be paid to the director a fee of $375.00 upon the filing of every application for a certificate or permit, or the transfer or assignment of same. Certificates or permits issued shall remain in effect unless canceled, revoked or suspended as provided in section 17. Each power unit shall bear an identification plate at an annual fee of $10.00 for each power unit.

C. 39:5E-20 Rules and regulations governing bonds and insurance policies.

20. No certificate or permit shall be issued to a hauler of bulk commodities or remain in force unless such hauler of bulk commodities complies with such reasonable rules and regulations as the director shall prescribe governing the approval of surety bonds, policies of insurance, qualifications as a self-insurer or other securities or agreements, in such reasonable amount as the director may require, conditioned to pay within the amount of surety bonds, policies of insurance, qualifications as a self-insurer or other securities or agreements, any final judgment recovered against such hauler for bodily injuries to or death of any person resulting from the negligent operation, maintenance or use of motor vehicles under such certificate or permit, or for loss or damage to property of others, provided, that any surety company or casualty insurance company, or mutual casualty insurance company providing said bonds or policies shall be duly licensed by the Commissioner of Insurance of this State or duly authorized by said commissioner to do business in this State, and duly authorized by its charter to write such surety bonds or policies of insurance mentioned herein.

C. 39:5E-21 Duty to provide safe, proper and adequate service and facilities; failure; hearing; powers of director.

21. It shall be the duty of every hauler of bulk commodities to provide safe, proper and adequate service, equipment and facilities for performing service in intrastate commerce.

Whenever the director finds that service in any section of the State is inadequate because of shortage of equipment, congestion

of traffic, or other emergency requiring immediate action he may upon his initiative, or upon complaint, without answer or other formal pleading by the interested carrier or carriers, with or without notice, conduct a hearing on the making or filing of a report:

a. Suspend the operation of any or all rules, regulations, or practices then established with respect to motor carriers for such time as he may determine;

b. Make such just and reasonable directions with respect to motor carrier service without regard to ownership as between carriers, during such emergency as in his opinion will best promote service in the interest of the public, upon such terms of compensation as the carriers may agree upon, or in the event of their disagreement, as he may determine after subsequent hearing to be just and reasonable;

c. Require such joint or common use of terminals, as in his opinion will best meet the emergency and serve the public interest, and upon such terms as the carriers may agree upon or, in the event of their disagreement, as he may determine after subsequent hearing to be just and reasonable; and

d. Give directions for preference or priority in transportation a movement of traffic under permits, at such time and for such periods as he may determine, and to modify, change, suspend, or annul them.

C. 39:5E-22 Designation of name and address of person upon whom service of orders, notices or processes may be made; filing; service of process; effective date of orders.

22. It shall be the duty of every hauler of bulk commodities operating under a certificate or permit to file with the director a designation in writing of the name and post-office address in this State of a person upon whom service of orders, notices or processes may be made pursuant to this act. Such designation may, from time to time, be changed in like writing, similarly filed. Service of orders, notices or processes in proceedings under this act may be made upon a hauler of bulk commodities by personal service upon it, or upon the person so designated by it, or by registered mail addressed to it, or to such person at the address filed or by publication in the New Jersey Register. Whenever notice is given by mail as provided herein, the date of mailing shall be considered as the time when service is made.

This section shall not be construed as limiting any other lawful manner of service of process upon haulers.

Except as otherwise provided in this act, all orders of the director shall take effect on such date or within a reasonable time as the director may prescribe and shall continue in force until its further order, or for a specified period of time, as shall be prescribed in the order, unless the same shall be suspended or modified or set aside by the director, or be suspended or set aside by a court of competent jurisdiction.

C. 39:5E-23 Violation of act; penalty.

23. Any person knowingly and willfully violating any provision of this act, or any person knowingly and willfully violating any rule, regulation, requirement or order thereunder, or any terms, condition or limitation of any certificate or permit for which a penalty is not otherwise herein provided, shall upon conviction thereof be fined not less than $25.00 nor more than $100.00, for the first offense and not more than $200.00 for any subsequent offense. Each day of such violation shall constitute a separate offense.

If any hauler of bulk commodities operates in violation of any provision of this act, or any rule, regulation, requirement, or order thereunder, or of any term, condition or limitation of any certificate or permit, any person injured thereby or the director or his duly authorized agent may apply to the Superior Court of this State for enforcement of such provisions of this act, or of such rule, regulation, requirement, order, term, condition or limitation; and such court shall have jurisdiction to enforce compliance thereto by an appropriate judgment or order.

Any person, whether hauler of bulk commodities or any officer, employee, agent or representative thereof, who shall knowingly and willfully fraudulently seek to evade or defeat regulation as in this act provided for haulers of bulk commodities shall be guilty of a violation of this act and upon conviction thereof be fined not more than $100.00 for the first offense and not more than $200.00 for any subsequent offense.

Any hauler of bulk commodities, or any officer, agent, employee or representative thereof who shall willfully fail or refuse to make a report to the director as required by this act, or to keep any accounts, records, and memoranda in the form and manner approved or prescribed by the director, or who shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memoranda, shall be guilty of a violation of this act and upon conviction thereof shall be punished by a fine not exceeding $1,000.00.

C. 39:5E-24 Penalty enforcement; duties of director.

24. The director shall by civil action in any court of competent jurisdiction of this State, prevent any person from operating as a hauler of bulk commodities in violation of the provisions of this act. Penalties as provided in this act may be recovered in a summary proceeding pursuant to "the Penalty Enforcement Law" (N. J. S. 2A:58–1 et seq.) in proceeding before a municipal court judge or other court of competent jurisdiction.

It shall be the duty of the director, his agent, employees, and inspectors appointed under his authority to enforce all of the provisions of this act, and, for the purpose of such enforcement, authority and power are hereby given to them and each of them to stop any vehicle of a hauler of bulk commodities and examine the same as well as any shipping documents, or vehicle leases to insure that the provisions and requirements of this act, the rules and regulations thereunder, the terms, conditions and limitations of any certificate or permit, that may have been issued to any such hauler of bulk commodities are being complied with and to issue a summons in the same manner as any police officer of the State for appearance before a municipal court judge or other judge or other court of competent jurisdiction.

If any hauler of bulk commodities shall after a hearing by the directors be found to have violated any of the provisions of this act, or rule, regulation or order of the director, the director may suspend the certificate or permit issued to such hauler of bulk commodities, for a stated period. Operation after suspension as herein provided shall constitute a misdemeanor by the operator and the hauler of bulk commodities.

C. 39:5E-25 Fees; accounting and forwarding to State treasurer.

25. All fees shall be accounted for and forwarded by the director to the Treasurer of the State and all such sums shall become part of the General State Fund; and any and all fines, penalties and forfeitures imposed and collected for violation of any of the provisions of this act shall become a part of the General State Fund.

C. 39:5E-26 Partial invalidity.

26. If any provision of this act, or the application thereof to any person, or commerce, or circumstances, is held invalid the remainder of the act and the application thereof to other persons, commerce or circumstances, shall not be affected thereby.

27. There is hereby appropriated to the director the sum of $75,000.00 to implement the provisions of this act during the 12-month period following its enactment.

28. This act shall take effect 180 days after enactment, provided, however, that the director may in his discretion do immediately all things necessary and appropriate to prepare for the implementation of the provisions of this act.

Approved October 12, 1977.

CHAPTER 260

AN ACT to provide State aid to certain small municipalities of dense population and low taxing capacity.

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

C. 52:27D-162 Legislature's findings.

1. The Legislature finds, determines and declares:

a. That within this State are many small municipalities, formerly centers of commerce, trade and cultural life in surrounding rural areas, which have suffered chronic economic decline because of changes in the patterns of transportation, commerce and land development;

b. That many of the said municipalities, with near-urban population densities in the midst of rural areas, have experienced and are experiencing declining property values, loss of tax ratables and potential tax ratables, diminishment of local commerce and increased unemployment and underemployment among their populations, so that they have become pockets of economic depression within the areas of which they were formerly centers;

c. That most such municipalities cannot, without external aid, maintain adequate municipal services by their own taxing capacity, nor have they the resources to expand and develop that taxing capacity;

d. That it is the purpose of this act to provide State aid supplementary to the taxing capacity of such municipalities, for the purpose of assisting them to maintain adequate municipal services.

C. 52:27D-163 Short title.

2. This act shall be known and may be cited as the "Depressed Rural Centers Aid Act."

C. 52:27D-164 Definitions.

3. For the purposes of this act, unless the context clearly indicates otherwise:

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Effective local tax rate" means that portion of the general tax rate necessary to generate the amount which appears in column 12CII of the county abstract of ratables multiplied by the average ratio of assessed to true value of real property as set forth in column 8 of the county abstract of ratables.

"Equalized valuation" means equalized valuation as determined pursuant to P. L. 1954, c. 86 (C. 54:1–35.1 et seq.) and promulgated on or before October 1 of the year preceding the year in which distribution of aid under this act is to be made pursuant to section 6 of this act, including any revision or correction thereof made not later than January 30 of the year in which such distribution is made.

"Ratables per capita" means for a municipality, its equalized valuation divided by its population; for a county, the sum of ..... the equalized valuations of the municipalities therein divided by the population of the county.

"Population" means population according to the official population estimates issued by the Department of Labor and Industry next preceding October 1 of the year in which distribution of aid under this act is to be calculated pursuant to section 6 of this act.

"Population density" means the relation between the population and area of a municipality or group of municipalities, expressed in terms of inhabitants per square mile within such municipality or group of municipalities.

"Neighboring municipalities" means, with relation to any one municipality, all other municipalities of this State having boundaries contiguous at any point with its boundaries, whether running upon land or water.

"Adjusted population" means the product of the number of persons in the population multiplied by the quotient obtained by dividing the municipality's effective local tax rate by the State's average effective local tax rate, to which product is added the number of persons within that population aged 65 and over living in households with household incomes under $5,000.00.

C. 52:27D-165 Distribution of sums to municipalities.

4. Such sums as are appropriated for distribution under this act shall be distributed annually, in the manner prescribed in sections 5 and 6 of this act, as State aid to each municipality which:

a. Has a population not exceeding 5,000;

b. Has a population density which is:

(1) Not less than 1,000 per square mile; and

(2) Not less than four times the population density of each of its neighboring municipalities, unless within such neighboring municipality is a national cemetery;

c. Has ratables per capita not exceeding four-fifths the ratables per capita of the county in which it is situate; and

d. Has either (1) an effective local tax rate above the State's average effective local tax rate, or (2) a per capita personal income that does not exceed 0.8 times the State per capita personal income.

C. 52:27D-166 Distribution of State aid.

5. Distribution of State aid under this act shall be to each municipality entitled thereto under section 4 of this act in proportion as its adjusted population is to the total adjusted population of all municipalities so entitled.

C. 52:27D-167 Determination of municipalities entitled to aid; certification to State treasurer; payment and distribution.

6. On or before February 1 in each year the director shall determine the municipalities entitled to aid under this act and the amounts of their respective entitlements, and shall certify the same to the State Treasurer and to the chief financial officer of each municipality. As soon as practicable after receiving such certification, and not later than March 31 next following, the State Treasurer shall upon warrant of the Comptroller pay and distribute to each such municipality the amount so certified.

C. 52:27D-168 Reports by municipality and director.

7. Each municipality receiving State aid under this act shall not later than October 1 in each year in which such aid is received submit to the director a detailed report on its utilization of such aid for the purposes intended by this act; and the director shall on or before December 31 in each year submit to the Governor and the Legislature a summary report of the distribution and utilization of funds distributed under this act during the year. No municipality may receive aid under this act in any year if it has not submitted the report required under this section on the utilization of any such aid which it received in the previous year;

except that the director may extend for not more than 60 days the date by which, such report must be submitted.

C. 52:27D-169 Decision of director.

8. Any decision of the director as to the entitlement of any municipality to aid under this act, or the amount thereof, shall be final and conclusive, and no appeal shall be taken therefrom or any review thereof, except in the case of an arithmetical or typographical error in the calculation of any distribution of funds.

9. There shall be appropriated from the Property Tax Relief Fund established pursuant to N. J. S. 54A:9–25, for the purposes of distribution as State aid under this act during the fiscal year of the State in which the first distribution of aid is made after its enactment, the sum of $400,000.00.

10. This act shall take effect immediately.

Approved October 12, 1977.

CHAPTER 261

AN ACT concerning civil service and supplementing Title 11 of the Revised Statutes.

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

C. 11:9-10.1 Validity of appointments made in error within 60 days after expiration of employment list.

1. In the event that an error on the part of the appointing authority causes otherwise authorized appointments to be made after the expiration of an employment list but within 60 days after such expiration, such appointments shall be deemed to have been authorized and to have been validly made if the chief examiner and secretary, with the approval of the commission, shall determine that such error was the cause of such appointments being made after the expiration of an employment list. Such determination shall be entered in the minutes of the commission together with a statement as to the reasons therefor.

2. This act shall take effect immediately and shall be retroactive to October 1, 1975.

Approved October 16, 1977.

CHAPTER 262

AN ACT concerning certain employees appointed to office, position or employment by county park commissions in certain cases and supplementing subdivision C of article 5 of chapter 37 of Title 40 of the Revised Statutes.

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

C. 40:37-148.2 Tenure of office.

1. Any full-time employee appointed to office, position or employment, pursuant to the provisions of R. S. 40:37–148, by a county park commission in any county of the second class having a population of more than 460,000 and less than 525,000 according to the 1970 Federal census shall secure tenure of office after serving three successive 1-year appointments. Such employee shall hold and continue to hold said office, position or employment during good behavior and shall not be removed therefrom except for good cause, upon written charges and after a public, fair and impartial hearing before the commission.

2. This act shall take effect immediately.

Approved October 18, 1977.

CHAPTER 263

AN ACT to amend the "Public Movers Act," approved December 27, 1968 (P. L. 1968, c. 375).

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

1. Section 2 of P. L. 1968, c. 375 (C. 48:22–2) is amended to read as follows:

C. 48:22-2 Declaration of policy and delegation of jurisdiction.

2. Declaration of policy and delegation of jurisdiction.

(a) It is hereby declared to be the policy of this Legislature to regulate transportation of household goods and special commodities and the movers' service provided by movers in a fair and

impartial manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in, such transportation and among such carriers in the public interest; promote safety of operations upon the public highways, adequate, economical and efficient service by movers, and just and reasonable charges therefor, without unjust discriminations, undue preference or advantages, or unfair or destructive competitive practice; to protect the interest of the public, improve the relations between, and coordinate transportation by, movers and other carriers; and cooperate with Federal Government and the several states of the United States, and duly authorized officials thereof in matters relating to highway transportation, and with movers associations in the administration of this act.

(b) The provisions of this act apply to the transportation, by a public mover or mover, of household goods and special commodities and to the performance of accessorial services in connection with such transportation by a public mover or mover over the public highways of this State, and to the holding out or advertising of such transportation or services. Regulation of such transportation, holding out, advertising, and performance of accessorial services is hereby vested in the Board of Public Utility Commissioners.

2. Section 5 of P. L. 1968, c. 375 (C. 48:22–5) is amended to read as follows:

C. 48:22-5 General duties and powers of the board.

5. General duties and powers of the board.

It shall be the duty of the board:

(a) To regulate public movers of household goods and special commodities and the transportation, moving and accessorial services which they perform, as well as their conduct in soliciting business, advertising, and holding themselves out to the public to perform such services, as provided in this act, and to that end, the board shall establish reasonable requirements in respect to proper and adequate movers' service, to fix and enforce just and reasonable rates for said service; to prescribe minimum levels of rates, together with governing classifications or exceptions and rules and regulations applicable to such rate structure; to prescribe a uniform system of accounts, rates, records and reports and the preservation of records, and to prescribe methods by which movers' solicitation of business and advertising may be regulated in the public interest.

(b) To administer, execute and enforce all other provisions of this act; to make all necessary orders in connection therewith, and to make the rules, regulations and procedure for such administration; provided, however, that such rules, regulations and procedures shall be adopted upon notice to the public and an opportunity for interested parties to set forth their views thereon.

(c) To employ, and fix the compensation of such experts, assistants, inspectors, examiners, and other employees as in its judgment may be necessary or advisable for the convenience of the public and for the effective administration of this act subject to the provisions of Title 11 (Civil Service) of the Revised Statutes.

(d) On all hearings before the board, a mover may appear in his own behalf or if a corporation may be represented by an officer thereof.

3. Section 6 of P. L. 1968, c. 375 (C. 48:22–6) is amended to read as follows:

C. 48:22-6 Application for and issuance of certificates.

6. Application for and issuance of certificates.

(a) No person shall operate or render a moving service as defined herein nor publicly hold himself or itself out to do so, nor in any way advertise the provision of such service unless there is in force with respect to such person a certificate of public convenience and necessity issued by the board authorizing such operation.

(b) Applications for certificates shall be made in writing to the board, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of such notice to the interested parties as the board may by rule or regulations require. A certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing and able properly to perform the service of a mover, and to conform to the provisions of this act and the lawful requirements, rules and regulations of the board thereunder, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by public convenience and necessity; otherwise, said application shall be denied. In any application for authority or for additional authority, the burden of proof shall be upon the applicant to establish (1) the need for the service or for the additional service, (2) inadequacy of existing service, and (3) that any prior violations of this or other laws, rule, and regulations of the

board hereunder or the limitations of any prior authority did not result from a deliberate disregard thereof.

(c) The board shall issue a certificate to any public mover or his successor in interest, who was in bona fide operation as a mover on January 1, 1968, within any portion of this State, and has so operated since that time, or, in the instance of an interruption of service and such interruption was due to circumstances over which the person or his predecessor in interest had no control, without requiring further proof that public convenience and necessity will serve by such operation, and without further proceedings if application for such certificate is made to the board as provided in paragraph (b) of this section within 120 days after the act shall take effect. Pending determination of any such application, the continuance of operation as a mover shall be lawful.

(d) In order to have been in bona fide operation, as required in paragraph (c) above, a public mover must have maintained a permanent place of business located in this State on or before January 1, 1968, and shall have owned or operated under lease at least one moving van registered in this State on or before January 1, 1968.

(e) Any public mover not included within paragraph (c) of this section, who is engaged in the transportation of household goods and special commodities as a public mover when this act takes effect, may continue such operation for a period of 120 days thereafter without a certificate, and, if application for such certificate has been made to the board within such period, the carrier, may, under such regulations as the board shall prescribe, continue such operation until otherwise ordered by the board.

(f) No certificate shall be issued to an applicant if the applicant or any officer, director, partner or associate thereof is one who has (1) committed any act which, if committed by a certificate holder would be grounds for a suspension or revocation of the certificate, or (2) misrepresented any material fact on his application.

(g) Every public mover subject to this act, receiving household goods or special commodities for transportation in intrastate commerce shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof in accordance with the provisions of subchapters 3, 4, 5, and 6 of Title 12A of New Jersey Statutes Uniform Commercial Code.

(h) Every person advertising his or its moving services by any means, oral, written, or electronic, shall include in such advertisement the number of his or its certificate, as issued by the board, and no person or entity shall publish or otherwise disseminate

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advertising by such advertiser unless it includes the number of such certificate.

4. Section 17 of P. L. 1968, c. 375 (C. 48:22–17) is amended to read as follows:

C. 48:22-17 Unlawful operation; penalties.

17. Unlawful operation; penalties.

(a) Any person, whether or not such person is a public mover or mover, knowingly and willfully violating any provision of this act, or aiding any other person in so doing, or any person knowingly and willfully violating any rule, regulation, requirement or order thereunder, or any terms, condition or limitation of any certificate or aiding any other person in so doing, for which violation a penalty is not otherwise herein provided, shall upon conviction thereof be fined not less than $25.00, nor more than $100.00, for the first offense and not more than $300.00 for any subsequent offense. Each day of such violation shall constitute a separate offense.

(b) If any person holds himself or itself out to the public, advertises, solicits business, performs movers services, publishes or disseminates such advertising, or otherwise operates in violation of any provisions of this act (except as to the reasonableness of rates or charges and the discriminatory character thereof), or any rule, regulation, requirement, or order thereunder, or of any term, condition or limitation of any certificate, any person injured thereby or the board or its duly authorized agent may apply to the Superior Court of this State for the enforcement of such provisions of this act, or of such rule, regulation, requirement, order, term, condition or limitation; and such court shall have jurisdiction to enforce compliance thereto by an appropriate judgment or order, including therein a grant of injunctive relief.

(c) Any person, whether mover or any officer, employee, agent or representative thereof, who shall knowingly offer, grant, or give, or solicit, accept, or receive any rebate, concession or discrimination in violation of any provision of this act, or who by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, account, claim, certificate, affidavit, deposition, lease or bill of sale, or by any other means or device, shall knowingly and willfully assist, suffer or permit any person or persons, natural or artificial to obtain transportation of property subject to this act for less than the applicable rate, or charge, or who knowingly and willfully misrepresents to the shipper the applicable rate for transportation or the approxi-

mate weight of the shipment or the approximate cost, nature or character of the service to be rendered or which the mover holds himself out to render or who shall knowingly and willfully by any such means or otherwise fraudulently seek to evade or defeat regulation as in this act provided for movers shall be guilty of a violation of this act and upon conviction thereof be fined not more than $100.00 for the first offense and not more than $500.00 for any subsequent offense.

(d) Any mover, or any officer, agent, employee, or representative thereof who shall willfully fail or refuse to make a report to the board as required by this act, or to keep any accounts, records, and memoranda in the form and manner approved or prescribed by the board, or who shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, shall be guilty of a violation of this act and upon conviction thereof shall be punished by a fine not exceeding $1,000.00.

(e) No person shall for compensation sell or offer for sale movers' services subject to this act or shall enter into any contract agreement or arrangement to provide, procure, furnish or arrange for the services or shall hold himself out by advertisement solicitation or otherwise to sell, provide, procure, contract or arrange for movers' services unless such person is a bona fide employee or a booking agent of such mover. This action shall apply insofar as it concerns a movers' service subject to this act furnished by any mover or movers, singly or jointly, or by any mover in combination with any for-hire carrier.

(f) The appointment of a booking agent by a mover shall not permit such agent to transport shipments in vehicles owned or controlled by the booking agent. Nothing in paragraphs (e) and (f) shall be construed to prevent a mover from interchanging or interlining shipments with another mover or from leasing equipment to or from another mover or from an owner operator.

5. Section 18 of P. L. 1968, c. 375 (C. 48:22–18) is amended to read as follows:

C. 48:22-18 Enforcement.

18. Enforcement.

(a) The board shall by civil action in any court of competent jurisdiction of this State, prevent any person from operating as a mover or publishing or otherwise disseminating advertising in violation of the provisions of this act. Penalties as provided in this act may be recovered in a summary proceeding pursuant to

the penalty enforcement law (N. J. S. 2A:58–1 et seq.) or by any proceeding before a magistrate of the State of New Jersey or other court of competent jurisdiction, and injunctive relief shall be available in proceedings before the Superior Court, Chancery Division, or other court of competent jurisdiction.

(b) It shall be the duty of the board, its agents, employees, and inspectors appointed under its authority to enforce all of the provisions of this act, and, for the purpose of such enforcement, authority and power are hereby given to them and each of them to stop any mover's vehicle and examine the same as well as any shipping documents, or vehicle leases to insure that the provisions and requirements of this act, the rules and regulations thereunder, the terms, conditions and limitation of any certificate that may have been issued to any such mover are being complied with and to issue a summons in the same manner as any police officer of the State for appearance before a magistrate or other court of competent jurisdiction.

(c) If any mover shall after hearing by the board be found to have violated any of the provisions of this act, or rule, regulation or order of the board, or any legally filed tariff issued by such mover, the board may suspend the certificate issued to such mover for a stated period. Operation after suspension as herein provided shall constitute a misdemeanor by the operator and the mover.

6. This act shall take effect immediately.

Approved October 18, 1977.

CHAPTER 264

AN ACT concerning soil conservation, amending R. S. 4:24–18 and P. L. 1975, c. 251, s. 3, supplementing chapter 24 of Title 4 of the Revised Statutes, and repealing sections 4:24–7 through 4:24–17 and 4:24–35 through 4:24–38 of the Revised Statutes.

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

1. R. S. 4:24–18 is amended to read as follows:

Governing body of district.

4:24–18. The governing body of the district shall consist of five supervisors, appointed by the State Soil Conservation Committee. The five supervisors shall be legal residents of the district.

2. Section 3 of P. L. 1975, c. 251 (C. 4:24–41) is amended to read as follows:

C. 4:24-41 Definitions.

3. For the purposes of this act, unless the context clearly indicates a different meaning:

a. "Application for development" means a proposed subdivision of land, site plan, conditional use zoning variance, planned unit development or construction permit.

b. "Certification" means (1) a written endorsement of a plan for soil erosion and sediment control by the local Soil Conservation District which indicates that the plan meets the standards promulgated by the State Soil Conservation Committee pursuant to this act or (2) that the time allotted in section 7 of this act has expired without action by the district.

c. "District" means a Soil Conservation District organized pursuant to chapter 24 of Title 4 of the Revised Statutes.

d. "Disturbance" means any activity involving the clearing, excavating, storing, grading, filling or transporting of soil or any other activity which causes soil to be exposed to the danger of erosion.

e. "Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.

f. "Plan" means a scheme which indicates land treatment measures, including a schedule of the timing for their installation, to minimize soil erosion and sedimentation.

g. "Project" means the disturbance of more than 5,000 square feet of the surface area of land for the accommodation of construction for which the State Uniform Construction Code would require a construction permit, except that the construction of a single-family dwelling unit shall not be deemed a "project" under this act unless such unit is part of a proposed subdivision, site plan, conditional use, zoning variance, planned development or construction permit application involving two or more such single-family dwelling units.

h. "Sediment" means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

i. "Soil" means all unconsolidated mineral and organic material of any origin.

j. "Standards" means the standards promulgated by the committee pursuant to this act.

k. "Committee" means the State Soil Conservation Committee in the Department of Agriculture established pursuant to R. S. 4:24–3.

C. 4:24-17.5 Soil conservation district; coverage; boundaries.

3. (New section) The whole area of the State shall, at all times, be covered by a soil conservation district. Each soil conservation district shall cover the whole area of one or more counties. A tri-county soil conservation district shall serve the counties of Hudson, Essex and Passaic to be known as the Hudson, Essex and Passaic Soil Conservation District. Bi-county soil conservation districts shall serve the following pairs of counties: Middlesex-Monmouth, Somerset-Union and Cape May-Atlantic to be known as the Freehold, Somerset-Union, and Cape-Atlantic Soil Conservation Districts respectively. Every other county in the State shall be served by its own soil conservation district to be known as "the ..... County Soil Conservation District" with the name of each such county inserted. The State Soil Conservation Committee shall work with the supervisors of the multi-county soil conservation districts to encourage the formation of a soil conservation district in each county of the State, pursuant to the procedures contained in P. L. 1966, c. 77 (C. 4:24–17.1 et seq.).

Repealer.

4. R. S. 4:24–7 through 4:24–17 and R. S. 4:24–35 through 4:24–38 are repealed.

5. This act shall take effect immediately.

Approved October 18, 1977.

CHAPTER 265

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, 1977 and regulating the disbursement thereof," approved July 1, 1976 (P. L. 1976, c. 42).

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

1. The following sum is hereby appropriated out of the General Treasury for the purpose specified:

DEPARTMENT OF HIGHER EDUCATION
GLASSBORO STATE COLLEGE
33970. INSTITUTIONAL SUPPORT

Services Other Than Personal:	
Other	$50,000

2. This act shall take effect immediately.

Approved October 19, 1977.

CHAPTER 266

AN ACT concerning the control of cancer in New Jersey, providing for a registry of the incidence of cancer and other tumorous and precancerous diseases, authorizing the State Department of Health to require certain persons to report such cases, and making an appropriation therefor.

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

C. 26:2-104 Legislature's findings.

1. The Legislature hereby finds and declares:

a. That New Jersey is currently suffering from the highest overall mortality rates for cancer in the Nation;

b. That certain forms of cancer are now believed to be attributable to environmental factors which, if controlled, can significantly reduce cancer incidence in this State;

c. That more complete and more precise statistical data are necessary to determine the correlations between cancer incidence and possible environmental factors and to evaluate cancer treatment and prevention measures that are currently in progress; and,

d. That a cancer registry would thus provide a vital foundation for a concerted State effort to reduce the incidence of environmentally related cancer in this State.

C. 26:2-105 Registry list; establishment; contents.

2. The State Department of Health shall establish and maintain an up-to-date registry which shall include a record of cases of cancer and specified cases of tumorous or precancerous disease that occur in New Jersey, and such information concerning these

cases as it shall deem necessary and appropriate in order to conduct thorough and complete epidemiologic surveys of cancer and cancer-related diseases in this State and to apply appropriate preventive and control measures.

C. 26:2-106 Reporting of cases; rules and regulations.

3. a. The Commissioner of Health, in consultation with the Public Health Council, shall require the reporting of cases of cancer and other specified tumorous and precancerous diseases, and the submission of such specified additional information on reported cases or control populations as he deems necessary and appropriate for the recognition, prevention, cure or control of such diseases.

b. Pursuant to subsection a. of this section, the Commissioner of Health is hereby authorized to adopt and promulgate, in the manner prescribed by the applicable provisions of the "Administrative Procedure Act" (P. L. 1968, c. 410; C. 52:14B–1 et seq.), rules and regulations specifying the health care providers, individuals, and other organizations obliged to make the report and submissions required by subsection a. of this section, the related information to be included in such reports, and the methods for such reporting.

C. 26:2-107 Confidentiality of reports.

4. The reports made pursuant to this act are to be used only by the State Department of Health and such other agencies as may be designated by the Commissioner of Health and shall not otherwise be divulged or made public so as to disclose the identity of any person to whom they relate; and to that end, such reports shall not be included under materials available to public inspection pursuant to P. L. 1963, c. 73 (C. 47:1A–1 et seq.).

C. 26:2-108 Liability.

5. No individual or organization providing information to the State Department of Health in accordance with this act shall be deemed to be, or held liable for, divulging confidential information.

C. 26:2-109 Act not construed to compel submission to medical examination.

6. Nothing in this act shall be construed to compel any individual to submit to medical or health department examination or supervision.

7. There is hereby appropriated to the Department of Health the sum of $200,000.00 to establish and administer the registry created by section 2. of this act and to process and analyze the information recorded therein.

8. This act shall take effect 30 days following its enactment.

Approved October 19, 1977.

CHAPTER 267

AN ACT to amend and supplement "An act concerning motorized bicycles, amending R. S. 39:1–1 and supplementing Title 39 of the Revised Statutes," approved October 31, 1975 (P. L. 1975, c. 250) and amending R. S. 39:1–1.

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

1. R. S. 39:1–1 is amended to read as follows:

Definitions.

39:1–1. As used in this subtitle, unless other meaning is clearly apparent from the language or context, or unless inconsistent with the manifest intention of the Legislature:

"Alley" means a public highway wherein the roadway does not exceed 12 feet in width.

"Authorized emergency vehicles" means vehicles of the fire department, police vehicles and such ambulances and other vehicles as are approved by the Director of the Division of Motor Vehicles in the Department of Law and Public Safety when operated in response to an emergency call.

"Automobile" includes all motor vehicles except motorcycles.

"Berm" means that portion of the highway exclusive of roadway and shoulder, bordering the shoulder but not to be used for vehicular travel.

"Business district" means that portion of a highway and the territory contiguous thereto, where within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively or both sides of the roadway.

"Commercial motor vehicle" includes every type of motor-driven vehicle used for commercial purposes on the highways, such as the transportation of goods, wares and merchandise, excepting such vehicles as are run only upon rails or tracks and vehicles of the passenger car type used for touring purposes or the carrying of farm products and milk, as the case may be.

"Commissioner" means the Director of the Division of Motor Vehicles in the Department of Law and Public Safety of this State.

"Crosswalk" means that part of a highway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the shoulder or, if none, from the edges of the roadway; also, any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other marking on the surface.

"Dealer" includes every person actively engaged in the business of buying, selling or exchanging motor vehicles or motorcycles and who has an established place of business.

"Department" means the Division of Motor Vehicles in the Department of Law and Public Safety of this State acting directly or through its duly authorized officers or agents.

"Deputy commissioner" means deputy director of the Division of Motor Vehicles in the Department of Law and Public Safety.

"Deputy director" means deputy director of the Division of Motor Vehicles in the Department of Law and Public Safety.

"Director" means the Director of the Division of Motor Vehicles in the Department of Law and Public Safety.

"Division" means the Division of Motor Vehicles in the Department of Law and Public Safety acting directly or through its duly authorized officers or agents.

"Driver" means the rider or driver of a horse, bicycle or motorcycle or the driver or operator of a motor vehicle, unless otherwise specified.

"Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

"Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

"Flammable liquid" means any liquid having a flash point below 200° Fahrenheit, and a vapor pressure not exceeding 40 pounds.

"Gross weight" means the combined weight of a vehicle and any load thereon.

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

"Horse" includes mules and all other domestic animals used as draught animals or beasts of burden.

"Inside lane" means the lane nearest the center line of the roadway.

"Intersection" means the area embraced within the prolongation of the lateral curb lines or, if none, the lateral boundary lines of two or more highways which join one another at an angle, whether or not one such highway crosses another.

"Laned roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

"Limited-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway; and includes any highway designated as a "freeway" or "parkway" by authority of law.

"Local authorities" means every county, municipal and other local board or body having authority to adopt local police regulations under the Constitution and laws of this State, including every county board of chosen freeholders with relation to county roads.

"Magistrate" means any municipal court, county district court, criminal judicial district court, County Court and the Superior Court, and any officer having the powers of a committing magistrate and the Director of the Division of Motor Vehicles in the Department of Law and Public Safety.

"Manufacture" means a person engaged in the business of manufacturing or assembling motor vehicles, who will, under normal business conditions during the year, manufacture or assemble at least 10 new motor vehicles.

"Metal tire" means every tire the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

"Motorized bicycle" means a pedal bicycle having a helper motor characterized in that either the maximum piston displacement is less than 50 cc. or said motor is rated at no more than 1.5 brake horsepower and said bicycle is capable of a maximum speed of no more than 25 miles per hour on a flat surface.

"Motorcycle" includes motorcycles, motor bikes, bicycles with motor attached and all motor operated vehicles of the bicycle or tricycle type, except motorized bicycles as defined in this section, whether the motive power be a part thereof or attached thereto and having a saddle or seat with driver sitting astride or upon it, or a platform on which the driver stands.

"Motor-drawn vehicle" includes trailers, semitrailers, or any other type of vehicle drawn by a motor-driven vehicle.

"Motor vehicle" includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles.

"Noncommercial truck" means every motor vehicle designed primarily for transportation of property, and which is not a "commercial vehicle."

"Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with this subtitle placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

"Omnibus" includes all motor vehicles used for the transportation of passengers for hire, except school buses if the same are not otherwise used in the transportation of passengers for hire.

"Operator" means a person who is in actual physical control of a vehicle or street car.

"Outside lane" means the lane nearest the curb or outer edge of the roadway.

"Owner" means a person who holds the legal title of a vehicle, or if a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee, lessee or mortgagor shall be deemed the owner for the purpose of this subtitle.

"Parking" means the standing or waiting on a street, road or highway of a vehicle not actually engaged in receiving or discharging passengers or merchandise, unless in obedience to traffic regulations or traffic signs or signals.

"Passenger automobile" means all automobiles used and designed for the transportation of passengers, other than omnibuses and school buses.

"Pedestrian" means a person afoot.

"Person" includes natural persons, firms, copartnerships, associations, and corporations.

"Pneumatic tire" means every tire in which compressed air is designed to support the load.

"Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

"Private road or driveway" means every road or driveway not open to the use of the public for purposes of vehicular travel.

"Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except street cars.

"Residence district" means that portion of a highway and the territory contiguous thereto, not comprising a business district, where within any 600 feet along such highway there are buildings in use for business or residential purposes which occupy 300 feet or more of frontage on at least one side of the highway.

"Right-of-way" means the privilege of the immediate use of the highway.

"Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately, but not to all such roadways, collectively.

"Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians, which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

"School bus" means every motor vehicle operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or privately operated for compensation for the transportation of children to or from school for secular or religious education which complies with the

regulations of the Department of Education affecting school buses including "School Vehicle Type I" and "School Vehicle Type II" as defined below:

"School Vehicle Type I" means any vehicle with a seating capacity of 17 or more, used to transport enrolled children, and adults only when serving as chaperones, to or from a school, school connected activity, day camp, summer day camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the regulations of the Division of Motor Vehicles and either the Department of Education or the Department of Institutions and Agencies whichever is the appropriate supervising agency.

"School Vehicle Type II" means any vehicle with a seating capacity of 16 or less, used to transport enrolled children, and adults only when serving as chaperones, to or from a school, school connected activity, day camp, summer day camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the regulations of the Division of Motor Vehicles and either the Department of Education or the Department of Institutions and Agencies whichever is the appropriate supervising agency.

"School zone" means that portion of a highway which is either contiguous to territory occupied by a school building or is where school crossings are established in the vicinity of a school, upon which are maintained appropriate "school signs" in accordance with specifications adopted by the director and in accordance with law.

"School crossing" means that portion of a highway where school children are required to cross the highway in the vicinity of a school.

"Semitrailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

"Shoulder" means that portion of the highway, exclusive of and bordering the roadway, designed for emergency use but not ordinarily to be used for vehicular travel.

"Sidewalk" means that portion of a highway intended for the use of pedestrians, between the curb line or the lateral line of a shoulder, or if none, the lateral line of the roadway, and the adjacent right-of-way line.

"Sign." See "Official traffic control devices."

"Slow-moving vehicle" means a vehicle run at a speed less than the maximum speed then and there permissible.

"Solid tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

"Street" means the same as highway.

"Street car" means a car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality.

"Stop," when required, means complete cessation from movement.

"Stopping or standing," when prohibited, means any cessation of movement of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

"Through highway" means every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter.

"Trackless trolley" means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

"Traffic" means pedestrians, ridden or herded animals, vehicles, street cars, and other conveyances either singly, or together, while using any highway for purposes of travel.

"Traffic control signal" means a device whether manually, electrically, mechanically, or otherwise controlled by which traffic is alternately directed to stop and to proceed.

"Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

"Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.

"Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

"Vehicle" means every device in, upon or by which a person or property is or may be transported upon a highway, excepting

devices moved by human power or used exclusively upon stationary rails or tracks or motorized bicycles.

2. Section 2 of P. L. 1975, c. 250 (C. 39:4–14.3) is amended to read as follows:

C. 39:4-14.3 Motorized bicycles; limitations on use; regulations; operator's age; license; issuance of learner's permit; application of rules and regulations; duties.

2. a. Motorized bicycles shall not be operated upon interstate highways or upon public highways divided by a grass or concrete median or highways with posted speed limits in excess of 50 miles per hour or upon the railroad or right-of-way of an operating railroad within the State of New Jersey or upon any public land where expressly prohibited by the governing body, department or agency having jurisdiction thereof.

The Director of Motor Vehicles is authorized to adopt regulations either prohibiting the operation of motorized bicycles on any public road or highway with a speed limit in excess of 40 miles per hour which in his discretion are hazardous for the operation of motorized bicycles or permitting the operation of motorized bicycles on any public road or highway, upon which the operation of motorized bicycles is otherwise prohibited by the provisions of this section, which in his discretion are safe for the operation of motorized bicycles. In no case, however, shall the director adopt a regulation permitting motorized bicycles to be operated on any highway with a posted speed in excess of 50 miles per hour.

b. No municipality shall limit or otherwise restrict the operation of motorized bicycles on any public roads or highways under its jurisdiction in contravention of the provisions of this act or any regulations adopted by the director pursuant thereto.

c. Motorized bicycles shall not be operated by a person under 15 years of age.

d. No person shall operate a motorized bicycle unless he is in possession of a valid driver's license of any class or a motorized bicycle license which shall be issued by the director to any person 15 years of age or older after he has passed a satisfactory examination as to his ability as an operator. Such examination shall include a test of the applicant's knowledge of such portions of the mechanism of motorized bicycles as is necessary to insure their safe operation and of the laws and ordinary usages of the road and a demonstration of his ability to operate a motorized bicycle.

The demonstration of an applicant's ability to operate a motorized bicycle shall be administered at such municipalities that the

director shall designate under the supervision of the director, or an officer, employee, or authorized agent of the Division of Motor Vehicles in accordance with rules and regulations promulgated by the division.

The director may, in his discretion, issue a learner's permit to a person 15 years of age or older allowing such person, for the purpose of fitting himself to become a motorized bicycle driver, to operate a motorized bicycle during daylight hours without supervision for a period not to exceed 45 days. The permit shall be sufficient license for the person to operate a motorized bicycle. No permit shall be issued unless the person applying therefor shall pay the sum of $5.00 to the director, or an officer, employee or agent of the division.

e. The valid driver's license shall be in the possession of the operator at all times when he is operating a motorized bicycle with motor engaged on the highways of this State. The operator shall exhibit his driver's license when requested to do so by any police officer or magistrate, while in the performance of the duties of his office and shall write his name in the presence of the officer, so that the officer may thereby determine the identity of the licensee. Any person violating this subsection shall be subject to a fine not exceeding $50.00.

f. Unless otherwise determined by the director, statutes, rules and regulations applicable to bicycles shall apply whenever a motorized bicycle is operated upon any highway or upon any public land.

Every person operating a motorized bicycle upon a public road or highway shall be subject to all of the duties applicable to the driver of a vehicle by chapter 4 of Title 39 and N. J. S. 2A:113–9 and all amendments and supplements thereto.

C. 39:4-14.3a Sale of motorized bicycles.

3. (New section) No person engaged in the business of selling motorized bicycles at retail shall sell or offer to sell any motorized bicycle unless such motorized bicycle is in conformity with this act and regulations promulgated hereunder by the director.

C. 39:4-14.3b Violation of act; penalty.

4. (New section) Except as otherwise provided by this act, any person who violates any of the provisions of this act shall be subject to a fine not exceeding $200.00 or imprisonment for a term not exceeding 15 days or both.

C. 39:4-14.3c Rules and regulations.

5. (New section) The director may promulgate such rules and regulations as may be necessary to effectuate the purposes of this act.

C. 39:4-14.3d Motorized bicycle to carry operator only.

6. (New section) A motorized bicycle shall carry only the operator.

C. 39:4-14.3e Liability insurance requirement; amounts and limits.

7. Every owner of a motorized bicycle principally garaged or operated in this State and every person in the business of renting motorized bicycles shall maintain liability insurance coverage, under provisions approved by the Commissioner of Insurance, insuring against loss resulting from liability imposed by law for bodily injury, death and property damage sustained by any person arising out of the ownership, operation or use of a motorized bicycle.

The Commissioner of Insurance, in consultation with the Director of the Division of Motor Vehicles, shall by regulation fix the amounts and limits of coverage of, and requirements for, such insurance.

C. 39:4-14.3f Applicability of Title 39 to accidents involving motorized bicycles; report.

8. (New section) Article 15 of chapter 4 of Title 39 of the Revised Statutes pertaining to accidents and reports shall be applicable to all accidents involving motorized bicycles. Any law enforcement officer investigating an accident in which a motorized bicycle is involved shall report the accident to the Division of Motor Vehicles. Said report shall include information relating to the cause of the accident and extent of injury, if any, to the operator and such other information as may be required.

9. This act shall take effect 90 days following its enactment.

Approved October 19, 1977.

CHAPTER 268

AN ACT to amend "An act to supplement the 'New Jersey Medical Assistance and Health Services Act,' (P. L. 1968, c. 413) and making an appropriation therefor," approved August 21, 1975 (P. L. 1975, c. 194).

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

1. Section 3 of P. L. 1975, c. 194 (C. 30:4D–22) is amended to read as follows:

C. 30:4D-22 Payments; "prescription drugs" defined.

3. The program of "Pharmaceutical Assistance to the Aged" shall consist of payments to pharmacies for the reasonable cost of prescription drugs of eligible persons which exceed a $1.00 copayment per prescription or per purchase of insulin, paid by each eligible person.

For purposes of this act, "prescription drugs" means all legend drugs, insulin, insulin syringes and insulin needles and "reasonable cost" means the cost of prescription drugs and a dispensing fee, as determined by the commissioner.

2. Section 4 of P. L. 1975, c. 194 (C. 30:4D–23) is amended to read as follows:

C. 30:4D-23 Coverage by other plan or insurance; effect on eligibility.

4. Any otherwise eligible person whose prescription drug costs are wholly covered by any other plan of assistance or insurance shall be ineligible for assistance under the provisions of this act. Any otherwise eligible person whose prescription drug costs are covered in part by any other plan of assistance or insurance may be required to receive reduced assistance under the provisions of this act.

3. Section 5 of P. L. 1975, c. 194 (C. 30:4D–24) is amended to read as follows:

C. 30:4D-24 Regulations.

5. The commissioner shall by regulation establish a system of payments or reimbursements and a system for determining eligibility, including provisions for submission of proof of actual and

anticipated annual income, and evidence of complete or partial coverage of prescription drug costs by any other assistance or insurance plans.

4. This act shall take effect January 1, 1978.

Approved October 20, 1977.

CHAPTER 269

AN ACT concerning hearings before the Water Policy and Supply Council and amending R. S. 58:1–8.

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

1. R. S. 58:1–8 is amended to read as follows:

Hearings.

58:1–8. The commission may conduct hearings by one or more of its members in place and stead of the full commission. When a hearing shall be so held by less than a majority of the members of the commission all testimony shall be taken stenographically and a transcribed copy thereof furnished each member of the commission. Thereafter the action of the commission upon the matter upon which the hearing was so held shall be as effective as though the hearing was held before the commission.

2. This act shall take effect immediately.

Approved October 20, 1977.

CHAPTER 270

AN ACT to amend "An act to revise standards and procedures for the inspection of motor vehicles, amending R. S. 49:8–2 and 39:8–4 and supplementing chapter 8 of Title 39 of the Revised Statutes," approved July 16, 1975 (P. L. 1975, c. 156).

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

1. Section 16 of P. L. 1975, c. 156 (C. 39:8–24) is amended to read as follows:

C. 39:8-24 Effective date.

16. This act shall take effect immediately.

2. This act shall take effect immediately.

Approved October 20, 1977.

CHAPTER 271

AN ACT to amend and supplement the "Independent Colleges and Universities Utilization Act," approved June 19, 1972 (P. L. 1972, c. 67).

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

1. Section 3 of P. L. 1972, c. 67 (C. 18A:72B–3) is amended as follows:

C. 18A:72B-3 Definitions.

3. As used in this act:

"Eligible institution" means only those private institutions of higher education located in New Jersey which, by virtue of law or charter or license, are nonprofit educational institutions empowered to grant academic degrees, and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt and continuation of regional accreditation by the Middle States Association of Colleges and Secondary Schools, and which normally enroll 350 or more full-time undergraduate students and are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey. "Eligible institution" does not include any educational institution dedicated primarily to the preparation or training of ministers, priests, rabbis or other professional persons in the field of religion.

"New Jersey student" means any person who is a graduate of a New Jersey secondary school or whose parents were domiciled in New Jersey at the beginning of the academic year and who is matriculated in an eligible institution on a full-time basis and so

reported by the institution to the Department of Higher Education in the annual Higher Education General Information Survey (H.E.G.I.S.), but such terms do not mean or include any such person majoring in theology or divinity.

2. This act shall take effect immediately.

Approved October 25, 1977.

CHAPTER 272

AN ACT providing for payments for local services in lieu of taxes on State property, and repealing R. S. 54:4–2.1 and R. S. 54:4–2.2.

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

C. 54:4-2.2a Definitions.

1. As used in this act:

"State property" means land and improvements owned by the State and includes but shall not be limited to State offices, hospitals, institutions, schools, colleges, universities, garages, inspection stations, warehouses, barracks and armories together with abutting vacant land held for future development for the same purposes. State property shall not include that used or held for future use for highway, bridge or tunnel purposes or property which is qualified under State law for any other State payment in lieu of taxes.

C. 54:4-2.2b Assessment of State property.

2. Notwithstanding the provisions of any other law and to compensate municipalities for the impact upon local government costs of local services to State property, such property shall be assessed and subject to an in lieu tax payment provided in this act.

C. 54:4-2.2c Statements of taxable value assessments.

3. Commencing with the tax year 1977, each assessor annually on or before September 15 shall prepare and send to the Director of the Division of Taxation on a form prescribed by him statements of the taxable value assessments as if the same were not exempt from taxation on each parcel of State-owned real property, as described in section 1 of this act.

C. 54:4-2.2d Review, change, addition or revision of list; notification.

4. Upon the receipt of the assessments of State property, the director shall review and revise the list and the assessment of any parcel of State property, and annually on or before November 15 the director shall notify the county board of taxation and the taxing district affected by any such change, addition or revision. The determination by the director shall be final and there shall be no appeal taken with respect thereto, except to correct typographical and mathematical errors.

C. 54:4-2.2e Computation of State's liability; method of calculating in lieu payment.

5. After completion of the review of the assessments of State property, the director shall compute the State's liability for in lieu tax payments in each municipality affected. The in lieu payment shall be calculated by applying the effective local purpose tax rate of the municipality for the tax year 1977 and thereafter to the aggregate amount of State property, as defined in section 1, in the municipality and the sum of such calculations shall constitute the State's liability; provided, however, the State shall have no liability to any one municipality when the sum of its liability is less than $1,000.00, and no municipality shall receive an in lieu payment from the State greater than an amount equal to 25% of the local purpose tax levy for the year for which the calculations are made.

C. 54:4-2.2f Certification of total amount to State treasurer.

6. Upon completion of the review of assessments of State property and the calculation of the State's liability for in lieu tax payments, the director shall certify to the State Treasurer, on or before December 1, 1977, and on or before December 1 annually thereafter, the total amount necessary therefor.

C. 54:4-2.2g Appropriation.

7. In lieu payments for local services to State property shall be appropriated for the tax year 1978 and annually thereafter and the State Treasurer shall include in his budget request for State aid to municipalities the funds necessary therefor which shall be appropriated by the Legislature.

C. 54:4-2.2h Anticipation of in lieu payment as revenue for budget preparation.

8. Any municipality in which State property is situated and which shall qualify under the provisions of this act may anticipate its in lieu tax payment by the State as revenue in preparing its annual budget.

C. 54:4-2.2i Payment; dates.

9. In lieu tax payments for local services to State property shall be made in two equal annual installments on May 1 and November 1.

C. 54:4-2.2j Adjustment of funding.

10. In the event that an appropriation made for any year is less than the amount required for full payment in lieu of taxes to each municipality, the amount otherwise payable to each municipality shall be reduced in the same proportion as the appropriation made is to the amount required for full funding.

C. 54:4-2.2k Rules and regulations; powers of director.

11. The director is authorized to make such rules and regulations and to require such facts and information from local assessors, county boards of taxation and agencies of the State Government as he may deem necessary to carry out the provisions of this act.

12. R. S. 54:4–2.1 and 54:4–2.2 are hereby repealed.

13. This act shall take effect July 1, 1977.

Approved October 26, 1977.

CHAPTER 273

AN ACT concerning certain exclusions from gross income under the "New Jersey Gross Income Tax Act," amending N. J. S. 54A:5–1 and N. J. S. 54A:6–10 and supplementing chapter 6 of Title 54A of the New Jersey Statutes.

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

1. N. J. S. 54A:5–1 is amended to read as follows:

New Jersey Gross Income defined.

54A:5–1. New Jersey Gross Income Defined. New Jersey gross income shall consist of the following categories of income:

a. Salaries, wages, tips, fees, commissions, bonuses, and other remuneration received for services rendered whether in cash or in property;

b. Net profits from business. The net income from the operation of a business, profession, other activity, after provisions for all costs and expenses incurred in the conduct thereof, determined

either on a cash or accrual basis in accordance with the method of accounting allowed for Federal income tax purposes but without deduction of taxes based on income;

c. Net gains or income from disposition of property. Net gains or net income, less net losses, derived from the sale, exchange or other disposition of property, including real or personal, whether tangible or intangible as determined in accordance with the method of accounting allowed for Federal income tax purposes. For the purpose of determining gain or loss, the basis of property shall be the adjusted basis used for Federal income tax purposes.

For the tax year 1976, any taxpayer with a tax liability under this subsection, or under the "Tax on Capital Gains and Other Unearned Income Act" (P. L. 1975, c. 172), shall not be subject to payment of an amount greater than the amount he would have paid if either return had covered all capital transactions during the full tax year 1976; provided, however, that the rate which shall apply to any capital gain shall be that in effect on the date of the transaction. To the extent that any loss is used to offset any gain under (P. L. 1975, c. 172) it shall not be used to offset any gain under the "New Jersey Gross Income Tax Act" (P. L. 1976, c. 47).

The term "net gains or income" shall not include gains or income derived from obligations which are referred to in clauses (1) or (2) of section 54A:6–14 of this act. The term "net gains or net income" shall not include gains or income from transactions to the extent to which nonrecognition is allowed for Federal income tax purposes. The term "sale, exchange or other disposition" shall not include the exchange of stock or securities in a corporation a party to a reorganization in pursuance of a plan of reorganization, solely for stock or securities in such corporation or in another corporation a party to the reorganization and the transfer of property to a corporation by one or more persons solely in exchange for stock or securities in such corporation if immediately after the exchange such person or persons are in control of the corporation. For purposes of this clause, stock or securities issued for services shall not be considered as issued in return for property.

For purposes of this clause, the term "reorganization" means—

(i) A statutory merger or consolidation;

(ii) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the

acquiring corporation) of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition);

(iii) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded;

(iv) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred;

(v) A recapitalization;

(vi) A mere change in identity, form, or place of organization however effected; or

(vii) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this subclause as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under subclause (i) if such transaction would have qualified under subclause (i) if the merger had been into the controlling corporation, and no stock of the acquiring corporation is used in the transaction;

(viii) A transaction otherwise qualifying under subclause (i) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this subclause as the "controlling corpotion") which before the merger was in control of the merged corporation is used in the transaction, if after the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction); and in the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation.

For purposes of this clause, the term "control" means the ownership of stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of the total number of shares of all other classes of stock of the corporation.

For purposes of this clause, the term "a party to a reorganization" includes a corporation resulting from a reorganization, and both corporations, in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another. In the case of a reorganization qualifying under subclause (i) by reason of subclause (vii) the term "a party to a reorganization" includes the controlling corporation referred to in such subclause (vii).

Notwithstanding any provisions hereof, upon every such exchange or conversion, the taxpayer's base for the stock or securities received shall be the same as the taxpayer's actual or attributed base for the stock, securities or property surrendered in exchange therefor.

d. Net gains or net income derived from or in the form of rents, royalties, patents, and copyrights.

e. Interest, except interest referred to in clauses (1) or (2) of section 54A:6–14 of this act.

f. Dividends. "Dividends" means any distribution in cash or property made by a corporation, association or business trust, (1) out of accumulated earnings and profits, or (2) out of earnings and profits of the year in which such dividend is paid.

g. Gambling winnings.

h. Net gains or income derived through estates or trusts.

i. Income in respect of a decedent.

j. Pensions and annuities except to the extent of exclusions in section 54A:6–10 hereunder, notwithstanding the provisions of N. J. S. 18A:66–51, P. L. 1973, c. 140, s. 41 (C. 43:6A–41), P. L. 1954, c. 84, s. 53 (C. 43:15A–53), P. L. 1944, c. 255, s 17 (C. 43:16A–17), P. L. 1965, c. 89, s. 45 (C. 53:5A–45), R. S. 43:10–14, P. L. 1943, c. 160, s. 22 (C. 43:10–18.22), P. L. 1948, c. 310, s. 22 (C. 43:10–18.71), P. L. 1954, c. 218, s. 32 (C. 43:13–22.34), P. L. 1964, c. 275, s. 11 (C. 43:13–22.60), R. S. 43:10–57, P. L. 1938, c. 330, s. 13 (C. 43:10–105), R. S. 43:13–44 and, P. L. 1943, c. 189, s. 5 (C. 43:13–37.5).

k. Distributive share of partnership income.

l. Amounts received as prizes and awards, except as provided in section 54A:6–8 and 54A:6–11 hereunder.

m. Rental value of a residence furnished by an employer or a rental allowance paid by an employer to provide a home.

n. Alimony and separate maintenance payments to the extent that such payments are required to be made under a decree of divorce or separate maintenance but not including payments for support of minor children.

2. N. J. S. 54A:6–10 is amended to read as follows:

Pensions and annuities.

54A:6–10. Pensions and annuities. Gross income shall not include that part of any amount received as an annuity under an annuity, endowment, or life insurance contract which bears the same ratio to such amount as the investment in the contract as of the annuity starting date bears to the expected return under the contract as of such date. Where (1) part of the consideration for an annuity, endowment, or life insurance contract is contributed by the employer, and (2) during the 3-year period beginning on the date on which an amount is first received under the contract as an annuity, the aggregate amount receivable by the employee under the terms of the contract is equal to or greater than the consideration for the contract contributed by the employee, then all amounts received as an annuity under the contract shall be excluded from gross income until there has been so excluded an amount equal to the consideration for the contract contributed by the employee.

In addition to that part of any amount received as an annuity which is excludable from gross income as herein provided, gross income shall not include payments of up to $10,000.00 for a married couple filing jointly, $5,000.00 for a married person filing separately or $7,500.00 for a single taxpayer, which are received as an annuity, endowment or life insurance contract, or payments of any such amounts which are received as pension, disability, or retirement benefits, under any public or private plan, whether the consideration therefor is contributed by the employee or employer or both, by any person who is 62 years of age or older or who, by virtue of disability, is or would be eligible to receive payments under the Federal Social Security Act.

Gross income shall not include any amount received under any public or private plan by reason of a permanent and total disability.

C. 54A:6-15 Other retirement income.

3. (New section) Other retirement income. a. Gross income shall not include income of up to $10,000.00 for a married couple filing jointly, $5,000.00 for a married person filing separately or $7,500.00 for a single taxpayer, when received in any tax year by a person aged 62 years or older who received no income in excess of $3,000.00 from one or more of the sources enumerated in subsections a., b. and k. of N. J. S. 54A:5–1, provided, however, that the total exclusion under this subsection and that allowable under N. J. S. 54A:6–10 shall not exceed the amounts of the exclusions set forth in this subsection.

b. In addition to the exclusion provided under N. J. S. 54A:6–10 and subsection a. of this section, gross income shall not include income of up to $6,000.00 for a married couple filing jointly or $3,000.00 for a single person or a married person filing separately who is not covered under N. J. S. 54A:6–2 or N. J. S. 54A:6–3, but who would be eligible in any year to receive payments under either section if he or she were covered thereby.

4. This act shall take effect immediately and shall be retroactive to January 1, 1977.

Approved October 27, 1977.

CHAPTER 274

AN ACT concerning the destruction of pleadings, judgments and other papers on file with certain courts in certain cases, and amending sections 2A:6–45, 2A:6–46, 2A:11–48 and 2A:11–53 of the New Jersey Statutes.

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

1. N. J. S. 2A:6–45 is amended to read as follows:

Removal and destruction of obsolete papers on file.

2A:6–45. Whenever any papers have been on file for more than 15 years in any district court or county district court or for more than 15 years in the aggregate in any district court and county district court, and have become obsolete, the judge and in courts having branch parts, the presiding judge, of the court in which such

papers are on file may direct the clerk of the court to cause such obsolete papers to be removed and disposed of.

2. N. J. S. 2A:6–46 is amended to read as follows:

Destruction of obsolete papers filed in landlord and tenant cases.

2A:6–46. The clerk of any county district court may, when so ordered by the judge and in courts having branch parts, the presiding judge, of said court, dispose of all papers filed in all landlord and tenant cases wherein judgment has been or shall have been entered, in said court, for a period of at least 2 years, together with the jackets containing the same.

3. N. J. S. 2A:11–48 is amended to read as follows:

Recording of pleadings, judgments, decrees and other papers.

2A:11–48. When in any cause in the Superior Court or the Supreme Court, any County Court, surrogate's court or district court, final judgment has been entered, and the time for appeal or review has expired and no appeal or proceedings to review the same has been taken, or if taken, the appeals and proceedings to review the same have been finally determined, or when in any cause in such courts, although final judgment has not been entered, no papers have been filed for at least 3 years, or when in any cause in the former court of chancery, the former prerogative court, the former Supreme Court, or the former court of errors and appeals any final judgment, order or decree has been entered, or any interlocutory judgment, order or decree has been entered and no papers have been filed for at least 3 years, the Clerk of the Supreme Court, and the Clerk of the Superior Court, respectively, or the surrogate or clerk of the court in which said judgment was entered may, subject to the direction of the administrative director with the approval of the Chief Justice, or the assignment judge of the county in the case of the records of county, surrogate's or district courts, record in duplicate the pleadings, judgment, decree and other papers, including original wills and inventories, filed with the court by the use of any photostatic, photographic or micrographic process whatever, including any photographic process which will produce compact records on films in reduced size (commonly known as microfilm), which in the judgment of the Chief Justice or said assignment judge, as the case may be, will insure an efficient recording system and provide, under proper supervision, for ready access to the record of the same, in any cause so recorded. Any party to any action may, at his own expense, require the recording, in the same manner, of any other documents in any cause,

otherwise not required to be recorded. Provision shall be made for storing the duplicates in separate places.

4. N. J. S. 2A:11–53 is amended to read as follows:

Destruction of papers.

2A:11–53. Seven years after final judgment has been entered in causes in the Superior Court or the Supreme Court or any such County Court or district court and the time for appeal or review has expired when no appeal or proceeding to review the same has been taken, or if an appeal or proceedings to review the same has been taken 3 years after such appeals and proceedings to review the same have been finally determined or when no final judgment or decree has been entered, but no papers have been filed for at least 3 years in causes in the Superior Court or the Supreme Court, or any such county, surrogate's or district court or when in causes in the former court of chancery, the former prerogative court, the former Supreme Court, or the former court of errors and appeals any interlocutory or final judgment, order or decree has been entered and no papers have been filed for at least 3 years, the Chief Justice, or said assignment judge in the case of county, surrogate's and district court records, may cause to be given 10 days' written notice to the Division of the State Library, Archives and History, in the State Department of Education, if his intention to destroy or otherwise dispose of the papers in the causes from which the photographs or microphotographs have been taken as provided in N. J. S. 2A:11–48. So many of such papers in a cause as are not in writing requested by the Division of the State Library, Archives and History, may be destroyed or otherwise disposed of in such manner, as the Chief Justice or said assignment judge, shall deem proper.

5. This act shall take effect immediately.

Approved October 30, 1977.

CHAPTER 275

AN ACT to supplement the "Criminal Justice Act of 1970," approved May 21, 1970 (P. L. 1970, c. 74, C. 52:17B–97 et seq.).

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

C. 52:17B-100.1 State investigator; appointment; powers and rights.

1. There is hereby created in the Division of Criminal Justice, the office or position of State Investigator which shall be in the unclassified service of the civil service. The Attorney General may appoint such number of suitable persons to serve as State investigators, to serve at his pleasure and subject to removal by him, as are necessary to assist in the detection, apprehension, arrest and conviction of offenders against the law. Persons so appointed shall possess all the powers and rights and be subject to all the obligations of police officers, constables and special deputy sheriffs, in criminal matters.

2. This act shall take effect immediately.

Approved October 30, 1977.

CHAPTER 276

AN ACT to amend the title of "An act providing immunity to members of volunteer first aid, rescue or emergency squads providing emergency public first aid and rescue services from liability to respond in damages in certain cases," approved February 28, 1963 (P. L. 1962, c. 242), so that the same shall read "An act providing immunity to members of volunteer first aid, rescue or emergency squads and to volunteer members of the National Ski Patrol System providing emergency public first aid and rescue services from liability to respond in damages in certain cases" and amending the body of said act.

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

1. The title of P. L. 1962, c. 242 (C. 2A:53A–12) is amended to read as follows:

Title amended.

An act providing immunity to members of volunteer first aid, rescue or emergency squads and to volunteer members of the National Ski Patrol System providing emergency public first aid and rescue services from liability to respond in damages in certain cases.

2. Section 1 of P. L. 1962, c. 242 (C. 2A:53A–12) is amended to read as follows:

C. 2A:53A-12 Liability for damages.

1. No member of a volunteer first aid, rescue or emergency squad, or volunteer member of the National Ski Patrol System, which provides emergency public first aid and rescue services shall be liable in any civil action to respond in damages as a result of his acts of commission or omission arising out of and in the course of his rendering in good faith any such services as such member but such immunity from liability shall not extend to the operation of any motor vehicle in connection with such services.

Nothing herein shall be deemed to grant any such immunity to any person causing damage by his willful or wanton act of commission or omission.

3. This act shall take effect immediately.

Approved October 30, 1977.

CHAPTER 277

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, 1978 and regulating the disbursement thereof," approved June 30, 1977 (P. L. 1977, c. 137).

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

1. The following sums are hereby appropriated out of the General State Fund, for the respective public officers and for the several purposes herein specified:

STATE AID
DEPARTMENT OF HEALTH
22100. LOCAL HEALTH SERVICES—STATE AID

22110. Community Health Services	$2,425,824.00

The capitation is set at no more than $0.50 for the calendar year 1977 as required by C. 26:2F–1 et seq. as amended by Assembly

Bill No. 3552 now pending before the Legislature, revising the formula for distribution of funds appropriated herein.

2. This act shall take effect upon enactment subsequent to this act of legislation revising C. 26:2F–1 et seq.

Approved October 31, 1977.

CHAPTER 278

AN ACT to amend the "Joint Underwriting Association Act" approved September 19, 1974 (P. L. 1974, c. 106).

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

1. Section 2 of P. L. 1974, c. 106 (C. 17:30B–2) is amended to read as follows:

C. 17:30B-2 Purposes and applications of act.

2. a. The purpose of this act is to avoid financial loss to and to reduce financial burdens on claimants and policyholders because of the insolvency of insurers, to authorize the creation of special underwriting associations to assume certain obligations of insolvent insurers and to continue, without interruption and without additional cost, coverage for claimants and policyholders who transfer their rights for unearned premiums from the said insolvent insurers to said asociations, and to provide a means by which the costs of such coverage can be equitably assumed.

b. This act shall apply to all kinds of direct insurance, except ocean or wet marine, life insurance, accident and health insurance, workers' compensation insurance, title insurance, annuities and surety bonds written by any company enumerated in section 10 c. of this act.

2. Section 10 of P. L. 1974, c. 106 (C. 17:30B–10) is amended to read as follows:

C. 17:30B-10 Surcharge on insurance policy; amount; crediting of moneys to fund.

10. a. A surcharge on insurance policies of the kind which are being assumed by the associations created hereunder shall be levied in amounts sufficient to recoup over a reasonable length of time a sum equal to the amounts necessary for reimbursement pursuant

to section 5 b. of this act. The surcharge shall be a separate charge to the insured in addition to the premium to be paid and shall be reflected as such in the policy. The insurer shall be prohibited from absorbing such surcharge as an inducement for insurance or any other reason.

b. The amount of such surcharge shall be determined by the commissioner, but in no event shall the surcharge on any policy exceed one-half of 1% of the policy premium.

c. Whenever moneys are recovered as a result of claims arising on or after September 19, 1974 from Gateway Insurance Company, Empire Mutual Insurance Company or Allcity Insurance Company insurers or lending institutions financing insurance policies for any of said companies with respect to policies for New Jersey residents or any of their brokers or agents, said moneys shall be credited to the Joint Underwriting Association Fund for use by the commissioner with respect to future insolvencies.

3. This act shall take effect immediately.

Approved October 31, 1977.

CHAPTER 279

AN ACT to amend "An act concerning education, authorizing and providing a procedure for withdrawal from a limited purpose regional school district and supplementing Title 18A of the New Jersey Statutes," approved March 3, 1976.

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

1. Section 2 of P. L. 1975, c. 360 (C. 18A:13–52) is amended to read as follows:

C. 18A:13-52 Report on status of limited purpose regional school district by county superintendent; filing.

2. The county superintendent shall, within 60 days after such request, file with the governing bodies of the municipalities constituting the regional district and the boards of education of all of the constituent school districts and the board of education of the regional school district a report containing a statement of the current assets and operating expenses of the regional district

for the then current year and such financial, educational and other information as he may deem necessary to enable said governing bodies and local boards of education and regional board of education to form an intelligent judgment as to the advisability of the proposed withdrawal and the effect thereof upon the educational and financial condition of the withdrawing district and the regional district and setting forth the amount of indebtedness, if any, to be assumed by the withdrawing and the regional districts, calculated as hereinafter provided.

2. Section 3 of P. L. 1975, c. 360 (C. 18A:13–53) is amended to read as follows:

C. 18A:13-53 Calculation of amount of indebtedness to be assumed.

3. The county superintendent shall calculate the amount of indebtedness so to be assumed on the basis of the proportion which the replacement cost of the buildings, grounds, furnishings, equipment, and additions thereto of the regional district situated in the withdrawing district bears to the replacement cost of the buildings, grounds, furnishings, equipment and additions thereto situated in the entire regional district. Said replacement cost shall be determined according to rules prescribed by the commissioner with the approval of the State board and in accordance with recognized accounting practices.

3. Section 7 of P. L. 1975, c. 360 (C. 18A:13–57) is amended to read as follows:

C. 18A:13-57 Fixing date of election.

7. If the application be granted, the county superintendent shall, after conferring with the boards of education of the constituent district, fix a day and a time on said day for holding a special school election, at which time the question whether or not the withdrawing school district shall withdraw from the regional district shall be submitted to the legal voters of the withdrawing district and to the legal voters within the remainder of the regional district.

4. Section 9 of P. L. 1975, c. 360 (C. 18A:13–59) is amended to read as follows:

C. 18A:13-59 Effective date of withdrawal.

9. If the question is adopted at said elections, the withdrawal of the district shall become effective upon a date to be determined by the commissioner of education.

5. Section 11 of P. L. 1975, c. 360 (C. 18A:13–61) is amended to read as follows:

C. 18A:13-61 Taking title to and control of grounds, buildings and furnishings by districts; assumption of indebtedness.

11. The withdrawing district and the remaining districts shall take title to and control of all school grounds and buildings, and the furnishings and equipment therein, other than those which had been rotated or shared among the regional schools, situated in their respective districts on the effective date of withdrawal as established by the commissioner. The county superintendent shall allot a fair proportion of the shared or rotated furnishings and equipment to the withdrawing district.

Upon the assumption of title, each board shall also assume such amount of the indebtedness of the original regional school district as shall have been determined by the board of review. The withdrawing district shall pay to the regional board of education, at least 5 days before it becomes due, the amount of the principal and interest of the assumed indebtedness; such principal and interest shall be paid by the regional board, together with such amount due on its assumed indebtedness, at and when it becomes due and payable.

6. The provisions of this act shall take effect immediately and shall be applicable to all decisions pending at the time of its enactment.

Approved November 1, 1977.

CHAPTER 280

AN ACT to amend the "Youth in Community Service Corps Act of 1968," approved June 26, 1968 (P. L. 1968, c. 125).

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

1. Section 4 of P. L. 1968, c. 125 (C. 9:24–4) is amended to read as follows:

C. 9:24-4 Definitions.

4. As used in this act, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

(a) The term "act" shall mean this act, any amendments or supplements thereto, and any rules or regulations promulgated thereunder.

(b) The term "commissioner" shall mean the Commissioner of Community Affairs.

(c) The term "community service project" shall mean any public or private, nonprofit agency, organization, corporation or association, including, without limitation, a municipal corporation, a major part of the activities of which are devoted to the advancement of the public health, education and welfare.

(d) The term "community work program sponsor" shall mean any county, municipality, school district, community action agency organized and operating pursuant to Subchapter II of Public Law 88-452 (the "Economic Opportunity Act of 1964") or public or private nonprofit agency, organization, corporation or association.

(e) The term "disadvantaged youth" shall mean those persons between 14 and 21 years of age from lower income families. Preference will be given to youths who are regularly enrolled in a full-time course of public instruction. Lower-income families are those families with annual incomes that do not exceed 1.75 times the poverty-level income standard defined by the United States Department of Labor as adjusted for family size.

2. Section 5 of P. L. 1968, c. 125 (C. 9:24–5) is amended to read as follows:

C. 9:24-5 Agreements with community work program sponsors authorized; application; contents; requirements for approval of grant; maximum period of employment; maximum amount of grant; report to commissioner.

5. (a) Upon proper application submitted to the commissioner by community work program sponsors, the commissioner is authorized to enter into agreements with, and to make grants of money to, such community work programs sponsors, for the purpose of establishing and maintaining the youth in community service corps consisting of disadvantaged youth assigned to community service projects. The application shall contain a description of the overall goals and objectives of the community service project and specific job titles and job descriptions of the various positions of employment for which a grant is sought, and contain such other information as the commissioner may deem necessary and useful.

(b) No application for a grant pursuant to this act shall be approved by the commissioner unless the commissioner shall find, in the exercise of his discretion, (1) that any community service

project to which disadvantaged youth have been or are to be assigned will contribute materially to the development of such disadvantaged youth and to the public health, safety and welfare, and (2) that the assignment of disadvantaged youth to a community service project pursuant to this act will not displace any other person employed by or at such community service project.

(c) No disadvantaged youth shall be employed or assigned pursuant to the provisions of this act for a period in excess of 10 weeks unless the commissioner shall find, in the exercise of his discretion, that a longer period is required or appropriate. No disadvantaged youth employed or assigned pursuant to this act shall be paid or receive compensation less than the applicable minimum wage. Any disadvantaged youth employed or assigned pursuant to the provisions of this act shall be deemed to be an employee of the community work program sponsor that submitted an application on his behalf to the commissioner, and all disadvantaged youth employed or assigned pursuant to the provisions of this act shall be so employed or assigned without regard to the provisions of Title 11 of the Revised Statutes where otherwise applicable.

(d) No grant of money by the commissioner to any community work program sponsor on behalf of any disadvantaged youth shall exceed the sum of $750.00 pro rata for each disadvantaged youth employed or assigned by said community work program sponsor.

(e) Each community work program sponsor shall submit to the commissioner within 60 days of the termination of each community service project for which a grant has been received a report on the accomplishment of the goals and objectives of the program and an audit of the project conducted by an independent certified public accountant according to regulations specified by the commissioner.

3. This act shall take effect immediately.

Approved November 2, 1977.

CHAPTER 281

AN ACT creating the State of New Jersey Cash Management Fund, amending P. L. 1970, c. 270, P. L. 1956, c. 174, P. L. 1970, c. 236, N. J. S. 40A:5–14, N. J. S. 18A:17–34, R. S. 40:23–9 and R. S. 40:48–10 and supplementing Title 52 of the Revised Statutes.

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

C. 52:18A-90.4 State of New Jersey cash management fund; establishment; custodian of fund; administration; investments; accounting services and records.

1. (New section) Notwithstanding the provisions of section 2 of P. L. 1970, c. 270 (C. 52:18A–90.2), the Director of the Division of Investment may, subject to the approval of the State Investment Council and the State Treasurer, establish, maintain and operate a common trust fund to be known as the State of New Jersey Cash Management Fund in which may be deposited the surplus public moneys of the State, its counties, municipalities and school districts and the agencies or authorities created by any of these entities. This fund shall be considered a legal despository for public moneys and shall satisfy the requirements in that regard of section 1 of P. L. 1956, c. 174 (C. 52:18–16.1) and N. J. S. 40A:5–14.

The State Treasurer shall be the custodian of the fund and may receive public moneys paid into the fund by any other custodian of public moneys for the purpose of holding and investing said moneys. In that capacity, he may enter into an agreement with a bank or trust company having its place of business within the State and organized under the laws of the United States or of this State, as he may select, for the custodianship of securities held in the fund and for recording the amounts deposited and withdrawn by each participant, the investment transactions entered into, and the balance to each participant's credit each day. The Treasurer may promulgate such rules and regulations pursuant to the Administrative Procedure Act, P. L. 1968, c. 410 (C. 52:14B–1 et seq.), as he deems necessary for the efficient administration of the State of New Jersey Cash Management Fund, including but not limited to, (1) the specification of minimum amounts which may be deposited in the fund and minimum periods of time for which deposits shall be retained in the fund; (2) creation of a reserve for losses; (3) provision for payment of administration expenses from its earnings; and (4) distribution of the earnings in excess of such expenses or allocation of losses to the several participants in a manner which equitably reflects the differing amounts of their respective investments and the differing periods of time for which such amounts were in the custody of the fund.

The Director of the Division of Investment may invest the public moneys constituting the State of New Jersey Cash Management

Fund in the same types of investments and subject to the same limitations provided for the investment of funds in the State Treasury. The director shall be responsible for the adequacy of the accounting services provided by the custodian bank and shall maintain such accounting records as may be required for that purpose.

2. Section 1 of P. L. 1970, c. 270 (C. 52:18A–90.1) is amended to read as follows:

C. 52:18A-90.1 Common trust funds authorized.

1. Notwithstanding any statute or rule of law to the contrary, the Director of the Division of Investment may, subject to the approval of the State Investment Council and the State Treasurer, establish, maintain and operate one or more common trust funds, in which may be combined for the purpose of investment, money and property belonging to the various funds in the custody of the State Treasurer; provided, however, that there shall not be combined in any common trust fund, excepting the State of New Jersey Cash Management Fund established pursuant to section 1 of this amendatory and supplementary act, moneys and property of any fund the income of which inures to the benefit of the General State Fund and money and property of any fund the income of which inures to the benefit of said fund.

3. Section 1 of P. L. 1956, c. 174 (C. 52:18–16.1) is amended to read as follows:

C. 52:18-16.1 State treasurer to deposit moneys; interest credited; time accounts without interest; deposit of security by bank.

1. The State Treasurer shall, except as otherwise provided, deposit to his credit as treasurer all public moneys coming into his hands, within 3 days after receiving the same, in such of the national banks located in this State, in institutions authorized by this State to carry on a banking business, and in the State of New Jersey Cash Management Fund established pursuant to section 1 of this amendatory and supplementary act as he may select, that will allow interest on all balances. All interest so earned shall be credited to the State. When in the judgment of the State Treasurer it is not compatible with the working capital requirements of the State or with public safety to deposit public moneys or portion thereof, upon interest bearing terms, as heretofore provided in this section, the State Treasurer may deposit the same without interest or open time accounts with interest subject to withdrawal upon notice, conforming with Federal laws and regulations gov-

erning the same, in such of the national banks located in this State and institutions authorized by this State to carry on a banking business as he may select, until such a condition has, in his judgment, ceased to exist.

In all cases where a deposit is made in a national bank located in this State or institution authorized by this State to carry on a banking business, pursuant to this section, the State Treasurer shall require from any such institution a deposit of bonds, notes, certificates of indebtedness or bills or other obligations of or guaranteed by the United States; or bonds or other obligations of or guaranteed by the State of New Jersey; or any other obligations now or hereafter authorized by law as security for public deposits; designed to secure any deposit made pursuant to this section; provided, that such requirement shall be deemed to be met if the Federal Reserve Bank of New York or the Federal Reserve Bank of Philadelphia or any other banking institution with total assets in excess of $300,000,000.00 located within the Second or Third Federal Reserve Districts and approved for such purpose by the State Treasurer certifies to the State Treasurer that, pursuant to authority given by the depository, it holds obligations, owned by the depository, of the kind and in the amount required by the State Treasurer to secure any such deposit. No bank shall be permitted to hold securities of the kind hereinbefore described, as security for public moneys on deposit in the same bank.

4. N. J. S. 40A:5–14 is amended to read as follows:

Legal depositories for public moneys.

40A:5–14. The governing body shall, by resolution passed by a majority vote of the full membership thereof, designate as a depository for its moneys a bank or trust company having its place of business in this State and organized under the laws of the United States or of this State or the State of New Jersey Cash Management Fund established pursuant to section 1 of this amendatory and supplementary act, or any combination thereof.

The official charged with the custody of such moneys shall deposit them in the depository or depositories designated by the governing body and shall thereafter be relieved of any liability or loss of such moneys due to the insolvency or closing of the depository or depositories.

5. Section 1 of P. L. 1970, c. 236 (C. 17:9–41) is amended to read as follows:

C. 17:9-41 Definitions.

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

"Association" means any State or Federally chartered savings and loan association;

"Capital funds" means (a) in the case of a State bank or national bank the aggregate of the capital stock, surplus and undivided profits of the bank; (b) in the case of a savings bank the aggregate of the capital deposits, if any, and the surplus of the savings bank; and (c) in the case of an association, the aggregate of all reserves required by any law or regulations, and the undivided profits, if any, of the association;

"Commissioner" means the Commissioner of Banking;

"Defaulting depository" means a public depository as to which an event of default has occurred;

"Eligible collateral" means obligations of or guaranteed by the United States, obligations of or guaranteed by the State of New Jersey, obligations of governmental units, including, but not limited to, capital notes, bond anticipation notes, tax anticipation notes and temporary notes or loan bonds, (mortgages insured or guaranteed by the United States of America or an instrumentality thereof as to payment of principal and interest to the extent of such insurance or guarantee), and any other obligations now or hereafter authorized by law as security for public deposits;

"Event of default" means issuance of an order of a supervisory authority or of a receiver restraining a public depository from making payments of deposit liabilities;

"Governmental unit" means any county, municipality, school district or any public body corporate and politic created or established under any law of this State by or on behalf of any one or more counties or municipalities, or any board, commission, department or agency of any of the foregoing having custody of funds;

"Maximum liability" of a public depository means, with respect to any event of default, a sum equal to 5% of the average daily balance of collected public funds held on deposit by the depository during the 6-month period ending on the last day of the month next preceding the occurrence of such event of default;

"Net deposit liability" means the deposit liability of a defaulting depository to a governmental unit after deduction of any deposit insurance with respect thereto;

"Public depository" means a state bank, a national bank, a savings bank or an association located in this State, the deposits of

which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, and which receives or holds public funds on deposit;

"Public funds" means the fund of any governmental unit, but does not include deposits held by the State of New Jersey Cash Management Fund;

"Valuation date" means December 31 and June 30.

6. R. S. 40:23–9 is amended to read as follows:

Depositories for moneys.

40:23–9. The governing body of any county may direct by resolution that all moneys belonging to the county, except such as may be subject to the control of a body or commission other than the board of chosen freeholders, may be deposited in depositories selected by it, which shall include the State of New Jersey Cash Management Fund, created pursuant to section 1 of this amendatory and supplementary act, to the credit and in the name of the governing body.

7. R. S. 40:48–10 is amended to read as follows:

All money paid to treasurer; deposited.

40:48–10. All money paid to treasurer; deposited. All money received from any source by or on behalf of any municipality, or by any board or department thereof, shall be paid to the treasurer or other office charged with the custody of the general funds of the municipality, who shall deposit all such receipts within 48 hours after the receipt thereof to the credit of the municipality in any bank or trust company of the State, any national bank doing business in the State, or the State of New Jersey Cash Management Fund created pursuant to section 1 of this amendatory and supplementary act, to the credit and in the name of the board.

8. N. J. S. 18A:17–34 is amended to read as follows:

Receipt and disposition of moneys.

18A:17–34. The custodian shall receive and hold in trust all school moneys belonging to the district from whatever source derived free of any control by the governing body of any municipality comprised in said district, except such moneys as are derived from athletic events or other activities of pupil organizations of the district, and he shall, when required by resolution of the board, deposit the same or such part thereof as may be designated in any bank or banking institution of this State designated by it as a depository of school moneys, which may include the State

of New Jersey Cash Management Fund, created pursuant to section 1 of this amendatory and supplementary act, and thereafter school moneys shall be deposited only in the depository or any of the depositories so named and the custodian shall, upon depositing the same therein, be relieved from liability for any loss thereof which may be caused by reason of such deposit.

9. This act shall take effect immediately.

Approved November 2, 1977.

CHAPTER 282

AN ACT concerning marriages and supplementing chapter 1 of Title 37 of the Revised Statutes.

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

C. 37:1-27 Test for genetic diseases; distribution of information to applicants.

1. A licensing officer or other person issuing marriage licenses shall make information available to applicants concerning places where such applicants may be tested for genetic diseases including, but not limited to Cooley's Anemia, Sickle Cell Anemia, and Tay-Sachs Disease. Literature containing such information which has been prepared and provided by private organizations may be distributed to applicants by a licensing officer or other person issuing marriage licenses.

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

Approved November 2, 1977.

CHAPTER 283

AN ACT concerning the taxation of real property withdrawn from railroad use in municipalities of this State, and amending P. L. 1966, c. 139.

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

1. Section 21 of P. L. 1966, c. 139 (C. 54:29A–24.3) is amended to read as follows:

C. 54:29A-24.3 Appropriation and payment of State aid; amount; adjustments.

21. State aid shall be appropriated and paid annually to each municipality in which railroad property is located in an amount equal to base tax revenue, subject to the following adjustments, except that no State aid shall be appropriated or paid to any municipality where the base tax revenue, as adjusted, is less than $1,000.00:

(a) If additional Class II property, as defined in this act, in a municipality is placed in railroad use after the base year, the base tax revenue shall be increased by an amount equal to the product of the assessed value of such additional property as of the base year times the base tax rate.

(b) If any real property in a municipality is withdrawn from railroad use after the base year, the base tax revenue shall be reduced by an amount equal to the product of the assessed value of such property in the base year times the base tax rate; provided, however, that such reduction shall not become effective for 2 tax years following the year of the initial notification to the municipality by the Director of the Division of Taxation that such real property is withdrawn from railroad use, or until such property is sold or conveyed for other than railroad use, whichever comes sooner, during which time such property shall remain taxable under the act to which this act is amendatory.

(c) For the year 1967 the amount of State aid payable to each municipality shall be increased by an amount equal to the difference between the railroad tax revenue derived by such municipality for the year 1965 and the base tax revenue for such municipality. For each year thereafter, such increase shall be reduced by 10% until such time as the aforesaid difference is eliminated; provided, however, if any real property in a municipality is placed in or withdrawn from railroad use after 1967, the annual increase provided in this subsection (c) shall be adjusted to reflect any such additions or withdrawals.

(d) The authorities of any taxing district desiring to contest the validity or amount of the assessment on any such additions or withdrawals may appeal to the Division of Tax Appeals in the manner provided in sections 31 and 32 of the act of which this act is amendatory and supplementary.

2. This act shall take effect immediately and shall be retroactive to January 1, 1977.

Approved November 2, 1977.

CHAPTER 284

AN ACT to amend and supplement "An act to provide for exemption from taxation in certain cases, and supplementing chapter 4 of Title 54 of the Revised Statutes," approved May 29, 1975 (P. L. 1975, c. 104), amending P. L. 1975, c. 283 and making an appropriation.

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

1. Section 1 of P. L. 1975, c. 104 (C. 54:4–3.72) is amended to read as follows:

C. 54:4-3.72 Legislature's findings.

1. The Legislature finds:

a. Efforts are being made by many of our municipalities as well as by the State and Federal Government to encourage owners, particularly, of residential properties to rehabilitate their properties and thereby curb the deterioration of residential neighborhoods.

b. As a result of the decline of such neighborhoods, many of our municipalities have and are presently engaged in extensive urban renewal and urban redevelopment projects involving vast expenditures of public funds.

c. The deterioration of neighborhoods making such renewal and redevelopment projects necessary is the result in some measure of the unwillingness of the owners and investors of residential properties to properly maintain and improve their properties out of fear of the resulting increase in property taxes.

d. By exempting for a limited period certain home improvements from taxation much of this unwillingness and fear would not only be dissipated but such owners and investors would be encouraged to rehabilitate and improve their properties and, incidentally, their respective neighborhoods and municipalities.

2. Section 2 of P. L. 1975, c. 104 (C. 54:4–3.73) is amended to read as follows:

C. 54:4-3.73 Definitions.

2. As used in this act:

a. "Assessor" means the assessor, board of assessors or any

other official or body of a taxing district charged with the duty of assessing real property for the purpose of general taxation.

b. "Completion" means substantially ready for the use for which it was intended.

c. "Dwelling" means any building or part of a building used, to be used or held for use as a home or residence, including accessory buildings located on the same premises, together with the land upon which such building or buildings are erected and which may be necessary for the fair enjoyment thereof.

d. "Home Improvement" means the improvement of a dwelling which does not change its permitted use, and shall include the modernization, rehabilitation, renovation, alteration or repair of a dwelling.

e. "Qualified municipality" means any municipality in which residential neighborhoods have been declared by the county planning board or the Commissioner of the Department of Community Affairs to be in need of rehabilitation pursuant to section 3 of this act.

3. Section 3 of P. L. 1975, c. 104 (C. 54:4–3.74) is amended to read as follows:

C. 54:4-3.74 Determination of residential neighborhoods in need of rehabilitation.

3. The county planning board may determine that a municipality's residential neighborhoods are in need of rehabilitation. It may make such a determination on its own initiative or in response to a petition by the governing body of the municipality. In the event of the failure of the county planning board to respond favorably to such a petition within 30 days of its receipt, the petitioning municipal governing body may request the Commissioner of the Department of Community Affairs to make such determination instead.

In determining that a municipality's residential neighborhoods are in need of rehabilitation, the following may be considered: existence of areas within the municipality that have previously been declared blighted; deterioration in housing maintenance; age of housing stock; and arrearage in real property taxes due on residential properties.

4. Section 4 of P. L. 1975, c. 104 (C. 54:4–3.75) is amended to read as follows:

C. 54:4-3.75 Determination of value of real property; home improvement deduction; limitations.

4. In determining the value of real property for the purposes of taxation, qualified municipalities, after passage by the municipal governing body of a general ordinance providing for such abatements either throughout the municipality or in designated residential neighborhoods to be specified in such ordinance, may regard the first $4,000.00 or $10,000.00, as may be specified by general ordinance, in assessor's full and true value of home improvements for each dwelling unit primarily and directly affected by a home improvement in any single or multiple-dwelling property more than 20 years old, as not increasing the value of such property for a period of 5 years, notwithstanding that the value of the dwelling to which such improvements are made is increased thereby, provided, however, that during said period, the assessment on such dwelling shall in no case, except that of damage through action of the elements sufficient to warrant a reduction, be less than the assessment thereon existing immediately prior to such home improvements.

5. Section 5 of P. L. 1975, c. 104 (C. 54:4–3.76) is amended to read as follows:

C. 54:4-3.76 Deductible amounts.

5. Such amounts may be deducted from the amount determined by the assessor on October 1 of any year following the date of the completion of the improvement to be the true taxable value of the improvement, and shall continue to be so treated for each of the 5 tax years subsequent to the original determination by the assessor.

6. Section 3 of P. L. 1975, c. 283 (C. 54:4–3.79) is amended to read as follows:

C. 54:4-3.79 Determination of standards and guidelines; rules and regulations.

3. The Commissioner of the Department of Community Affairs is authorized to determine standards and guidelines and to promulgate rules and regulations to effectuate the purposes of this act.

C. 54:4-3.79a Notice for taxpayers.

7. (New section) The Department of Community Affairs shall prepare, in sufficient quantity for distribution to residential property owners in municipalities electing to offer abatements pursuant to this act, a notice for taxpayers describing the abatement program and the application procedure therefore. Any qualified municipality which has adopted a general ordinance providing for

abatements pursuant to this act shall include said notice in the mailing of annual property tax bills to each owner of residential property, including multi-family housing, in the municipality during the first year following adoption of said ordinance or, for municipalities which adopted such an ordinance prior to the effective date of this amendatory and supplementary act, during the first year following the effective date of said act.

C. 54:4-3.79b Amendment to ordinance.

8. (New section) Any municipality which has adopted an ordinance pursuant to this act declaring neighborhoods "endangered by blight" may proceed, on the initiative of the governing body, to amend such ordinance declaring neighborhoods to be "in need of rehabilitation", provided, however, that any abatement granted and in force shall not be discontinued by virtue of such amended ordinance.

9. There is hereby appropriated to the Department of Community Affairs from the General State Fund the sum of $7,000.00 for the purposes of section 7 of this act.

10. This act shall take effect immediately.

Approved November 4, 1977.

CHAPTER 285

AN ACT to amend and supplement "An act pertaining to certain professional boards and commissions and repealing R. S. 45:1–2," approved March 25, 1971 (P. L. 1971, c. 60).

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

1. Section 2 of P. L. 1971, c. 60 (C. 45:1–2.2) is amended to read as follows:

C. 45:1-2.2 Appointment of members; public members; terms; vacancies; conflict of interest; member from department in executive branch; quorum; vote necessary for action.

2. a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor

shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.

b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: The New Jersey State Board of Certified Public Accountants, the New Jersey State Board of Architects, the State Board of Barber Examiners, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, The State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, and the X-ray Technician Board of Examiners and one additional public member to each of the following boards: the Board of Beauty Culture Control, the Board of Examiners of Electrical Contractors, the State Board of Marriage Counselor Examiners and the State Board of Examiners of Master Plumbers. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process, provided however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.

d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

C. 45:1-2.5 Compensation and reimbursement of expenses of members; executive secretaries; compensation and terms; offices and meeting places.

2. (New section) With respect to the boards or commissions designated in section 1 of P. L. 1971, c. 60 (C. 45:1–2.1) and notwithstanding the provisions of any other law:

a. The officers and members shall serve without compensation but shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties.

b. The executive secretary shall receive such salary as shall be determined by the appointing authority within the limits of available appropriations and shall serve at its pleasure. Any such executive secretary who holds a certificate, license or registration issued by the board or commission by which he is employed shall not during such employment be permitted to engage in any profession or occupation regulated by the board or commission.

c. The head of the department to which such board or commission is assigned shall maintain within any public building, whether

owned or leased by the State, suitable quarters for the board's or commission's office and meeting place, provided that no such office or meeting place shall be within premises owned or occupied by an officer or member of such board or commission.

C. 45:1-2.6 Tenure, civil service and pension rights.

3. (New section) Nothing in this act shall deprive any person of any tenure rights or of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service, or any pension law or retirement system.

4. This act shall take effect immediately; provided, however, that section 2a shall take effect June 1, 1980.

Approved November 12, 1977.

CHAPTER 286

AN ACT to amend the "General Public Assistance Law," approved May 13, 1947 (P. L. 1947, c. 156).

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

1. Section 2 of P. L. 1947, c. 156 (C. 44:8–108) is amended to read as follows:

C. 44:8-108 Definitions.

2. As used in this act:

"Commissioner" means the Commissioner of the Department of Human Services;

"Department" means the Department of Human Services;

"Employable person" means any person applying for or receiving public assistance under this act who is not unable to perform work due to physical or mental disability as such terms shall be defined in regulations established by the commissioner;

"Municipality" shall include any city, borough, township, town, village or municipality governed by a board of commissioners or an improvement commission;

"Public assistance" means assistance rendered to needy persons not otherwise provided for under the laws of this State, where such persons are willing to work but are unable to secure employ-

ment due either to physical or mental disability or inability to find employment, and includes what is commonly called "relief" or "emergency relief";

"State aid" means State aid for public assistance or relief as in this act prescribed and provided for;

"Unemployable person" means any person applying for or receiving public assistance who is not an employable person as defined by the commissioner;

"Year" means calendar year.

2. Section 3 of P. L. 1947, c. 156 (C. 44:8–109) is amended to read as follows:

C. 44:8-109 Declaration of policy.

3. It is hereby declared to be the public policy of this State that every needy person shall, while in this State, be entitled to receive such public assistance as may be appropriate with reference to need of a category of persons and whether or not such persons are employable, and that the furnishing of such public assistance is primarily the duty of the municipalities and of civic and charitable organizations but that all needy persons not otherwise provided for under the laws of this State shall hereafter receive public assistance pursuant to law and the provisions of this act.

It is also the public policy of this State that there are two distinct categories of persons who may be eligible for financial assistance in accordance with the provisions of this act, those who are employable and those who are unemployable, as those terms are defined in section 2 of this act (C. 44:8–108). The commissioner may set differing levels of assistance for these categories.

3. Section 8 of P. L. 1947, c. 156 (C. 44:8–114) is amended to read as follows:

C. 44:8-114 Municipalities to provide public assistance to eligible persons; requirement to perform public work; establishment of public work program; approval of projects; selection and assignment of persons to projects; number of hours employed; payment of public assistance grant; refusal to work; ineligibility; exceptions.

8. Every municipality shall provide public assistance to the persons eligible thereto, residing therein or otherwise when so provided by law, which shall be administered by a local assistance board according to law and in accordance with this act and with such rules and regulations as may be promulgated by the commissioner.

As hereinafter provided, employable persons receiving public assistance shall be required, except when good cause exists, to

perform such public work as shall be assigned to them by the New Jersey Employment Service.

The New Jersey Employment Service shall provide for the establishment of public work programs for the assignment of employable persons in receipt of public assistance to perform work for the municipality providing public assistance. Public work projects may include the performance of work in the operation of or in an activity of a nonprofit agency or institution pursuant to a contract with the municipality. Public work projects shall be approved by the Commissioner of the Department of Labor and Industry. No municipality or nonprofit agency or institution which has contracted with a municipality pursuant to this section shall be liable, except for gross negligence, for any injury received by a recipient while performing work required by this act, provided that such work is supervised by a State representative. Such liability shall be assumed by the State pursuant to the "New Jersey Tort Claims Act" (P. L. 1972, c. 45).

The director of welfare in the municipality shall notify the New Jersey Employment Service of such employable persons in receipt of public assistance who, in accordance with the regulations established by the commissioner, are able to perform the work required in a public work project. The New Jersey Employment Service shall assign such persons to perform work in a public work project provided that such work is available, and provided further that it is satisfied that such persons will not be used to replace, or to perform any work ordinarily and actually performed by regular employees of any department or unit of such municipality.

In assigning persons to public work projects operated by a nonprofit agency or institution, the New Jersey Employment Service shall also be satisfied that such assignment will not result in the displacement of regular employees of the agency or institution or in the performance of work that is ordinarily and actually performed by such regular employees.

Persons shall be assigned to perform only such work as they are able to perform, in accordance with regulations established by the Commissioner of Labor and Industry.

Persons performing such work assigned by the New Jersey Employment Service shall work only the number of hours equal to the amount of their grant divided by an hourly wage rate commensurate with other employees similarly employed. Performance of such work shall result in payment to the person of his public assistance grant.

Any person who refuses without good cause to report for or to perform work to which he has been assigned by the New Jersey Employment Service, shall thereupon become ineligible for public assistance until he reports for and performs work to which he has been assigned or shows his willingness to do so according to regulations established by the Commissioner of Human Services in consultation with the Commissioner of Labor and Industry.

Good cause for refusal to report for or to perform work shall include, but shall not be limited to: working conditions which are a substantial risk to health and safety; physicial inability to engage in a particular type of work; or lack of a reasonable means of transportation.

4. Sections 1 and 3 of this act shall take effect on the first day of the fourth month following its enactment. Section 2 shall take effect immediately.

Approved November 30, 1977.

CHAPTER 287

AN ACT authorizing the conveyance of certain lands by the township of Dover in the county of Ocean to Earl Hand and Frances Mae Hand, his wife.

WHEREAS, The present title of Earl Hand and Frances Mae Hand to Lots 8, 9 and 10 in Tax Block 752-1 of the Tax Map of the Township of Dover has been called into question due to certain discrepancies which exist between earlier versions of the Tax Map of the Township of Dover; and

WHEREAS, The title defect as to said Lots 8, 9 and 10 occurring by reason of said discrepancies in the earlier versions of the Tax Map of the Township of Dover can be corrected by a conveyance by quitclaim deed by the Township of Dover to Earl Hand and Frances Mae Hand, his wife; and

WHEREAS, The Township Committee of the Township of Dover by resolution adopted by the committee on December 28, 1976, expressed its willingness to make said conveyance by quitclaim deed subject to obtaining authority therefor by a special law passed by the Legislature, and further, by said resolution, ex-

pressed its support for the adoption of such special legislation by the Legislature; now, therefore,

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

1. The Township of Dover, County of Ocean and State of New Jersey, is hereby authorized at private sale and for a nominal consideration to convey to Earl Hand and Frances Mae Hand by quitclaim deed any right, title or interest it may have in or to Lots 8, 9 and 10 as shown in Tax Block 752-1 of the Tax Map of the Township of Dover.

2. This act shall take effect immediately.

Approved November 30, 1977.

CHAPTER 288

AN ACT concerning the recording, translating and certifying of certain foreign birth certificates, and amending P. L. 1957, c. 154.

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

1. Section 1 of P. L. 1957, c. 154 (C. 26:8–40.10) is amended to read as follows:

C. 26:8-40.10 Recording birth certificate of child born or adopted outside of the United States.

1. The birth of any child which has occurred or which may hereafter occur outside of the United States, where such child is a citizen of the United States by reason of the citizenship of a parent or the parents of such child, and which is not recorded with the State registrar under the provisions of chapter 8 of Title 26 of the Revised Statutes, may be recorded by filing a certificate of the birth of such child issued by a public official of the place where such child was born, accompanied by an affidavit setting forth the facts showing such citizenship and, in the case of a child adopted outside of the United States, the decree or certificate of adoption of such child, which affidavit and decree or certificate shall be a part of the record of the birth. In case any such foreign birth certificate is or shall be in a foreign language, there shall be attached to

it the translation into the English language of the same, verified by the affidavit of the person making the translation. Any such birth certificate may be recorded as herein provided upon the request of a parent of such child or by any person on behalf of such child where the child is or shall become a resident of this State. The State registrar shall, upon the request of a parent of any such child who is adopted outside of the United States or the request of any person on behalf of such child, issue a new certificate of birth for such child, showing (a) the name of such child as changed by the decree or certificate of adoption, if changed, (b) the date and place of birth, (c) the names of the adopting parents or parent, and (d) the date of recording of the foreign birth certificate.

2. This act shall take effect immediately.

Approved November 30, 1977.

CHAPTER 289

AN ACT to assist public general hospitals in the provision of quality medical care unreimbursed by other sources, supplementing Title 30 of the Revised Statutes and making an appropriation.

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

C. 30:9-12.29 Short title.

1. This act shall be known as the "Public General Hospital Assistance Act."

C. 30:9-12.30 Legislature's findings.

2. The Legislature hereby finds that:

a. Certain public general hospitals in this State provide essential health care and special services not provided by any other health care facility available to the whole population.

b. Provision of such necessary care without adequate compensation places a severe strain on hospital budgets, limiting expenditures for improved operating efficiencies, and increasing the cost of borrowed funds.

c. The primary responsibility for providing essential health care services for those who cannot afford it rests with State and local government.

d. A small number of public general hospitals in the State bear a disproportionate share of providing medical and health care facilities or of providing services for indigent patients.

e. Effective hospital management requires that the nature and level of any assistance be known before budgeting and capital planning decisions are made.

C. 30:9-12.31 Definitions.

3. As used in this act:

a. "Nonthird party patient" means a hospital in-patient receiving acute care whose hospital expenses are not paid primarily by a third-party payor, and who is a resident of this State.

b. "Third-party payor" means an insurance company, medical insurance plan, health and welfare plan, or governmental medical assistance program which has assumed primary responsibility for the hospital expenses of a hospital in-patient.

c. "Hospital" means any public general hospital maintained pursuant to P. L. 1947, c. 34, s. 1 (C. 30:9–12.1) and R. S. 30:9–13 by a county or municipality and operated and licensed by the State as a general acute care facility, as defined by Department of Health licensure standards, but shall not include any hospital owned and operated by the State.

d. "Commissioner" means the Commissioner of the Department of Health.

e. "Capital expenditure" means an expenditure for an improvement or purpose having a period of usefulness of 3 years or more.

C. 30:9-12.32 Information submitted to commissioner.

4. From time to time, as determined by the commissioner, but not less than quarterly, each hospital seeking assistance under this act shall submit to the commissioner the following information:

a. The total number of patient-days of in-patient service provided by the hospital to all patients;

b. The number of patient-days of in-patient service provided by the hospital to nonthird party patients;

c. Such information as the commissioner may require in order to determine that health care and services provided by the hospital to nonthird party patients are reasonable and necessary;

d. Such information as the commissioner may require in order to determine that the hospital is making its best efforts to collect

accounts receivable from nonthird party patients, who are not medically indigent as defined by the commissioner;

e. Such information as the commissioner may require in order to determine that charges imposed upon nonthird party patients by the hospital do not exceed the reasonable cost of health care services provided; and

f. Such information as the commissioner may require in order to determine that charges imposed upon nonthird party patients are proportional to such patients' ability to pay.

C. 30:9-12.33 Commissioner's determination; authorization to enter into contracts; schedule; contents of contracts.

5. a. The commissioner shall determine whether:

(1) The calculation by the hospital of total patient-days and nonthird party patient-days is accurate;

(2) The medical and hospital care and services provided nonthird party patients are reasonable and necessary;

(3) The hospital is making its best efforts to collect accounts receivable from nonthird party patients who are not medically indigent as defined by the commissioner;

(4) The charges imposed upon nonthird party patients by the hospital do not exceed the reasonable cost of health care services provided; and

(5) The charges imposed upon nonthird party patients are proportional to such patients' ability to pay;

b. Upon determination that all of the conditions in subsection a. have been satisfied, the commissioner is authorized to enter into contracts with public general hospitals, together with the municipality or county by which the hospital is maintained or operated, according to the following schedule:

(1) Where the number of nonthird party patient days is less than 10% of the total number of patient days actually provided by the hospital, no payment shall be made; and

(2) Where the number of nonthird party patient days exceeds 10% of the total number of patient days actually provided by the hospital, payment shall be made under one of the following formulas:

(a) Where the Medicaid reimbursement for the hospital is based on a per diem rate system, payment shall be made at the rate of 100% of the final current Medicaid per diem rate for all nonthird party patient days in excess of 3% of such total.

(b) Where the Medicaid reimbursement for the hospital is based on a system other than a per diem rate, payment shall be made at the rate of 100% of the total costs of services rendered, calculated at the Medicaid rate, to nonthird party patients, multiplied by the ratio of the percentage of nonthird party patient days, of the total number of actual patient days, minus 3% to the percentage of nonthird party patient days, of the total number of patient days.

c. Such contracts shall provide that:

(i) The hospital receiving assistance agrees to an annual audit of all expenditures by the hospital, according to procedures established by the commissioner in consultation with the State Treasurer;

(ii) The hospital receiving assistance agrees to cooperate fully in any review by the commissioner or his designee of operating procedures on management.

d. Such contracts may provide that:

(i) Certain services provided by the hospital be maintained, increased, modified, or continued; provided, however, that no additions or modifications may be imposed if the effect of such additions or modifications would be to increase the total cost of uncompensated services provided by the hospital;

(ii) Specific changes in management or operating procedures, which the commissioner has determined will improve efficiency, be implemented; and

(iii) The municipality or county by which the hospital is maintained issue or cause to be issued bonds in order to provide capital improvements to increase operating efficiency. No such provisions, however, shall be construed to require such an issue unless such an issue is authorized by law.

e. The commissioner shall promptly negotiate all necessary contracts in order that the purposes of this act may be fulfilled to provide assistance to qualifying public general hospitals.

C. 30:9-12.34 Board of managers of institutions receiving funds; appointments by Governor; appointment of county or municipal representatives.

6. Notwithstanding the provisions of P. L. 1947, c. 34, s. 2 (C. 30:9–12.2) and R. S. 30:9–14, the Governor shall appoint two individuals to serve as representatives of this State on the board of managers of any institution receiving funds pursuant to the provisions of this act, and the appointing authority pursuant to the provisions of said P. L. 1947, c. 34, s. 2 (C. 30:9–12.2) and of

R. S. 30:9–14 shall appoint two members to serve as representatives of the municipality or the county on the board of managers of such an institution. Such four additional members shall be in addition to and shall have the same powers and duties as the seven members appointed pursuant to P. L. 1947, c. 34, s. 2 and the 12 members appointed pursuant to R. S. 30:9–14, and shall serve during each State fiscal year in which funds are appropriated pursuant to this act and during the fiscal year next following such appropriation.

C. 30:9-12.35 Commissioner's powers and duties.

7. The commissioner is directed to enter into contracts and to make payments subject to available appropriations and is empowered to issue all necessary rules, regulations, and administrative orders, and to do or cause to be done all things necessary to implement and administer this act.

8. Any appropriation for the support of any hospital made during the State fiscal year in which this bill is enacted shall be deducted from the amount of assistance authorized by this act to such hospital.

9. There is hereby appropriated to the Department of Health the sum of $9,985,190.00 to effect the purpose of this act.

10. This act shall take effect immediately, and shall apply to provide assistance for services performed after June 30, 1977.

Approved December 1, 1977.

CHAPTER 290

AN ACT concerning education and supplementing Title 18A of the New Jersey Statutes.

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

C. 18A:54-10.1 Entering into contracts with private vocational schools.

1. For the purpose of providing vocational education courses on an individual or group basis, boards of education may, according to rules prescribed by the commissioner and approved by the State board, enter into contracts with private vocational schools when such courses cannot be provided by the county or regional

vocational schools or other school districts or a private vocational school can provide substantially equivalent training at a lesser cost. Each private vocational school shall hold a current license or certificate of approval issued by the State Board of Education or other appropriate State board or agency and shall be approved for the purposes of this act by the Commissioner of Education. Such license or certificate of approval must have been held by the private vocational school for at least 2 consecutive years immediately preceding execution of the contract.

C. 18A:54-10.2 Rules.

2. The rules prescribed pursuant to section 1 of this act shall include, but shall not be limited to, teacher qualifications, maximum class size, facilities and safety.

C. 18A:54-10.3 Inspection of records.

3. Each private vocational school entering into a contract pursuant to section 1 of this act shall make its records available for inspection by the commissioner or his designated representative.

C. 18A:54-10.4 Applicability of Federal and State laws and regulations; approval of contracts by commissioner.

4. Any contract entered into shall be in accordance with applicable Federal and State laws and regulations. The commissioner shall approve in writing all such contracts prior to their execution.

5. This act shall take effect immediately.

Approved December 6, 1977.

CHAPTER 291

AN ACT to amend the "county improvement authorities law," approved January 18, 1961 (P. L. 1960, c. 183).

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

1. Section 12 of P. L. 1960, c. 183 (C. 40:37A–55) is amended to read as follows:

C. 40:37A-55 Authority body politic and corporate; additional powers.

12. Every authority shall be a public body politic and corporate constituting a political subdivision of the State established as an

instrumentality exercising public and essential governmental functions to provide for the public convenience, benefit and welfare and shall have perpetual succession and, for the effectuation of its purposes, have the following additional powers:

(a) To adopt and have a common seal and to alter the same at pleasure;

(b) To sue and be sued;

(c) To acquire, hold, use and dispose of its facility charges and other revenues and other moneys;

(d) To acquire, rent, hold, use and dispose of other personal property for the purposes of the authority;

(e) Subject to the provisions of section 26 of this act, to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements or interests therein necessary or useful and convenient for the purposes of the authority, whether subject to mortgages, deeds of trust or other liens or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the authority;

(f) Subject to the provisions of section 13 of this act, to lease to any governmental unit or person, all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(g) Subject to the provisions of section 13 of this act, to make agreements of any kind with any governmental unit or person for the use or operation of all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(h) To borrow money and issue negotiable bonds or notes or other obligations and provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;

(i) To apply for and to accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the authority from any governmental unit or person, and to make and perform agreements and contracts and to do any and all things necessary or useful and convenient in connection with the procuring, acceptance or disposition of such gifts or grants;

(j) To determine the location, type and character of any public facility and all other matters in connection with all or any part of any public facility which it is authorized to own, construct, establish, effectuate or control;

(k) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of any public facility, and to amend the same;

(l) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contracts with any governmental unit or person;

(m) To acquire, purchase, construct, lease, operate, maintain and undertake any project and to fix and collect facility charges for the use thereof;

(n) To mortgage, pledge or assign or otherwise encumber all or any portion of its revenues and other income, real and personal property, project and facilities for the purpose of securing its bonds, notes and other obligations or otherwise in furtherance of the purpose of this act; and

(o) 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 authority or to carry out any power expressly given in this act subject to P. L. 1971, c. 198 "Local Public Contracts Law" (C. 40A:11–1 et seq.).

2. Section 17 of P. L. 1960, c. 183 (C. 40:37A–60) is amended to read as follows:

C. 40:37A-60 Power to issue bonds; purpose; authorization; pledge of contributions, revenue or property.

17. Upon adoption of a bond resolution, an authority shall have power to issue its bonds for the purpose of financing the project or of funding or refunding the bonds described therein. Such bonds shall be authorized by the bond resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times not exceeding 40 years from the date thereof, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the State, and be subject to such terms of redemption (with or without premium) as the bond resolution may provide. The authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable (a) exclusively

from the income and revenues of the project financed with the proceeds of such bonds; (b) exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or in part with the proceeds of such bonds; or (c) from its revenues generally. Any such bonds may be additionally secured by a pledge of any grant or contributions from any governmental unit or person or a pledge of any income or revenues of the authority from any source whatsoever, or by a mortgage or pledge of all or any part of the real or personal property of the authority, including property which is acquired, improved, constructed, financed or refinanced by the proceeds of such bonds.

3. Section 20 of P. L. 1960, c. 183 (C. 40:37A–63) is amended to read as follows:

C. 40:37A-63 Covenants and agreements with holders of bonds.

20. Any bond resolution of an authority providing for or authorizing the issuance of any bonds may contain provisions, and such authority, in order to secure the payment of such bonds and in addition to its other powers, shall have power by provision in such bond resolution to covenant and agree with the several holders of such bonds, as to:

(a) The custody, security, use, expenditure or application of the proceeds of the bonds;

(b) The construction and completion, or replacement, of any public facility or facilities;

(c) The use, regulation, operation, maintenance, insurance or disposition of any public facility or facilities, or restrictions on the exercise of the powers of the authority to dispose, or to limit or regulate the use, of any public facility or facilities;

(d) Payment of the principal of or interest on the bonds, or any other obligations, and the sources and methods thereof, the rank or priority of any such bonds or obligations as to any lien or security, or the acceleration of the maturity of any such bonds or obligations;

(e) The use and disposition of any moneys of the authority, including revenues (in this act sometimes called "facility revenues") derived or to be derived from the operation of any public facility or facilities, including any parts thereof theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired;

(f) Pledging, setting aside, depositing or trusteeing all or any part of the facility revenues or other moneys of the authority, and mortgaging, pledging or otherwise encumbering all or any part of its real or personal property, then owned or thereafter acquired, to secure the payment of the principal of or interest on the bonds or any other obligations or the payment of expenses of operation or maintenance of any public facility or facilities, and the powers and duties of any trustee with regard thereto;

(g) The setting aside out of the facility revenues or other moneys of the authority of reserves and sinking funds, and the source, custody, security, regulation, application and disposition thereof;

(h) Determination or definition of the facility revenues or of the expenses of operation and maintenance of a public facility or facilities;

(i) The rents, rates, fares, fees, or other charges in connection with, or for the use or services of, or otherwise relating to any public facility or facilities, including any parts thereof theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired, and the fixing, establishment, collection and enforcement of the same, the amount or amounts of facility revenues to be produced thereby, and the disposition and application of the amounts charged or collected;

(j) The assumption or payment or discharge of any indebtedness, liens or other claims relating to any part of any public facility or facilities or any obligations having or which may have a lien on any part of the facility revenues;

(k) Limitations on the issuance of additional bonds or any other obligations or on the incurrence of indebtedness of the authority;

(l) Limitations on the powers of the authority to construct, acquire or operate any structures, facilities or properties which may compete or tend to compete with any of its public facilities;

(m) Vesting in a trustee or trustees within or without the State such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the holders of bonds pursuant to section 21 of this act, and limiting or abrogating the right of such holders to appoint a trustee pursuant to section 21 of this act or limiting the rights, duties and powers of such trustee;

(n) Payment of the costs or expenses incident to the enforcement of the bonds or the provisions of the bond resolution or of any covenant or agreement of the authority with the holders of bonds;

(o) The procedure, if any, by which the terms of any covenant or agreement with, or duty to, the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given or evidenced; or

(p) Any other matter or course of conduct which, by recital in the bond resolution, is declared to further secure the payment of the principal of or interest on bonds and to be part of any covenant or agreement with the holders of bonds.

All such provisions of said bond resolution and all such covenants and agreements shall constitute valid and legally binding contracts between the authority and the several holders of the bonds, regardless of the time or issuance of such bonds, and shall be enforceable by any such holder or holders by appropriate action or proceeding in any court of competent jurisdiction, including a proceeding in lieu of prerogative writ.

4. Section 39 of P. L. 1960, c. 183 (C. 40:37A–82) is amended to read as follows:

C. 40:37A-82 Property of authority; exemption from levy and sale.

39. All property of an authority shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against an authority be a charge or lien upon its property; provided, that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge, mortgage or lien given by an authority on its facility revenues or other moneys, or on its real or personal property.

5. This act shall take effect immediately.

Approved December 12, 1977.

CHAPTER 292

AN ACT concerning judgments and orders for support and maintenance.

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

C. 2A:17-56.1 Overdue support and maintenance payments; execution against wages.

In any proceeding brought for failure to make support and maintenance payments, upon a showing that such payments are more than 45 days overdue, the court may grant an order directing that an execution issue against the wages, debts, earnings, salary, income from trust funds, or profits of the defendant for the full amount of both the arrears payments and for the satisfaction of current support and maintenance payments notwithstanding any statutory limitation on executions issued against the wages, earnings, salary or other income of the judgment debtor and such execution shall have priority over any other executions.

C. 2A:17-56.2 Discrimination or discharge of employee; disorderly conduct.

2. Any employer who discharges an employee because his wages are subject to execution in accordance with section 1 of this act or who discriminates in hiring because of such a potential execution shall be adjudged a disorderly person.

C. 2A:17-56.3 Bookkeeping expenses; deduction.

3. An employer in remitting wages levied upon by a judgment or order of support may make a $1.00 deduction to defray his bookkeeping expenses for each pay check so levied upon out of the funds ordered for support.

C. 2A:17-56.4 Judgment or order originating from other states.

4. Any judgment or order for support issuing from a court of competent jurisdiction of any other state, which passes legislation similar to this act and provides for reciprocity to this State, shall have the same force and effect as if the judgment or order originated from the New Jersey courts.

C. 2A:17-56.5 Simultaneous satisfaction of another execution.

5. An execution against the defendant's wages issued pursuant to section 1 of this act shall not be considered an execution against wages pursuant to N. J. S. 2A:17–52, and shall not prevent the simultaneous satisfaction of another execution from the amount of wages remaining after satisfaction of the execution for support.

6. This act shall take effect immediately.

Approved December 12, 1977.

CHAPTER 293

AN ACT to amend "An act to provide for exemption from taxation in certain cases, and supplementing chapter 4 of Title 54 of the Revised Statutes," approved July 21, 1948 (P. L. 1948, c. 259).

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

1. Section 4 of P. L. 1948, c. 259 (C. 54:4–3.33) is amended to read as follows:

C. 54:4-3.33 "Dwelling house" defined.

4. "Dwelling house," as used in this act, shall mean any one-family building or structure or any unit of a horizontal property regime established pursuant to the "Horizontal Property Act," P. L. 1963, c. 168 (C. 46:8A–1 et seq.) or any unit of a condominium property established pursuant to the "Condominium Act," P. L. 1969, c. 257 (C. 46:8B–1 et seq.) owned and occupied by a claimant as his legal residence in this State, or where a multiple-family building or structure is owned by a claimant, then that portion thereof which is occupied by the claimant as his legal residence in this State, and includes any outhouses or appurtenances belonging thereto or usually enjoyed therewith.

2. This act shall take effect immediately.

Approved December 12, 1977.

CHAPTER 294

AN ACT to effectuate the transfer of certain property from the State of New Jersey to the United States of America and otherwise facilitate the development of the Gateway National Recreation Area and repealing "An act to provide for the development of additional recreational facilities for the State of New Jersey and its inhabitants and to establish the Sandy Hook Reservation Authority for that purpose," approved July 3, 1950 (P. L. 1950, c. 290) and "An act authorizing and empowering the Governor, or any agency the Governor shall designate, to accept on behalf

of the State of New Jersey certain lands and interest therein at and adjacent to Sandy Hook, which are to be conveyed to the State of New Jersey by the Federal Government," approved July 6, 1950 (P. L. 1950, c. 316).

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

1. The Legislature hereby finds and determines that it is in the best interests of the people of the State of New Jersey that the State of New Jersey participate and cooperate in the prompt creation and development of the Gateway National Recreation Area, that recreation and conservation are the primary purposes of the Gateway National Recreation Area, and that this act is necessary and desirable to accomplish the creation and development of the Gateway National Recreation Area.

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

a. "Secretary" means the Secretary of the Interior of the United States of America.

b. "Gateway National Recreation Area Act" means Public Law 92-592, 86 Stat. 1308, 16 U.S.C. Sections 460cc through 460cc-4, approved October 27, 1972.

c. "Gateway National Recreation Area" means the lands, waters and tidal marshes depicted on the map entitled "Boundary Map, Gateway National Recreation Area," numbered 951-40017 sheets 1 through 3 and dated May, 1972 on file in the offices of the National Park Service, Department of the Interior, Washington, D.C.

d. "Sandy Hook Unit" means the entire area between Highway No. 36 Bridge and the northernmost point of the Sandy Hook Peninsula as depicted on the map entitled "Boundary Map, Gateway National Recreation Area," numbered 951-40017 dated May, 1972.

e. "Dedicated lands" means lands now or formerly flowed by the mean high tide dedicated to the fund for the support of free public schools pursuant to N. J. S. 18A:56–5.

3. All legal and equitable title of the State of New Jersey to lands and any fixed improvements thereon lying within the boundaries of the "Sandy Hook Unit" of Gateway National Recreation Area lying at or above the mean high water line as it exists on the effective date of this act lying northerly of a line beginning in the westerly side line of Ocean Avenue at the point where said side line

is intersected by a line twenty-two feet (22′) easterly, measured radially, from the center line of New Jersey State Highway Route No. 36, said point being about seventeen feet (17′) southerly from the southerly line of Lot No. 36 as shown on "Map of Property of the Highland Beach Association, Monmouth County, New Jersey, August, 1880"; thence northwesterly along the northeasterly right-of-way line of said State Highway parallel to said center line, on a curve to the left having a radius of six hundred fifty-nine feet and twenty-eight one-hundredths of a foot (659.28′), a distance of one hundred and five feet (105′), more or less, to a point or tangent; thence northwesterly still along said right-of-way line, on a line tangent to said curve, one hundred fifty-five feet and one tenth of a foot (155.1′) to a point forty feet (40′) northeasterly, measured radially, from said center line; thence northwesterly still along said right-of-way line parallel to said center line, on a curve to the left having a radius of six hundred seventy-seven feet and twenty-eight one-hundredths of a foot (677.28′), a distance of three hundred and four feet (304′), more or less, to the combined pierhead and bulkhead line established for the easterly side of the Shrewsbury River," is hereby transferred to and vested in the United States of America to be held and administered by the Secretary of the Interior pursuant to the Gateway National Recreation Area Act, subject to such easements and rights therein as may now lawfully exist. This transfer of legal and equitable title shall be effective upon the effective date of this act without further act or deed or transfer. All lands to which title is hereby transferred shall be used only for the purposes declared in the Gateway National Recreation Act and the title hereby transferred shall revert to the State of New Jersey in the event that the transferred lands are used for purposes other than those declared in said Federal statute provided, however, that the Secretary of the Interior shall have the power to grant easements, licenses, permits or other rights in the transferred lands when in the judgment of the secretary the granting of same shall not be contrary to or inconsistent with the use of the transferred land for the purposes declared in said Federal statutes.

4. The Commissioner of Environmental Protection is hereby authorized to terminate the lease of premises at Fort Hancock Military Reservation having a term of 25 years made between the Department of the Army of the United States of America and the State of New Jersey executed on January 9, 1962 and the subsequent agreements supplemental to said lease. Upon such termina-

tion, all legal and equitable title to any fixed improvements constructed by the State of New Jersey upon premises held under the aforesaid lease and supplemental agreements shall be transferred to and vested in the United States of America.

5. No provision contained herein shall be construed to transfer title to any dedicated lands bounding or adjoining the lands transferred by section 3 of this act. Title to such dedicated lands shall remain in the State of New Jersey provided, however, that upon any of such lands lying within one-fourth of a mile of the mean low water line of the lands comprising the Sandy Hook Unit and on lands conveyed in section 3 hereof the secretary shall be and hereby is authorized to adopt, implement and enforce reasonable rules and regulations for the management, operation and control of Gateway National Recreation Area, and provided further that the State of New Jersey shall retain its existing jurisdiction over such dedicated lands, to be exercised in accordance with the purposes and policy of the Gateway National Recreation Area Act and concurrently with the authority hereby vested in the secretary, and shall retain full authority through its various responsible agencies and councils to adopt, implement and enforce State rules and regulations relating to boating, navigation, hunting, fishing, taking of shellfish or any other matters which are not in conflict or inconsistent with the rules and regulations adopted by the secretary.

6. The Division of Parks and Forestry of the Department of Environmental Protection of the State of New Jersey and any other agencies of the State of New Jersey heretofore responsible for the maintenance and operation of public facilities within the Sandy Hook Unit are hereby authorized and directed to cooperate with the secretary to the fullest extent feasible and reasonable to accomplish an orderly transfer of responsibility for maintenance and operation of such facilities.

Repealer.

7. P. L. 1950, c. 290 (C. 13:15–1 to 13:15–20) and P. L. 1950, c. 316 (C. 13:15–21) are repealed.

8. This act shall take effect immediately.

Approved December 12, 1977.

CHAPTER 295

AN ACT to amend "An act to provide for payroll deductions from the compensation of State, county, municipal and school employees for employee organization dues and supplementing Title 52 of the Revised Statutes," approved February 27, 1968 (P. L. 1967, c. 310) as said title was amended by P. L. 1969, c. 233.

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

1. Section 1 of P. L. 1967, c. 310 (C. 52:14–15.9e) is amended to read as follows:

C. 52:14-15.9e Deductions for payment of dues to employee organization; authorization; withdrawal; collectively negotiated agreement; exception.

1. Whenever any person holding employment, whose compensation is paid by this State or by any county, municipality, board of education or authority in this State, or by any board, body, agency or commission thereof shall indicate in writing to the proper disbursing officer his desire to have any deductions made from his compensation, for the purpose of paying the employee's dues to a bona fide employee organization, designated by the employee in such request, and of which said employee is a member, such disbursing officer shall make such deduction from the compensation of such person and such disbursing officer shall transmit the sum so deducted to the employee organization designated by the employee in such request.

Any such written authorization may be withdrawn by such person holding employment at any time by the filing of notice of such withdrawal with the above-mentioned disbursing officer. The filing of notice of withdrawal shall be effective to halt deductions as of the January 1 or July 1 next succeeding the date on which notice of withdrawal is filed.

Nothing herein shall preclude a public employer and a duly certified majority representative from entering into a collectively negotiated written agreement which provides that employees included in the negotiating unit may only request deduction for the payment of dues to the duly certified majority representative. Such collectively negotiated agreement may include a provision that existing written authorizations for payment of dues to an employee

organization other than the duly certified majority representative be terminated. Such collectively negotiated agreement may also include a provision specifying the effective date of a termination in deductions as of the July 1 next succeeding the date on which notice of withdrawal is filed by an employee with the public employer's disbursing officer.

This authorization for negotiation of exclusive dues deduction provisions shall not apply to any negotiating unit which includes employees of any local school district or county college.

2. This act shall take effect immediately.

Approved December 12, 1977.

CHAPTER 296

AN ACT concerning credit life and health insurance, and amending N. J. S. 17B:29–2, (P. L. 1971, c. 144).

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

1. N. J. S. 17B:29–2 is amended to read as follows:

Definitions.

17B:29–2. a. "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction;

b. "Credit health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy;

c. "Creditor" means the lender of money or vendor or lessor of goods, services, property, rights or privileges, for which payment is arranged through a credit transaction, or any successor to the right, title or interest of any such lender, vendor, or lessor, and an affiliate, associate or subsidiary of any of them or any director, officer or employee of any of them or any other person in any way associated with any of them;

d. "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction, and includes each partner

who is jointly and severally liable for a partnership indebtedness. An officer of a corporation is not a debtor in connection with a corporation indebtedness unless he is personally liable for such indebtedness as a codebtor. Where husband and wife are jointly obligated to a creditor in connection with an indebtedness, either, or both, at their sole option, may be the debtor for the purposes of this chapter.

e. "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

2. This act shall take effect immediately.

Approved December 15, 1977.

CHAPTER 297

AN ACT to amend and supplement "An act concerning medical service corporations and regulating the establishment, maintenance and operation of medical service corporations and medical service plans, and supplementing Title 17 of the Revised Statutes by adding thereto a new chapter entitled 'Medical Service Corporations,' " approved May 29, 1940 (P. L. 1940, c. 74).

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

1. Section 1 of P. L. 1940, c. 74 (C. 17:48A–1) is amended to read as follows:

C. 17:48A-1 Definitions.

1. As used in this act the following words and phrases shall have the following meanings:

A medical service corporation is any corporation organized, without capital stock, and not for profit, for the purpose of establishing, maintaining and operating nonprofit medical service plans, or to provide or pay for medical services on the basis of premiums or other valuable considerations. A nonprofit medical service plan is any plan or arrangement operated by a medical service corporation, under the provisions of this act, and whereby the expense of medical services to subscribers and other covered dependents is paid in whole or in part by the corporation to participating physicians

of such plans or arrangements and to others as provided herein. A subscriber is a person to whom a subscription certificate is issued by the corporation and which sets forth the kinds and extent of the medical services for which the corporation is liable to make payment and which constitutes the contract between the subscriber and the corporation. A covered dependent is the spouse, an adult dependent or a child of the subscriber who is named in the subscription certificate issued to the subscriber and with respect to whom appropriate premium is specified in the certificate. A participating physician is any physician licensed to practice medicine and surgery, or licensed to practice chiropractic in the State of New Jersey pursuant to chapter 9, Title 45, of the Revised Statutes, who agrees in writing with the corporation to perform the medical services specified in the contracts issued by the corporation and at such rates of compensation as shall be determined by its board of trustees and who agrees to abide by the bylaws, rules and regulations of the corporation applicable to participating physicians. Medical service includes all general and special medical and surgical services and chiropractic diagnostic X-ray services, ordinarily provided by such licensed physicians in accordance with accepted practices in the community at the time the service is rendered, and within the scope of their licenses. No subscriber or his covered dependents shall be liable for any payment to any participating physician for medical services specified in the subscriber's certificate to be paid to the participating physician by the corporation.

2. Section 2 of P. L. 1940, c. 74 (C. 17:48A–2) is amended to read as follows:

C. 17:48A-2 Medical service corporation; nonprofit service; trustees and physicians; medical service plan; certificate of authority.

2. No medical service corporation shall be converted into a corporation organized for pecuniary profit. Every such corporation shall be operated for the benefit of the subscribers. No person shall be elected a trustee of any medical service corporation unless his nomination has been approved by a recognized medical society or professional medical organization having not less than 2,000 members holding licenses to practice medicine and surgery pursuant to chapter 9, Title 45, of the Revised Statutes, and which has been incorporated for a period of not less than 10 years. No medical service corporation shall impose any restrictions on physicians who administer to its subscribers as to methods of diagnosis or treatment. The private relationship of physician and patient shall be maintained and the subscriber shall at all times be free to choose

either a doctor of medicine, doctor of chiropractic or any other participating physician. No person, firm, association or corporation other than a medical service corporation shall establish, maintain or operate a medical service plan or any other means, agency or device for contracting with persons to pay for or to provide for medical services on the basis of premiums or other valuable considerations to be collected by such person, firm, association or corporation from such persons for the issue of such contracts; provided, that this section shall not be construed as preventing the exercise of any authority or privilege granted to any corporation by any certificate of authority issued by the Commissioner of Insurance pursuant to any law of this State; and provided further, that this section shall not be construed as preventing any person, firm, association or corporation from furnishing medical services required under any workmen's compensation law. No medical service corporation shall solicit subscribers or enter into any contract with any subscriber until it has received from the Commissioner of Insurance a certificate of authority to do so.

C. 17:48A-32 Chiropractors; payment authorized for performance of diagnostic X-rays.

3. (New section) To the extent that under any contract issued by any medical service corporation, or rider or supplement thereto, payment is authorized to physicians licensed to practice medicine and surgery for diagnostic X-rays rendered or performed in their offices, similar payment shall be authorized in the same contract, rider, or supplement for diagnostic X-rays rendered or performed by chiropractors, within the scope of their licenses, in their offices. Wherever in the act to which this act is a supplement the words "physician licensed to practice medicine and surgery" or similar words appear, there shall be added thereto the words "or licensed to practice chiropractic for services within the scope of their licenses." The foregoing provisions shall be liberally construed in favor of payment for chiropractic services.

4. This act shall take effect immediately.

Approved December 15, 1977.

CHAPTER 298

AN ACT to amend the "Charitable Fund Raising Act of 1971," approved March 2, 1972 (P. L. 1971, c. 469).

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

1. Section 8 of P. L. 1971, c. 469 (C. 45:17A–8) is amended to read as follows:

C. 45:17A-8 Registration as fund raiser; application; fee; bond; term; records; statement of income and expense; cancellation of registration; violation of act.

8. a. No person shall act as a professional fund raiser for a charitable organization required to register pursuant to section 4 of this act before he has registered with the Attorney General or after the expiration or cancellation of such registration or any renewal thereof. Applications for registration and reregistration shall be in writing, under oath, in the form prescribed by the Attorney General and shall be accompanied by an annual fee in the sum of $50.00. The applicant shall at the time of making application, file with, and have approved by, the Attorney General a bond in which the applicant shall be the principal obligor, in the sum of $10,000.00 with one or more sureties whose liability in the aggregate as such sureties will at least equal the said sum. The said bond shall run to the Attorney General for the use of the State and to any person who may have a cause of action against the obligor of said bond for any malfeasance or misfeasance in the conduct of such solicitation. Registration or reregistration when effected shall be for a period of 1 year, or a part thereof, expiring on June 30, and may be renewed upon written application, under oath, in the form prescribed by the Attorney General and the filing of the bond and the fee prescribed herein for additional 1 year periods. Applications for registration and reregistration and bonds, when filed with the Attorney General shall become public records in the office of the Attorney General.

b. A professional fund raiser shall maintain accurate and current books and records of his activities as such while required to be registered under subsection a. of this section; and, until at least 3 years shall have elapsed after the end of the effective period of the registration to which they relate, he shall keep such books and

records in his office available for inspection and examination by the Attorney General or his duly authorized representatives.

c. A professional fund raiser shall file with the Attorney General on forms prescribed by him, within 20 days after the completion of a fund raising event for which the professional fund raiser was retained, or at such intervals during an extended drive or campaign as the Attorney General by regulation may prescribe, a statement of income and expense, attested by two officers or principals of the professional fund raiser organization, covering each event or portion of an extended drive or campaign, conducted by a professional fund raiser required to be registered under subsection a. of this section.

d. The Attorney General is authorized to cancel the registration of any professional fund raiser who fails to comply with any provision of this section or who fails to furnish such additional information requested by the Attorney General within the time prescribed or such reasonable extension thereof granted by the Attorney General. Written notice of a cancellation of a registration shall be mailed to the registrant at least 15 days before the effective date of the cancellation.

e. Any person who willfully violates the provisions of this section is guilty of a misdemeanor.

2. This act shall take effect immediately.

Approved December 15, 1977.

CHAPTER 299

AN ACT to repeal "A Supplement to the 'New Jersey Gross Income Tax Act' ", approved September 8, 1976 (P. L. 1976, c. 86).

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

C. 54A:9-28 Repealed.

1. "A Supplement to the 'New Jersey Gross Income Tax Act' ", approved September 8, 1976 (P. L. 1976, c. 86, C. 54A:9–28), is repealed.

2. This act shall take effect immediately.

Approved December 15, 1977.

CHAPTER 300

AN ACT concerning free county libraries in certain counties and State aid therefor, amending N. J. S. 18A:74–3 and supplementing chapter 33 of Title 40 of the Revised Statutes.

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

C. 40:33-15 Reorganization of free county library.

1. Notwithstanding the provisions of any other law, the board of chosen freeholders of any county having a population of not less than 350,000 nor more than 450,000 according to the 1970 Federal census which has established a free county library under chapter 33 of Title 40 of the Revised Statutes may, by resolution to be effective January 1, 1978, reorganize the free county library pursuant to the provisions of this act in order to provide library services for the use of all residents and inhabitants of the county.

C. 40:33-16 Definitions.

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

a. "First level services" means services provided by a free county library which are coextensive with those provided by free public libraries established pursuant to chapter 54 of Title 40 of the Revised Statutes which may include but are not limited to over-the-counter borrowing, story-telling and bookmobile programs; and, in addition, the following services provided by the free county library to local libraries: material acquisition and processing, book allowances and book rental services.

b. "Second level services" means specialized services provided to all residents of a county by the free county library which supplement services provided by free public libraries and services provided by a free county library to all public libraries, school libraries, industrial, commercial and other special libraries in the county which are designed to assist and strengthen such libraries. Second level services shall include but not be limited to inter-library loan, in-library use of materials, reference and reading guidance, provision of photocopy at cost, compilation and publication of a union list of periodicals and the coordination of cooperative countywide services.

C. 40:33-17 County library commission; membership; appointment; terms; future appointments.

3. (New section) The "county library commission" in such counties shall consist of seven members. On or before the effective date of such reorganization, the board of chosen freeholders shall appoint the two additional members to the commission, for terms of 4 and 5 years respectively, who are residents of municipalities which only receive second level services from the county library, one of whom who has previously served as a trustee of a free public library. All future appointments to the commission shall be made for terms of 5 years, except for appointments to fill vacancies occurring on the commission which shall be filled for the unexpired term only. All future appointments shall be made in such a manner as to maintain at least one director, or his designee, from a municipal free public library or joint library which receives only second level services from the free county library, one member, or his designee, of the governing body of a municipality which receives only second level services from the free county library, a trustee of a municipal free library which receives only second level services from the free county library, and three members who are residents of municipalities which receive first level services from the free county library.

C. 40:33-18 Operating budget; annual proposal to board.

4. (New section) The county library commission in such counties shall annually, not later than November 1, propose to the board of chosen freeholders the total sum required for the operation of the library for the ensuing calendar year and identify that part of the total sum which will be used for second level services.

C. 40:33-19 Determination of sufficient sum for first and second level services; certification by board; apportionment to municipalities.

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

The amount thus apportioned to each municipality for first level services shall be assessed, levied and collected in the same manner and at the same time as other county taxes are assessed, levied and collected therein. The sum to be raised and appropriated for

second level services shall be raised and appropriated by the board of chosen freeholders in the same manner as moneys are raised and appropriated for other county purposes pursuant to the Local Budget Law (N. J. S. 40A:4–1 et seq.), provided, however, that such appropriation shall not be greater than the difference between the total State aid that the county library receives in the prebudget year pursuant to N. J. S. 18A:74–4 and the product of .0000718 multiplied by the net valuation on which county taxes are apportioned for the prebudget year.

C. 40:33-20 Withdrawal from participation in services provided by county library; notification to commission to receive and support services.

6. (New section) Municipalities receiving benefits from the free county library prior to the adoption of a resolution by the board of chosen freeholders to reorganize the free county library pursuant to the provisions of this act shall continue to receive first and second level services from the free county library, except as provided below. On or before September 30 of the year following the reorganization of the free county library pursuant to the provisions of this act, the governing body of any municipality which maintains a free public library and receives first level services from the free county library may, by resolution, notify the county library commission of such county that it will withdraw from participation in the first level services of the free county library to be effective January 1 of the following year. On or before September 30 of the second year following the reorganization of the free county library pursuant to the provisions of this act, and every third year thereafter, the governing body of any municipality which maintains a free public library, receives first level services from the free county library and is in the first third of an alphabetical list of the municipalities in the county may, by resolution, notify the county library commission of such county that it will withdraw from participation in first level services of the free county library to be effective January 1 of the following year. On or before September 30 of the third year following the reorganization of the free county library pursuant to the provisions of this act, and every third year thereafter, the governing body of any municipality which maintains a free public library, receives first level services from the free county library and is in the second third of an alphabetical list of the municipalities in the county may, by resolution, notify the county library commission of such county that it will withdraw from participation in first level services of the free county library to be effective January 1 of the following year. On

or before September 30 of the fourth year following the reorganization of the free county library pursuant to the provisions of this act, and every third year thereafter, the governing body of any municipality which maintains a free public library, receives first level services from the free county library and is in the remaining third of an alphabetical list of the municipalities in the county may, by resolution, notify the county library commission of such county that it will withdraw from participation in first level services of the free county library to be effective January 1 of the following year. The governing body of any municipality may, by resolution, on or before September 30 in any year, except as otherwise specifically provided hereinafter, notify the county library commission that it will receive and support first level services to be effective January 1 of the following year. In the event any municipality is a party to a joint library agreement pursuant to article 2 of chapter 54 of Title 40 of the Revised Statutes in the year prior to the reorganization of the free county library, such notification may be given in the first 4 years following said reorganization only if the governing body of the other municipality party to such agreement consents thereto, or upon the condition that such agreement shall remain in force for the said 4 years. In the event that any municipality is a party to a contract for full library services with another municipality in the year prior to the reorganization of the free county library, such notification may be given in the first 4 years following said reorganization only if the governing body of the other municipality party to such agreement consents thereto, or if the municipality providing library services pursuant to the agreement is unwilling to renew the agreement for the next year for an amount less than 5% above the amount provided for in the current agreement.

C. 40:33-21 Report to municipalities.

7. (New section) Within 18 months following the reorganization of the free county library pursuant to this act, after consultation with all the libraries in the county, the county library commission shall submit a report to all the municipalities in the county which evaluates the effectiveness of the second level services provided by the free county library and indicates what action it will take to improve such services in the forthcoming year.

C. 40:33-22 Application of certain provisions of Title 40.

8. (New section) All free county libraries reorganized pursuant to the provisions of this act shall be governed by the provisions

of article 1, chapter 33, Title 40 of the Revised Statutes insofar as they are not inconsistent with the provisions of this act.

C. 40:33-23 Increase in county tax levy; calculation of permissible expenditures.

9. (New section) In the first year in which a free county library is reorganized pursuant to the provisions of this act, the amount which the county tax levy is increased to fund second level services provided by the county library shall not be considered as part of the county tax levy for the purposes of calculating permissible expenditures for that year pursuant to P. L. 1976, c. 68 (C. 40A:4–45.1 et seq.), however the amount which the county tax levy is so increased in that first year shall be considered as part of the county tax levy for the purposes of calculating permissible expenditures pursuant to P. L. 1976, c. 68, for the following year and every year thereafter.

10. N. J. S. 18A:74–3 is amended to read as follows:

Municipalities and counties supporting libraries.

18A:74–3. State funds shall be provided annually as follows:

a. Each municipality or county that supports, in whole or in part, library service from municipal or county tax sources pursuant to chapter 33 or 54 of Title 40 of the Revised Statutes shall qualify for one of the following:

(1) $0.25 per capita if its annual expenditure for library services is less than ⅕ mill per dollar upon the equalized valuation;

(2) $0.50 per capita if its annual expenditure for library services is more than ⅕ mill, but less than ¼ mill per dollar upon equalized valuation;

(3) $0.75 per capita if its annual expenditure for library services is more than ¼ mill, but less than ⅓ mill per dollar upon equalized valuation;

(4) $1.00 per capita if its annual expenditure for library services is more than ⅓ mill, but less than ½ mill per dollar upon equalized valuation;

(5) $1.25 per capita if its annual expenditure for library services is more than ½ mill per dollar upon equalized valuation;

provided, however, that payments hereunder to a municipality or county shall not be less than the amount which such municipality or county received in State library aid in the year preceding July 1, 1967, except that in no case shall payments under this section

exceed one-half of the annual expenditure for library services by the municipality or the county, as the case may be.

b. For those municipalities which provide tax support for both a local library and a county library, the per capita aid provided for in subsection a. of this section shall be determined as follows: the total expenditure for library service pursuant to chapters 33 and 54 of Title 40 of the Revised Statutes shall be used to determine the scale of per capita aid. In counties in which the free county library has been reorganized pursuant to P. L. 197.., c.... (now pending before the Legislature as Senate Bill No. 3068) the total payment shall be made to the municipality, in all other counties the payment to the municipality and to the county, respectively, shall be apportioned in the same ratio as each expenditure bears to the total expenditure.

11. This act shall take effect immediately.

Approved December 16, 1977.

CHAPTER 301

AN ACT to create a 1977 Gubernatorial Inaugural Commission, prescribing its membership and responsibilities and making an appropriation.

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

1. A 1977 Gubernatorial Inaugural Commission is established to formulate plans for the official ceremonies incident to the inauguration of the Governor. The commission shall consist of two members of the Senate to be appointed by the President thereof, two members of the General Assembly to be appointed by the Speaker thereof, the Chief of Staff of the Department of Defense or his designee, the Superintendent of State Police or his designee, the Director of the Division of Purchase and Property or his designee and such other citizens as the Governor may care to appoint.

All members of the commission shall serve without compensation.

2. The commission shall meet and organize at the call of the chairman or chairmen who shall be designated by the Governor. The Director of the Division of Purchase and Property is desig-

nated as the approval officer for expenditure of funds appropriated to the commission.

3. The commission is authorized to call upon and receive from State officers, departments and agencies assistance in the planning and carrying out of the gubernatorial ceremonies and functions incident thereto.

4. There is appropriated to the Division of Purchase and Property, Department of the Treasury for the purposes of this act the sum of $30,000.00.

5. This act shall take effect immediately.

Approved December 21, 1977.

CHAPTER 302

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, 1978, and regulating the disbursement thereof," approved June 30, 1977 (P. L. 1977, c. 137).

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

1. There is hereby appropriated from the General Treasury for the expenses of the commission created by Senate Concurrent Resolution No. 68 to study the "New Jersey Automobile Reparation Reform Act" (P. L. 1972, c. 70; C. 39:6A–1 et seq.), "open rating," and an alternate or alternates to the "assigned risk plan," the sum of $10,000.00.

2. This act shall take effect immediately.

Approved December 21, 1977.

CHAPTER 303

AN ACT authorizing municipalities to expend certain Federal funds for historic places or sites owned by certain nonprofit corporations or associations under certain circumstances.

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

C. 40:48-9.12 Expenditure of federal funds to rehabilitate historic buildings.

1. Any municipality may expend public funds received by the municipality under the Housing and Community Development Act of 1974, 42 U. S. C. 5303–5317 (1974), as amended, for, or in aid of, the preservation, restoration, improvement, or rehabilitation of a historic place or site owned by a nonprofit corporation or association organized pursuant to Title 15 or 16 of the Revised Statutes, if the historic place or site has been approved for inclusion in the New Jersey Register of Historic Places in the Division of Parks, Forestry and Recreation of the Department of Environmental Protection under P. L. 1970, c. 268 (C. 13:1B–15.128 et seq.).

2. This act shall take effect immediately.

Approved December 21, 1977.

CHAPTER 304

AN ACT concerning elections, and amending R. S. 19:50–3.

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

1. R. S. 19:50–3 is amended to read as follows:

Instructing voters on election day; assisting blind or disabled voters.

19:50–3. For instructing the voters on any election day there shall, so far as practicable, be provided by the county board of elections or the superintendent of elections or the municipal clerk, as the case may be, having custody of voting machines, for each polling place a mechanically operated model of a portion of the face of the machine. Such model, if furnished, shall, during the election, be located on the district election officers' table or in some other place which the voters must pass to reach the machine, and

each voter shall, before entering the voting machine booth, be instructed regarding the operation of the machine and such instruction illustrated on the model, and the voter given opportunity to personally operate the model. The voter's attention shall also be called to the diagram of the face of the machine so that the voter can become familiar with the location of the questions and the names of the officers and candidates. If any voter, before entering the voting machine booth, declares under oath, and establishes to the satisfaction of a majority of all the members of the district board that by reason of blindness or other physical disability he is unable to cast his vote without assistance, he shall have the assistance of two members of the board of opposite political faith, to be assigned by the board. Such members shall retire with such voter to the booth and assist him. The member acting as clerk of the district board shall make an entry on a disability certificate for assistance, which entry shall be on the form of an oath inserted in the front of the duplicate registry binders at each election.

In every instance when such oath is administered to a voter as herein provided, it shall state briefly what facts were sworn to and the names of the members of the board who aided such voter shall be signed on the form. Any members of the district board shall be eligible to assist any such voter, but no other person except as hereinafter provided shall be allowed to assist him. No member of the board shall reveal the name of any person for whom such voter has voted, or anything that took place while he was being assisted.

Such blind or disabled voter may, in lieu of the assistance of the board as above provided, have assistance of some person of his own selection. Such person shall retire with such voter to the booth and assist him in voting. The name and address of such person shall be recorded as above. In such case, no other person than the one so selected by the voter shall be allowed to assist such voter. No person so selected shall reveal the name of any person for whom such voter has voted or anything that took place while he was being assisted.

The disability certificates shall be numbered serially 1 to 20. The commissioner of registration shall furnish sufficient disability certificates for assistance for each election district in his county which shall be inserted in the front of the duplicate registry binders.

2. This act shall take effect immediately.

Approved December 27, 1977.

CHAPTER 305

AN ACT to amend the "Sales and Use Tax Act," approved April 27, 1966 (P. L. 1966, c. 30).

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

1. Section 8 of P. L. 1966, c. 30 (C. 54:32B–8) is amended to read as follows:

C. 54:32B-8 Exempt sales.

8. Exempt sales. Receipts from the following shall be exempt from the tax on retail sales imposed under subsection (a) of section 3 and the use tax imposed under section 6:

(a) Sales of medicines and drugs sold pursuant to a doctor's prescription for human use: crutches, artificial limbs, artificial eyes, artificial hearing devices, corrective eyeglasses, prosthetic aids, artificial teeth or dentures, braces, tampons or like products, orthopedic appliances and artificial devices designed to correct or alleviate physical incapacity, medical oxygen, human blood and its derivative when sold for human use, wheelchairs, and replacement parts for any of the foregoing;

(b) Sales of food, food products, beverages except alcoholic beverages, excluding draft beer sold by the barrel, as defined in the Alcoholic Beverage Tax Law, dietary foods and health supplements, sold for human consumption off the premises where sold but not including (i) candy and confectionery, and (ii) carbonated soft drinks and beverages all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form. Nothing herein shall be construed as exempting food or drink from the tax imposed under subsection (c) of section 3;

(c) Sales of food sold in an elementary or secondary school cafeteria, sales of food sold in an institution of higher education or in a fraternity, sorority or eating club operated in connection therewith, to students of such an institution;

(d) Sales of articles of clothing and footwear for human use except articles made of fur on the hide or pelt of an animal or animals where such fur is the component material of chief value of the article. "Clothing" as used herein, shall also mean and include sales to noncommercial purchasers of common wearing apparel

materials intended to be incorporated into wearing apparel as a constituent part thereof, such as fabrics, thread, knitting yarn, buttons and zippers. The director shall prescribe regulations to carry out the provisions of this subsection;

(e) Sales of newspapers, magazines and periodicals;

(f) Casual sales except as to sales of motor vehicles, whether for use on the highways or otherwise, and except as to sales of boats or vessels registered or subject to registration under the New Jersey Boat Act of 1962 (P. L. 1962, c. 73, and all amendments thereto);

(g) Sales of gas, water, steam, fuel, electricity, telephone or telegraph services delivered to consumers through mains, lines, pipe, or in containers or bulk;

(h) Sales of motor fuels as motor fuels are defined for purposes of the New Jersey Motor Fuel Tax Law; and sale of fuel to an airline for use in its airplanes or to a railroad for use in its locomotives;

(i) Tangible personal property sold through coin-operated vending machines at $0.10 or less, provided the retailer is primarily engaged in making such sales and maintains records satisfactory to the director;

(j) Sales not within the taxing power of this State under the Constitution of the United States;

(k) The transportation of persons or property;

(l) Sales, repairs, alterations or conversion of commercial ships, barges and other vessels of 50-ton burden or over, primarily engaged in interstate or foreign commerce, and of governmentally-owned ships, barges and other vessels and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance and repairs (other than articles purchased for the original equipping of a new ship);

(m) (1) Sales of machinery, apparatus or equipment for use or consumption directly and primarily in the production of tangible personal property by manufacturing, processing, assembling or refining;

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

(3) Sales of telephone lines, cables, central office equipment or station apparatus, or other machinery, equipment or apparatus, or comparable telegraph equipment, for use directly and primarily

in receiving at destination or initiating, transmitting and switching telephone or telegraph communication;

(4) The exemptions granted under this subsection shall not be construed to apply to sales, otherwise taxable, of machinery, equipment or apparatus whose use is incidental to the activities described in paragraphs (1), (2) and (3) of this subsection;

(5) The exemptions granted in this subsection (m) shall not apply to motor vehicles or to parts with a useful life of 1 year or less or tools or supplies used in connection with the machinery, equipment or apparatus described in this subsection;

(n) Sales of tangible personal property purchased for use or consumption directly and exclusively in research and development in the experimental or laboratory sense. Such research and development shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects;

(o) Sales or use of wrapping paper, wrapping twine, bags, cartons, tape, rope, labels, nonreturnable containers, reusable milk containers and all other wrapping supplies when such use is incidental to the delivery of any personal property;

(p) Sales of tangible personal property (except automobiles, trucks, trailers, and truck-trailer combinations, and except property incorporated in a building or structure) for use and consumption directly and exclusively in the production for sale of tangible personal property on farms, including stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, ranches, nurseries, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards;

(q) Sales of tangible personal property sold by a mortician, undertaker or funeral director. However, all tangible personal property sold to a mortician, undertaker or funeral director for use in the conducting of funerals shall not be deemed a sale for resale and shall not be exempt from the tax imposed by this act;

(r) Sales of films, records, tapes or any type of visual or sound transcriptions to, or produced for exhibition in or use through the medium of, theaters and radio and television broadcasting stations or networks, and not used for advertising purposes;

(s) Sales of tangible personal property and services taxable under any municipal ordinance heretofore adopted pursuant to

P. L. 1947, c. 71, which is in effect on April 27, 1966, but only to the extent such sales are taxable under said ordinance;

(t) Sales of materials, such as chemicals and catalysts, used to induce or cause a refining or chemical process, where such materials are an integral or essential part of the processing operation, but do not become a component part of the finished product;

(u) Sales of school textbooks for use by students in a school, college, university or other educational institution, approved as such by the Department of Education or by the Department of Higher Education, when the educational institution, upon forms and pursuant to regulations prescribed by the director, has declared the books are required for school purposes and the purchaser has supplied the vendor with the form at the time of the sale;

(v) (Deleted by amendment.) P. L. 1970, c. 7, s. 5.

(w) Sales made to contractors, subcontractors or repairmen of materials, supplies or services for exclusive use in erecting structures or building on, or otherwise improving, altering or repairing real property of organizations described in subsections (a) and (b) of section 9 of this act, provided any person seeking to qualify for this exemption shall do so pursuant to such rules and regulations and upon such forms as shall be prescribed by the director;

(x) The renting, leasing, licensing or interchanging of trucks, tractors, trailers or semitrailers by persons not engaged in a regular trade or business offering such renting, leasing, licensing or interchanging to the public, provided, that such renting, leasing, licensing or interchanging is carried on with persons engaged in a regular trade or business involving carriage of freight by such vehicles, and further provided, that in the case of any such motor vehicle acquired by the owner or first used by the owner in this State on or after July 1, 1966, any tax presumptively imposed by this act on such acquisition or use shall have been paid at the time of such acquisition or use without claim for exemption;

(y) Sales of cigarettes subject to tax under this Cigarette Tax Act;

(z) Sales of the Bible or similar sacred scripture of a bona fide church or religious denomination;

(aa) Sales of the flag of the United States of America and of the flag of the State of New Jersey;

(bb) Sales of locomotives, railroad cars and other railroad rolling stock, including repair and replacement parts therefor, track materials, and communication, signal and power transmission equipment, to a railroad whose rates are regulated by the Inter-

state Commerce Commission or by the Board of Public Utility Commissioners of New Jersey;

(cc) Sales of buses for public passenger transportation, including repair and replacement parts therefor, to bus companies whose rates are regulated by the Interstate Commerce Commission or the Board of Public Utility Commissioners of New Jersey or to an affiliate of said bus companies or to common or contract carriers for their use in the transportation of children to and from school. For the purposes of this subsection "affiliate" shall mean a corporation whose stock is wholly owned by the regulated bus company or whose stock is wholly owned by the same persons who own all the stock of the regulated bus company.

(dd) Sales of newspaper production machinery, apparatus and equipment for use and consumption directly and primarily in the publication of newspapers in the production departments of a newspaper plant, including, but not limited to: engraving, enlarging and development equipment, internal process cameras and news transmission equipment, composing and pressroom apparatus and equipment, type fonts, lead, mats, ink, plates, conveyors, stackers, sorting, bundling, stuffing, labeling and wrapping equipment and supplies for any of the foregoing except that sales of motor vehicles, typewriters, and other equipment and supplies otherwise taxable under this act are not exempt.

(ee) The sale of advertising to be published in a newspaper.

(ff) The sale of gold or silver and storage thereof, in the form traded on any contract market or other board of trade or exchange licensed by the Federal Commodity Futures Trading Commission as defined in the Commodity Exchange Act, as amended; provided that the sale shall have been in fulfillment of the obligations of a contract for future delivery of gold or silver, or an option to purchase or sell such commodity, entered into on and in accordance with the rules of such licensed contract or options market; provided, further that this exemption shall not apply with respect to any gold or silver subsequently converted to use by a purchaser and in such event such purchaser shall be liable for the sales and use tax imposed hereunder.

2. This act shall take effect immediately.

Approved December 27, 1977.

CHAPTER 306

AN ACT to amend the short title of the "Pension Increase Act," approved November 24, 1958 (P. L. 1958, c. 143), so that the same shall read the "Pension Adjustment Act," revising said act, and amending and supplementing P. L. 1969, c. 169.

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

1. Section 1 of P. L. 1958, c. 143 (C. 43:3B–1) is amended to read as follows:

C. 43:3B-1 Definitions.

1. As used in this act:

a. "Retirant" means any person who was employed by the State of New Jersey, any of its instrumentalities, any of its political subdivisions or any of the instrumentalities of its political subdivisions, retired from such employment and, as a result of such employment, is receiving a retirement allowance or pension from a retirement system or under any law administered by the Division of Pensions of the State of New Jersey, other than one providing for individual annuity contracts purchased from private insurers.

b. "Survivorship benefit" means a monthly annuity to the designee of a retirant who, at retirement, elected Option II, III or IV pursuant to the provisions of N. J. S. 18A:66–47 or P. L. 1954, c. 84, s. 50 (C. 43:15A–50) or P. L. 1944, c. 255, s. 12 (C. 43:16A–12), but it shall not mean (1) an annuity based on settlement of a self-insured or insured lump sum death benefit or in lieu of a lump sum death benefit, (2) an annuity based on the return of the member's contributions or (3) any life annuity settlement payable under Option I as provided by the aforesaid sections of the statutory law.

c. "Beneficiary" means any person who is receiving a pension as the result of the death of an active or retired member of a State administered retirement system or who is receiving a survivorship benefit.

d. "Benefit year" means:

(1) the calendar year 1966 for:

(a) all retirants who retired before the calendar year 1955; and

(b) all beneficiaries of members who retired or died before the calendar year 1955 except those beneficiaries covered by (4) of this subsection;

(2) the actual calendar year of retirement for:

(a) all members who retired after 1954; and

(b) all beneficiaries of retirants who retired after 1954 except those beneficiaries covered by (4) of this subsection;

(3) the actual calendar year of death for all beneficiaries of members who died after 1954 except those beneficiaries covered by (4) of this subsection;

(4) the calendar year:

(a) 1967 for all beneficiaries of active or retired members entitled to receive increased pensions in 1967 in accordance with R. S. 43:16–3(c);

(b) 1968 for all beneficiaries of members entitled to receive increased pensions in 1968 in accordance with R. S. 43:16–4(b);

(c) 1968 for all beneficiaries of active or retired members entitled to receive increased pensions in 1968 in accordance with P. L. 1967, c. 250, s. 26 (C. 43:16A–12.1);

(d) 1969 for all beneficiaries of active or retired members entitled to receive increased pensions in 1969 in accordance with P. L. 1941, c. 220, s. 3 (C. 43:7–9) as amended.

e. "Calendar year" means the 12-month period beginning January 1 and ending December 31.

f. "Index" shall mean the annual average over a 12-month period, beginning September 1 and ending August 31, of the Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items Series A, of the United States Department of Labor (1957-1959 = 100). Should the reference base of said index be changed, the index used to determine the Consumer Price Index as defined herein will be the index converted to the new base by standard statistical methods. The annual average index so calculated shall be the index for the calendar year in which the 12-month period ends.

g. "Benefit year index" shall be the index of the benefit year.

h. "Fiscal year" means the 12-month period beginning July 1 and ending June 30, unless otherwise stipulated.

This act shall be known and may be cited as the "Pension Adjustment Act."

2. Section 3 of P. L. 1958, c. 143 (C. 43:3B–3) is amended to read as follows:

C. 43:3B-3 Percentage of adjustment; calculation.

3. For retirants and beneficiaries, the percentage of adjustment which shall apply to the retirement allowance, survivorship benefit or pension originally granted to a retirant or beneficiary shall be calculated in accordance with the following percentages as determined by the calendar year in which the retirement became effective; provided that, in no instance shall the amount of the retirement allowance or pension paid to any retirant under this act including payments under future revisions be less than the retirement allowance or pension paid under chapter 143, public laws of 1958 as amended by chapter 144, public laws of 1961 and chapter 198, public laws of 1964; and, provided further, that in no instance shall the amount of the retirement allowance, survivorship benefit or pension originally granted and payable to any retirant or beneficiary be reduced as a result of the provisions of this amendatory and supplementary act. In no event shall a beneficiary whose benefit year is established by subsection d. (4) of section 1 of this act (C. 43:3B–1) be eligible for an increase under this section.

Year of Retirement or Death	Percentage of Adjustment	Year of Retirement or Death	Percentage of Adjustment
1915	219%	1935	137%
1916	198%	1936	134%
1917	153%	1937	126%
1918	116%	1938	130%
1919	88%	1939	134%
1920	62%	1940	132%
1921	82%	1941	120%
1922	94%	1942	99%
1923	90%	1943	88%
1924	90%	1944	85%
1925	85%	1945	80%
1926	84%	1946	66%
1927	87%	1947	45%
1928	89%	1948	35%
1929	89%	1949	36%
1930	94%	1950	35%
1931	113%	1951	25%
1932	138%	1952	22%
1933	151%	1953	21%
1934	143%	1954	21%

3. Section 5 of P. L. 1958, c. 143 (C. 43:3B–5) is amended to read as follows:

C. 43:3B-5 Commencement of retirement allowances; pensions and survivorship benefits; duration.

5. The adjustment in retirement allowances, pensions and survivorship benefits provided for under this act and under section 6 of P. L. 1969, c. 169 (C. 43:3B–6) shall commence with retirement allowance, pension and survivorship benefit payments for the month of January 1978, except as hereinafter specified, provided, that there is appropriated the amount certified by the Director of the Division of Pensions to the Director of the Division of Budget and Accounting as set forth in section 4 hereof. In the case of any retirant or beneficiary first becoming eligible to receive an adjustment under the provisions of section 6 of P. L. 1969, c. 169 (C. 43:3B–7), such adjustment shall be paid beginning in the 25th month in which he is entitled to receive his retirement allowance pension or survivorship benefit. The adjustment in retirement allowances, pensions and survivorship benefits shall continue to be paid as long as there shall be appropriated the amounts so certified. In the event that the necessary funds are not so appropriated, the adjustment in retirement allowances, pensions and survivorship benefits shall cease; no further payments shall be made by other employers; refunds shall be made by the Director of the Division of Pensions to all employers of any balances unexpended on their account; and charges shall be certified by the Director of the Division of Pensions to all employers of any amounts which have been paid on behalf of the retirants and beneficiaries of former employees of such employer for which funds have not been paid to the Division of Pensions by the employer. In the event that any such charges are certified, provision for payment shall be made by the employer in the budget for the ensuing fiscal year.

4. Section 6 of P. L. 1969, c. 169 (C. 43:3B–7) is amended to read as follows:

C. 43:3B-7 Director to review index; determination of percentum of change; "retirant" and "beneficiary" defined.

6. a. On or before October 1, 1977 and by the same date in each subsequent year, the Director of the Division of Pensions shall review the index and determine the percentum of change in the index from the benefit year index. In determining the percentum of change the director shall use the index for the year ending the August 31 prior to the date of review, dividing such index by the benefit year index and then subtracting 100%

from the resulting quotient expressed to the nearest 1/100 of 1%. The percentage of adjustment shall be ⅗ of the percentum of change. Any adjustment so calculated shall apply to all of the months of the following calendar year for eligible retirants and beneficiaries, except for those qualifying for the first time, it shall apply only to those months of the following calendar year in which the retirant or beneficiary is eligible to receive the adjustment.

The director shall include (a) in his corpus appropriation request for the administration of the act on behalf of those retirants and beneficiaries for whom the State assumes the costs attributable to this act, and, (b) in his certification of amounts due from each employer in accordance with section 4 of the Pension Adjustment Act, amounts sufficient to adjust the retirement allowances, survivorship benefits or pensions payable to all eligible retirants and beneficiaries by ⅗ of the percentum of change in the index as such retirement allowances, survivorship benefits or pensions may have been originally granted, or increased for certain retirants or beneficiaries in accordance with section 3 of the Pensions Adjustment Act. In no instance shall the amount of the retirement allowance or pension originally granted and payable to any retirant be reduced as a result of the adjustment made pursuant to the provisions of P. L. 1969, c. 169.

b. For purposes of this act a "retirant" shall mean any retirant who has or shall have received a retirement allowance or pension for no less than 24 months and a "beneficiary" shall mean any beneficiary who has or shall have received for no less than 24 months a pension, or survivorship benefit, or whose increased pension pursuant to the provisions of the statutes stipulated in subsection d(4) of section 1 of the act to which this act is an amendment (C. 43:3B–1). In the case of beneficiaries, all or any part of the 24 month period shall include the period in which the retirant was entitled to receive his retirement allowance or pension.

C. 43:3B-10 Expenditure required by act deemed mandated costs.

5. (New section) Notwithstanding the provisions of P. L. 1976, c. 68 (C. 40A:4–45.1 et seq.) or rules and regulations promulgated pursuant thereto, any increase in expenditure required as a result of this act shall be deemed mandated costs and shall not be subject to the expenditure limitations imposed pursuant to P. L. 1976, c. 68.

6. This act shall take effect immediately but the adjustment provided for in this amendatory and supplementary act and the reduction in the waiting period necessary to become eligible to

receive the adjustment pursuant to section 6 of P. L. 1969, c. 169 (C. 43:3B–7), shall not begin until January 1, 1978, provided that funds are appropriated in accordance with section 4 of P. L. 1958, c. 143 (C. 43:3B–4).

Approved December 27, 1977.

CHAPTER 307

An Act concerning unemployment compensation 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. 43:21–3 is amended to read as follows:

Payment of benefits.

43:21–3. (a) Payment of benefits. All benefits shall be promptly paid from the fund through local employment offices in accordance with such regulations as may be prescribed hereunder.

(b) Weekly benefits for unemployment.

With respect to an individual's benefit year commencing on or after July 1, 1961, such individual, if eligible and unemployed (as defined in subsection (m) of R. S. 43:21–19), shall be paid an amount (except as to final payment) equal to his weekly benefit rate less any remuneration paid or payable to him for such week in excess of 20% of his weekly benefit rate (fractional part of a dollar omitted) or $5.00, whichever is the greater; provided that such amount shall be computed to the next higher multiple of $1.00 if not already a multiple thereof.

(c) Weekly benefit rate.

(1) With respect to an individual whose benefit year commences on or after July 1, 1961, and prior to January 1, 1968 his weekly benefit rate under each benefit determination shall be an amount equal to the weekly benefit rate set forth in Column B of the table in this paragraph on the line in which in Column A there appears his average weekly wage:

Column A Average Weekly Wage	Column B Weekly Benefit Rate
$18.00 or less	$10.00
18.01 but not more than $19.50	11.00
19.51 but not more than 21.00	12.00
21.01 but not more than 22.50	13.00
22.51 but not more than 24.00	14.00
24.01 but not more than 25.50	15.00
25.51 but not more than 27.00	16.00
27.01 but not more than 28.50	17.00
28.51 but not more than 30.00	18.00
30.01 but not more than 31.50	19.00
31.51 but not more than 33.00	20.00
33.01 but not more than 34.50	21.00
34.51 but not more than 36.00	22.00
36.01 but not more than 37.50	23.00
37.51 but not more than 39.00	24.00
39.01 but not more than 40.50	25.00
40.51 but not more than 42.00	26.00
42.01 but not more than 43.50	27.00
43.51 but not more than 45.00	28.00
45.01 but not more than 47.50	29.00
47.51 but not more than 50.00	30.00
50.01 but not more than 52.50	31.00
52.51 but not more than 55.00	32.00
55.01 but not more than 57.50	33.00
57.51 but not more than 60.00	34.00
60.01 but not more than 63.00	35.00
63.01 but not more than 66.00	36.00
66.01 but not more than 69.00	37.00
69.01 but not more than 73.50	38.00
73.51 but not more than 76.00	39.00
76.01 but not more than 79.00	40.00
79.01 but not more than 82.00	41.00
82.01 but not more than 84.00	42.00
84.01 but not more than 86.00	43.00
86.01 but not more than 88.00	44.00
88.01 but not more than 90.00	45.00
90.01 but not more than 92.00	46.00
92.01 but not more than 94.00	47.00
94.01 but not more than 96.00	48.00
96.01 but not more than 98.00	49.00
98.01 or more	50.00

(2) With respect to an individual whose benefit year commences in any calendar year after March 31, 1978, his weekly benefit rate under each determination shall be one-half of his average weekly wage, subject to a maximum of two-thirds of the Statewide average weekly remuneration paid to workers by employers subject to this chapter (R. S. 43:21–1 et seq.), as determined and promulgated by the Commissioner of Labor and Industry, and to a minimum of $10.00; provided, however, that such individual's weekly benefit rate shall be computed to the next higher multiple of $1.00 if not already a multiple thereof. For the purposes of this paragraph, the "Statewide average weekly remuneration paid to workers by employers" shall be computed and determined by the Commissioner of Labor and Industry on or before September 1 of each year on the basis of one-fifty-second of the total remuneration reported for the preceding calendar year by employers subject to this chapter, divided by the average of the number of workers reported by such employers, and shall be effective as to benefit determinations in the calendar year following such computation and determination.

(d) Maximum total benefits.

(1) With respect to an individual to whom benefits shall be payable for benefit years prior to January 1, 1968, as provided in this section such individual shall be entitled to receive, under each successive benefit determination relating to each of his base year employers, a total amount of benefits equal to three-quarters of his base weeks from the employer in question multiplied by his weekly benefit rate; but the amount of benefits thus resulting under any such determination made with respect to an employer, shall be adjusted to the next higher multiple of $1.00 if not already a multiple thereof.

With respect to an individual to whom benefits shall be payable for benefit years commencing on or after January 1, 1968 as provided in this section and prior to January 1, 1975, such individual shall be entitled to receive, under each successive benefit determination relating to each of his base year employers, a total amount of benefits equal to one-third of his total wages in his base year or three-quarters of his base weeks from the employer in question multiplied by his weekly benefit rate, whichever is the higher; but the amount of benefits thus resulting under any such determination made with respect to an employer shall be adjusted to the next higher multiple of $1.00 if not already a multiple thereof.

With respect to an individual to whom benefits shall be payable for benefits years commencing on or after January 1, 1975, as

provided in this section, such individual shall be entitled to receive, under each successive benefit determination relating to each of his base year employers, a total amount of benefits equal to three-quarters of his base weeks from the employer in question multiplied by his weekly benefit rate; but the amount of benefits thus resulting under any such determination made with respect to any employer, shall be adjusted to the next higher multiple of $1.00 if not already a multiple thereof.

(2) No such individual shall be entitled to receive benefits under this chapter (R. S. 43:21–1 et seq.) in excess of 26 times his weekly benefit rate in any benefit year under either of subsections (c) and (f) of section 43:21–4 of this chapter (R. S. 43:21–1 et seq.). In the event that any individual qualifies for benefits under both of said subsections during any benefit year, the maximum total amount of benefits payable under said subsections combined to such individual during the benefit year shall be one-and-one-half times the maximum amount of benefits payable under one of said subsections.

(3) The maximum total benefits of any individual shall be reduced by an amount equal to 17 times his weekly benefit rate upon the discovery by the division that such individual illegally received any sum as benefits contrary to the provisions of this chapter as the result of any false or fraudulent representation; provided, however, that such reduction shall apply only to a benefit year in existence at the time of the discovery and to a benefit year established within 1 year from the time of such discovery.

2. R. S. 43:21–4 is amended to read as follows:

Benefit eligibility conditions.

43:21–4. Benefit eligibility conditions. An unemployed individual shall be eligible to receive benefits with respect to any week only if it appears that:

(a) He has registered for work at, and thereafter continued to report at, an employment office 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) He has made a claim for benefits in accordance with the provisions of subsection (a) of R. S. 43:21–6.

(c) He is able to work, and is available for work, and has demonstrated that he is actively seeking work, except as hereinafter provided in this subsection or in subsection (f) of this section:

The director may, in his discretion, modify the requirement of actively seeking work if, in his judgment, such modification of this requirement is warranted by economic conditions.

No individual, who is otherwise eligible, shall be deemed ineligible, or unavailable for work, because he is on vacation, without pay, during said week, if said vacation is not the result of his own action as distinguished from any collective action of a collective bargaining agent or other action beyond his individual control; nor subject to such limitations and conditions as the division may prescribe, shall any otherwise eligible individual who is attending a training program which has been approved for him by the division to enhance his employment opportunities be deemed unavailable for work or ineligible because he is attending such training program, or because he failed or refused to accept work while attending such program.

(d) He has been totally or partially unemployed for a waiting period of 1 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, he 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 temporary disability benefits law;

(3) Unless the individual fulfills the requirements of subsections (a) and (c) of this section;

(4) If with respect thereto, claimant was disqualified for benefits in accordance with the provisions of subsection (d) of R. S. 43:21–5.

(e) With respect to a base year as defined in subsection (c) of R. S. 43:21–19 he has established at least 20 base weeks as defined in subsection (t) of R. S. 43:21–19, or, in the alternative, has earned $2,200.00 or more in his base year, except that with respect to benefit years commencing on or after January 1, 1978, an individual's

base week wages in his base year shall include wages paid for previously uncovered services. For the purposes of this subsection, the term "previously uncovered services" means services—

(1) Which were not employment as defined in R. S. 43:21–19 (i)(1) and were not services covered pursuant to R. S. 43:21–8 at any time during the 1-year period ending December 31, 1975; and

(2) Which—

(A) are agricultural labor (as defined in R. S. 43:21–19 (i)(1)(I)) or domestic service (as defined in R. S. 43:21–19 (i)(1)(J)), or

(B) are services performed by an employee of a governmental unit or instrumentality in employment as defined in R. S. 43:21–19 (i)(1)(B)(ii), or by an employee of a nonprofit educational institution which is not an institution of higher education, as provided in R. S. 43:21–19 (i)(1)(D)(iii):

except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services. To the extent that the unemployment compensation fund is reimbursed pursuant to Section 121 of the Federal Unemployment Compensation Amendments of 1976 (Public Law 94-566), an employer's account shall not be charged for that portion of benefits paid to any individual attributable to base year wages for previously uncovered services, nor shall any nonprofit organization or governmental unit or instrumentality which elects to make payments in lieu of contributions into the unemployment fund be liable to make payments with respect to that portion of benefits paid to any individual attributable to base year wages for previously uncovered services as defined herein.

(f) (1) He has suffered any accident or sickness not compensable under the Workers' Compensation Law (Title 34 of the Revised Statutes) and resulting in his 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 his 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 or podiatrist;

(B) For any period of disability due to pregnancy or resulting childbirth, miscarriage, or abortion, except for disability existing during the 4 weeks immediately before the expected birth of child, and the 4 weeks following the termination of the pregnancy;

(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 high misdemeanor;

(D) For any week with respect to which or a part of which he has received or is seeking benefits under any unemployment compensation or disability benefit law of any other state or of the United States; provided, that if the appropriate agency of such other state or of the United States finally determines that he is not entitled to such benefits, this disqualification shall not apply;

(E) For any week with respect to which or part of which he has received or is seeking disability benefits under the temporary disability benefits law;

(F) For any period of disability commencing while such individual is a "covered individual" as defined in subsection 3 (b) of the temporary disability benefits law (P. L. 1948, c. 110).

(2) Benefit payments under this subsection shall be charged to and paid from the State disability benefits fund established by the temporary disability benefits law, and shall not be charged to any employer account in computing any employer's experience rate for contributions payable under this chapter.

(g) Benefits based on service in employment defined in subparagraphs (B) and (C) of R. S. 43:21–19 (i) (1) shall be payable in the same amount and on the terms and subject to the same conditions as benefits payable on the basis of other service subject to the Unemployment Compensation Law; except that notwithstanding any other provisions of the Unemployment Compensation Law.

(1) With respect to service performed after December 31, 1977, in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week or 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 service performed after December 31, 1977, in any other capacity for an educational institution (other than an institution of higher education as defined in R. S. 43:21–19 (y)(2)) 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;

(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.

(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 sport 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 has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203 (a)(7) or section 212 (d)(5) of the Immigration and Nationality Act); provided, that any modifications of the provisions of section 3304 (a) (14) of the Federal Unemployment Tax Act as provided by Public Law 94-566 which specify other conditions or other effective dates than stated herein for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under State laws 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 his 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 he deems efficient and economical provide for consolidated administration by one or more representatives or deputies of claims made pursuant to subsection (f) of this section with those made pursuant to Article III (State plan) of the Temporary Disability Benefits Law.

3. R. S. 43:21–6 is amended to read as follows:

Claim for benefits.

43:21–6. Claim for benefits.

(a) Filing. Claims for benefits shall be made in accordance with such regulations as the Director of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Industry of the State of New Jersey may approve. Each employer shall post and maintain on his premises printed notices of his subject status, of such design, in such numbers and at such place as the director of the division may determine to be necessary to give notice thereof to persons in the employer's service. Each employer shall give to each individual at the time he becomes unemployed a printed copy of benefit instructions. Both the aforesaid notices and instructions shall be supplied by the division to employers without cost to them.

(b) (1) Procedure for making initial determinations with respect to benefit years commencing on or after January 1, 1953.

A representative or representatives designated by the director of the division and hereafter referred to as a "deputy" shall promptly examine the claim, and shall notify the most recent employing unit and, successively as necessary, each employer in inverse chronological order during the base year. Such notification shall require said employing unit and employer to furnish such information to the deputy as may be necessary to determine the

claimant's eligibility and his benefit rights with respect to the employer in question and such notification shall also provide the most recent chargeable employer in the base year with the name and address of the most recent employing unit of the claimant.

In his discretion, the director may appoint special deputies to make initial or subsequent determinations under subsections 4 (f) and 5 (d) of this chapter.

If any employer or employing unit fails to respond to the request for information within 7 days after the mailing of such request, the deputy shall rely entirely on information from other sources, including an affidavit to the best of the knowledge and belief of the claimant with respect to his wages and time worked. Except in the event of fraud, if it is determined that any information in such affidavit is erroneous, no penalty shall be imposed on the claimant.

The deputy shall promptly make an initial determination based upon the available information. The initial determination shall show the weekly benefit amount payable, the maximum duration of benefits with respect to the employer to whom the determination relates, and also shall show whether the claimant is ineligible or disqualified for benefits under the initial determination. The claimant and the employer whose account may be charged for benefits payable pursuant to said determination shall be promptly notified thereof.

Whenever an initial determination is based upon information other than that supplied by an employer because such employer failed to respond to the deputy's request for information, such initial determination and any subsequent determination thereunder shall be incontestable by the noncomplying employer, as to any charges to his employer's account because of benefits paid prior to the close of the calendar week following the receipt of his reply. Such initial determination shall be altered if necessary upon receipt of information from the employer, and any benefits paid or payable with respect to weeks occurring subsequent to the close of the calendar week following the receipt of the employer's reply shall be paid in accordance with such altered initial determination.

The deputy shall issue a separate initial benefit determination with respect to each of the claimant's base year employers, starting with the most recent employer and continuing as necessary in the inverse chronological order of the claimant's last date of

employment with each such employer. If an appeal is taken from an initial determination as hereinafter provided by any employer other than the first chargeable base-year employer, then such appeal shall be limited in scope to include only one or more of the following matters:

(A) The correctness of the benefit payments authorized to be made under the determination;

(B) Fraud in connection with the claim pursuant to which the initial determination is issued; or

(C) The refusal of suitable work offered by the chargeable employer filing the appeal.

The amount of benefits payable under an initial determination may be reduced or canceled if necessary to avoid payment of benefits for a number of weeks in excess of the maximum specified in subsection (d) of section 43:21–3 of this Title.

Unless the claimant or any interested party within 7 calendar days after delivery of notification of an initial determination or within 10 calendar days after such notification was mailed to his or their last-known address and addresses, files an appeal from such decision, such decision shall be final and benefits shall be paid or denied in accordance therewith, except for such determinations as may be altered in benefit amounts or duration as provided in this paragraph. Benefits payable for periods pending an appeal and not in dispute shall be paid as such benefits accrue; provided, that insofar as any such appeal is or may be an appeal from a determination to the effect that the claimant is disqualified under the provisions of R. S. 43:21–5 or any amendments thereof or supplements thereto, benefits pending determination of the appeal shall be withheld only for the period of disqualification as provided for in said section, and notwithstanding such appeal the benefits otherwise provided by this act shall be paid for the period subsequent to such period of disqualification; and provided, also, that if there are two determinations of entitlement, benefits for the period covered by such determinations shall be paid regardless of any appeal which may thereafter be taken, but no employer's account shall be charged with benefits so paid if the decision is finally reversed.

(2) Procedure for making initial determinations in certain cases of concurrent employment, with respect to benefit years commencing on or after January 1, 1953.

Notwithstanding any other provisions of this Title, if an individual shows to the satisfaction of the deputy that there were at least 13 weeks in his base period in each of which he earned wages

from two or more employers totaling $30.00 or more but in each of which there was no single employer from whom he earned as much as $100.00, then such individual's claim shall be determined in accordance with the special provisions of this paragraph. In such case, the deputy shall determine the individual's eligibility for benefits, his average weekly wage, weekly benefit rate and maximum total benefits as if all his base year employers were a single employer. Such determination shall apportion the liability for benefit charges thereunder to the individual's several base year employers so that each employer's maximum liability for charges thereunder bears approximately the same relation to the maximum total benefits allowed as the wages earned by the individual from each employer during the base year bears to his total wages earned from all employers during the base year. Such initial determination shall also specify the individual's last date of employment within the base year with respect to each base year employer, and such employers shall be charged for benefits paid under said initial determination in the inverse chronological order of such last dates of employment.

(3) Procedure for making subsequent determinations with respect to benefit years commencing on or after January 1, 1953. The deputy shall make determinations with respect to claims for benefits thereafter in the course of the benefit year in accordance with any initial determination allowing benefits, and under which benefits have not been exhausted, and each notification of a benefit payment shall be a notification of an affirmative subsequent determination. The allowance of benefits by the deputy on any such determination, or the denial of benefits by the deputy on any such determination, shall be appealable in the same manner and under the same limitations as is provided in the case of initial determinations.

(c) Appeals. Unless such appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and the determination. The parties shall be duly notified of such tribunal's decision, together with its reasons therefor, which shall be deemed to be the final decision of the board of review, unless within 10 days after the date of notification or mailing of such decision, further appeal is initiated pursuant to subsection (e) of this section.

(d) Appeal tribunals. To hear and decide disputed benefit claims, including appeals from determinations with respect to demands for refunds of benefits under section 43:21–16(d) of this chapter

(R. S. 43:21–1 et seq.), the director with the approval of the Commissioner of Labor and Industry shall establish one or more impartial appeal tribunals consisting in each case of either a salaried examiner or a body, consisting of examiners under the supervision of a Chief Appeals Examiner all of whom shall be appointed pursuant to the provisions of Title 11 of the Revised Statutes, Civil Service and other applicable statutes.

(e) Board of review. The board of review may on its own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The board of review shall permit such further appeal by any of the parties interested in a decision of an appeal tribunal which is not unanimous and from any determination which has been overruled or modified by any appeal tribunal. The board of review may remove to itself or transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal. Any proceeding so removed to the board of review shall be heard by a quorum thereof in accordance with the requirements of subsection (c) of this section. The board of review shall promptly notify the interested parties of its findings and decision.

(f) Procedure. The manner in which disputed benefit claims, and appeals from determinations with respect to (1) claims for benefits and (2) demands for refunds of benefits under section 43:21–16 (d) of this chapter (R. S. 43:21–1 et seq.) shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with rules prescribed by the board of review for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

(g) Witness fees. Witnesses subpenaed pursuant to this section shall be allowed fees at a rate fixed by the director. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this chapter (R. S. 43:21–1 et seq.).

(h) Court review. Any decision of the board of review shall become final as to any party upon the mailing of a copy thereof to

such party or to his attorney, or upon the mailing of a copy thereof to such party at his last-known address. The Division of Unemployment and Disability Insurance and any party to a proceeding before the board of review may secure judicial review of the final decision of the board of review. Any party not joining in the appeal shall be made a defendant; the board of review shall be deemed to be a party to any judicial action involving the review of, or appeal from, any of its decisions, and may be represented in any such judicial action by any qualified attorney who may be a regular salaried employee of the board of review or has been designated by it for that purpose, or, at the board of review's request, by the Attorney General.

(i) Failure to give notice. The failure of any public officer or employee at any time heretofore or hereafter to give notice of determination or decision required in subsections (b), (c) and (e) of this section, as originally passed or amended, shall not relieve any employer's account of any charge by reason of any benefits paid unless and until that employer can show to the satisfaction of the director of the division that the said benefits, in whole or in part, would not have been charged or chargeable to his account had such notice been given. Any determination hereunder by the director shall be subject to court review.

4. R. S. 43:21–7 is amended to read as follows:

Contributions.

43:21–7. Contributions. Employers other than those liable for payment in lieu of contributions on the basis set forth in subsection 3 of this act (C. 43:21–7.2), shall pay to the division for the Unemployment Compensation Fund, contributions as set forth in subsections (a), (b) and (c) hereof, and the provisions of subsections (d) and (e) shall be applicable to all employers consistent with the provisions of the Unemployment Compensation Law and the Temporary Disability Benefits Law. (a) Payment.

(1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this chapter (R. S. 43:21–1 et seq.), with respect to having individuals in his employ during such calendar year at the rates and on the basis hereinafter set forth. Such contributions shall become due and be paid by each employer to the division for the fund in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to $0.005 or more, in which case it shall be increased to $0.01.

(b) Rate of contributions. Each employer shall pay the following contributions:

(1) For the calendar year 1947, and each calendar year thereafter, 2⅞₀ of wages paid by him during each such calendar year, except as otherwise prescribed by subsection (c) of this section.

(2) The "wages" of any individual, with respect to any one employer as the term is used in this subsection (b) and in subsections (c), (d) and (e) of this section 7, shall include the first $3,000.00 paid during each calendar year prior to January 1, 1968, the first $3,600.00 paid during each calendar year commencing on or after January 1, 1968 and prior to January 1, 1972, the first $4,200.00 paid during each calendar year commencing on or after January 1, 1972 and prior to January 1, 1975, and the first $4,800.00 paid during each calendar year commencing on or after January 1, 1975, for services performed either within or without this State; provided, that no contribution shall be required by this State with respect to services performed in another state if such other state imposes contribution liability with respect thereto. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid wages with respect to employment equal to $3,000.00 to such individual during any calendar year prior to January 1, 1968, or equal to $3,600.00 during any calendar year commencing on or after January 1, 1968 and prior to January 1, 1972, the first $4,200.00 paid during each calendar year commencing on or after January 1, 1972 and prior to January 1, 1975, and the first $4,800.00 paid during each calendar year commencing on or after January 1, 1975, any wages paid to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer.

(3) For calendar years beginning on and after January 1, 1976, the "wages" of any individual as defined in the preceding para-

graph (2) of this subsection (b) shall be established and promulgated by the Commissioner of Labor and Industry on or before September 1 of the preceding year and shall be twenty-eight times the Statewide average weekly remuneration paid to workers by employers, as determined under R. S. 43:21–3 (c) (2), raised to the next higher multiple of $100.00 if not already a multiple thereof, provided that if the amount of wages so determined for a calendar year is less than the amount similarly determined for the preceding year, the greater amount will be used; provided, further, that if the amount of such wages so determined due not equal or exceed the amount of wages as defined in subsection (b) of Section 3306 of the Federal Unemployment Tax Act, Chapter 23 of the Internal Revenue Code of 1954, the wages as determined in this paragraph in any calendar year shall be raised to equal the amount established under the Federal Unemployment Tax Act for that calendar year.

(c) Future rates based on benefit experience.

(1) A separate account for each employer shall be maintained and this shall be credited with all the contributions which he has paid on his own behalf on or before January 31 of any calendar year with respect to employment occurring in preceding calendar years; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday, an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this chapter (R. S. 43:21–1 et seq.) shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid with respect to benefit years commencing on and after January 1, 1953, to any individual on or before December 31 of any calendar year with respect to unemployment in such calendar year and in preceding calendar years shall be charged against the account or accounts of the employer or employers in whose employment such individual established base weeks constituting the basis of such benefits. Benefits paid under a given benefit determination shall be charged against the account of the employer to whom such determination relates. When each benefit payment is made the division shall promptly send either a copy of the benefit check or other form of notification to the employer against whose account the benefits are to be charged. Such copy or notification shall identify the employer against whose account the amount of such payment is being charged, shall show at least the name and social security

account number of the claimant and shall specify the period of unemployment to which said check applies. If the total amount of benefits paid to a claimant and charged to the account of the appropriate employer exceeds 50% of the total base-year base week wages paid to the claimant by that employer, then such employer may apply to the division to have canceled from his account such excess benefit charges as specified above. Any such application for the cancellation of excess charges shall be submitted by the employer within 6 months from the date of the benefit check, payment of which creates such charges. In no event will the erasure of such charges affect a contribution rate already assigned to the employer with respect to any fiscal year commencing prior to the date the application is received by the division.

The division shall furnish to each employer an annual summary statement of benefits charged to his account.

(2) The division may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(3) No employer's rate shall be lower than 2$\frac{7}{10}$% unless assignment of such lower rate is consistent with the conditions applicable to additional credit allowance for such year under section 3303 (a) (1) of the Internal Revenue Code (U. S. Code Title 26, section 3303(a)(1)), any other provision of this section to the contrary notwithstanding.

(4) (A) Each employer's rate shall be 2$\frac{8}{10}$% except as otherwise provided in the following provisions. No employer's rate for the 12 months commencing July 1 of any calendar year shall be other than 2$\frac{8}{10}$% unless as of the preceding January 31 such employer shall have paid contributions with respect to wages paid in each of the 3 calendar years immediately preceding such year; in which case such employer's rate for the 12 months commencing July 1 of any calendar year shall be determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions, paid on his own behalf, for all past years exceed the total benefits charged to his account for all such years, his contribution rate shall be:

(1) 2 5/10%, if such excess equals or exceeds 4%, but less than 5% of his average annual payroll (as defined in paragraph (2), subsection (a) of section 43:21–19 of this Title);

(2) 2 7/10%, if such excess equals or exceeds 5%, but is less than 6% of his average annual payroll;

(3) 1 9/10%, if such excess equals or exceeds 6%, but is less than 7%, of his average annual payroll;

(4) 1 1/10%, if such excess equals or exceeds 7%, but is less than 8%, of his average annual payroll;

(5) 1 3/10%, if such excess equals or exceeds 8%, but is less than 9%, of his average annual payroll;

(6) 1%, if such excess equals or exceeds 9%, but is less than 10%, of his average annual payroll;

(7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less than 11%, of his average annual payroll;

(8) 4/10 of 1%, if such excess equals or exceeds 11%, of his average annual payroll.

(B) If the total of an employer's contributions, paid on his own behalf, for all past periods for the purposes of this paragraph (4), is less than the total benefits charged against his account during the same period, his rate shall be:

(1) 4%, if such excess is less than 10% of his average annual payroll;

(2) 4 3/10%, if such excess equals or exceeds 10%, but is less than 20% of his average annual payroll;

(3) 4 6/10%, if such excess equals or exceeds 20% of his average annual payroll.

(C) Specially assigned rates. If no contributions were paid on wages for employment in any calendar year used in determining the average annual payroll of an employer eligible for an assigned rate under this paragraph (4), the employer's rate shall be specially assigned as follows: (i) if the reserve balance in its account is positive, its assigned rate shall be the highest rate in effect for positive balance accounts for that period, or 2 8/10%, whichever is higher, and (ii) if the reserve balance in its account is negative, its assigned rate shall be the highest rate in effect for deficit accounts for that period.

(D) The contribution rates prescribed by subparagraphs (A) and (B) of this paragraph (4) shall be increased or decreased in accordance with the provisions of paragraph (5) of this subsection (c).

(5) (A) If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 4% but is less than 7% of the total taxable wages reported to the division as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 3/10 of 1% over the contribution rate otherwise established under the provisions of paragraphs (3) or (4) of this subsection. If on March 31 of any calendar year the balance of the unemployment trust fund exceeds 2½% but is less than 4% of the total taxable wages reported to the division of employment security as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraphs (3) or (4) of this subsection.

If on March 31 of any calendar year the balance of the unemployment trust fund is less than 2½% of the total taxable wages reported to the Division as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer (1) eligible for a contribution rate calculation based upon benefit experience, shall be increased by (i) 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraphs (3), (4) (A) or (4) (B) of this subsection, and (ii) an additional amount equal to 20% of the total rate established herein, provided, however, that the final contribution rate for each employer shall be computed to the nearest multiple of 1/10% if not already a multiple thereof; (2) not eligible for a contribution rate calculation based upon benefit experience shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) of this subsection.

(B) If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 10% but is less than 12½% of the total taxable wages reported to the division as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided, that in

no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 12½% of the total taxable wages reported to the division as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 6/10 of 1% if his account for all past periods reflects an excess of contributions paid over total benefits charged of 3% or more of his average annual payroll, otherwise by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided, that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%.

(C) The "balance" in the unemployment trust fund as the term is used in subparagraphs (A) and (B) above shall not include moneys credited to the State's account under section 903 of the Social Security Act, as amended (Title 42, U. S. Code, section 1103), during any period in which such moneys are appropriated for the payment of expenses incurred in the administration of Unemployment Compensation Law.

(6) Additional contributions.

Notwithstanding any other provision of law, any employer who has been assigned a contribution rate pursuant to subsection (c) of this section for the year commencing July 1, 1948, and for any year commencing July 1 thereafter, may voluntarily make payment of additional contributions, and upon such payment shall receive a recomputation of the experience rate applicable to such employer including in the calculation the additional contribution so made. Any such additional contribution shall be made during the 30-day period following the date of the mailing to the employer of the notice of his contribution rate as prescribed in this section, unless, for good cause, the time for payment has been extended by the director for not to exceed an additional 60 days; provided, that in no event may such payments which are made later than 120 days after the beginning of the year for which such rates are effective be considered in determining the experience rate for the year in which the payment is made. Any employer receiving any extended period of time within which to make such additional payment and failing to make such payment timely shall pay, in addition to the required amount of additional payment, a penalty of 5% thereof or $5.00, whichever is greater, not to exceed $50.00. Any adjustment under

this subsection shall be made only in the form of credits against accrued or future contributions.

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the division shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer, pursuant to regulations adopted by the division, if the division finds that the employment experience of the predecessor employer with respect to the organization, trade, assets or business, which has been transferred, may be considered indicative of the future employment experience of the successor in interest. Unless the predecessor employer was owned or controlled (by legally enforcible means or otherwise), directly or indirectly, by the successor in interest, or the predecessor employer and the successor in interest were owned or controlled (by legally enforcible means or otherwise), directly or indirectly, by the same interest or interests, the transfer of the employment experience of the predecessor shall not be effective if such successor in interest, within 4 months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, files a written notice with the division protesting the transfer of the employment experience of the predecessor employer.

(B) An employer, who transfers part of his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, may jointly make application with such successor in interest for transfer of that portion of the employment experience of the predecessor employer relating to the portion of the organization, trade, assets, or business transferred to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefits charges, et cetera, applicable to such predecessor employer. The Division may allow such transfer of employment experience pursuant to regulations adopted by the division, only if it finds that the employment experience of the predecessor employer with respect to the portion of the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Credit shall be given to the successor in interest only for the years

during which contributions were paid by the predecessor employer with respect to that part of the organization, trade, assets or business transferred.

(C) A transfer of the employment experience in whole or in part having become final, the predecessor employer thereafter shall not be entitled to consideration for an adjusted rate based upon his or its experience or the part thereof, as the case may be, which has thus been transferred. A successor in interest to whom employment experience or a part thereof is transferred pursuant to this subsection shall, as of the date of the transfer of the organization, trade, assets or business, or part thereof, immediately become an employer if not theretofore an employer subject to this chapter (R. S. 43:21–1 et seq.).

(d) (1) Contribution of workers, transfers to temporary disability benefit fund.

Each worker shall contribute to the fund 1% of his wages with rspect to his employment with an employer which occurs on and after January 1, 1971 and prior to January 1, 1975, after such employer has satisfied the conditions set forth in subsection (h) of section 43:21–19 of this Title with respect to becoming an employer; provided, however, that such contribution shall be at the rate of ¼ of 1% of wages paid with respect to employment while the worker is in the employ of the State of New Jersey, or is covered by an approved private plan under the Temporary Disability Benefits Law or while the worker is exempt from the provisions of the Temporary Disability Benefits Law under section 7 of that law (C. 43:21–31); and provided further that there shall be no contributions by workers in the employ of any employer electing or required to make payments in lieu of contributions unless the employer is covered by the State plan under the Temporary Disability Benefits Law (C. 43:21–37 et seq.), and in that case contributions shall be at the rate of ¾ of 1%, and for periods after January 1, 1975, each worker shall contribute to the fund 1% of his wages with respect to his employment with an employer which occurs on and after January 1, 1975, after such employer has satisfied the conditions set forth in subsection (h) of section 43:21–19 of this Title with respect to becoming an employer; provided, however, that such contribution shall be at the rate of ½ of 1% of wages paid with respect to employment while the worker is in the employ of the State of New Jersey, or any governmental entity or instrumentality which is an employer as defined under R. S. 43:21–19(h)(5), or is covered by an approved

private plan under the Temporary Disability Benefits Law or while the worker is exempt from the provisions of the Temporary Disability Benefits Law under section 7 of that law (C. 43:21–31); and provided further that effective January 1, 1978 there shall be no contributions by workers in the employ of any governmental or nongovernmental employer electing or required to make payments in lieu of contributions unless the employer is covered by the State plan under the Temporary Disability Benefits Law (C. 43:21–37 et seq.), and in that case contributions shall be at the rate of ½ of 1%. Each employer shall, notwithstanding any provision of law in this State to the contrary, withhold in trust the amount of his workers' contributions from their wages at the time such wages are paid, shall show such deduction on his payroll records, shall furnish such evidence thereof to his workers as the division may prescribe, and shall transmit all such contributions, in addition to his own contributions, to the office of the division in such manner and at such times as may be prescribed. If any employer fails to deduct the contributions of any of his workers at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, he alone shall thereafter be liable for such contributions, and for the purpose of section 43:21–14 of this Title, such contributions shall be treated as employer's contributions required from him. As used in this chapter (R. S. 43:21–1 et seq.), except when the context clearly requires otherwise, the term "contributions" shall include the contributions of workers pursuant to this section.

(2) (A) There shall be deposited in and credited to the State Disability Benefits Fund, as established by law, three-fourths of all worker contributions, received by the division with respect to wages paid prior to January 1, 1953, and upon which the rate of contributions is 1%.

(B) There shall be deposited in and credited to the State Disability Benefits Fund, as established by law, two-thirds of all worker contributions received by the division with respect to wages paid on and after January 1, 1953, and prior to January 1, 1971, and upon which the rate of contributions is ¾ of 1%.

(C) There shall be deposited in and credited to the State Disability Benefits Fund, as established by law, three quarters of all worker contributions, received by the division with respect to wages paid on or after January 1, 1971 and prior to January 1, 1975, and upon which the rate of contributions is 1%, and with respect to wages paid on and after January 1, 1975, there shall be deposited

in and credited to the State Disability Benefits Fund, as established by law, one-half of all worker contributions received by the division upon which the rate of contribution is 1%.

(D) There shall be deposited in and credited to the State Disability Benefits Fund, as established by law, all worker contributions received by the Division with respect to wages paid on or after January 1, 1972 and prior to January 1, 1975, upon which the rate of contributions is ¾ of 1% and with respect to wages paid on or after January 1, 1975, there shall be deposited to the State Disability Benefits Fund, as established by law, all worker contributions received by the division from all employers, upon which the rate of contributions is ½ of 1%, except the State of New Jersey or any other governmental entity or instrumentality defined as an employer under R. S. 43:21–19(h)(5).

(3) If an employee receives wages from more than one employer during any calendar year, and either the sum of his contributions deposited in and credited to the State Disability Benefits Fund (in accordance with paragraph (2) of this subsection) plus the amount of his contributions, if any, required towards the costs of benefits under one or more approved private plans under the provisions of section 9 of the Temporary Disability Benefits Law (C. 43:21–33) and deducted from his wages, or the sum of such latter contributions if the employee is covered during such calendar year, only by two or more private plans, exceeds $18.00 in any calendar year prior to January 1, 1971, $27.00 during the calendar year 1971, $31.50 during calendar years 1972, 1973 and 1974; $24.00 during the calendar year 1975 or an amount equal to ½ of 1% of the "wages" determined in accordance with the provisions of R. S. 43:21–7(b) (3) during the calendar years beginning on or after January 1, 1976, the employee shall be entitled to a refund of the excess if he makes a claim to the division within 2 years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to such refund. Such refund shall be made by the division from the State Disability Benefits Fund. No interest shall be allowed or paid with respect to any such refund. The division shall in accordance with prescribed regulations, determine the portion of the aggregate amount of such refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law," such determination to be based upon the ratio of the amount of such wages exempt from contributions to such fund as

provided in subparagraph (B) of paragraph (1) of this subsection with respect to coverage under private plans to the total wages so exempt plus the amount of such wages subject to contributions to the disability benefits fund as provided in subparagraph (B) of paragraph (2) of this subsection. The division shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bears to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the amount so prorated. The provisions of R. S. 43:21–14, with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the division shall be paid into the State Disability Benefits Fund.

(4) If an individual does not receive any wages from the employing unit which for the purposes of this chapter (R. S. 43:21–1 et seq.) is treated as his employer, or receives his wages from some other employing unit, such employer shall nevertheless be liable for such individual's contributions in the first instance; and after payment thereof such employer may deduct the amount of such contributions from any sums payable by him to such employing unit, or may recover the amount of such contributions from such employing unit, or, in the absence of such an employing unit, from such individual, in a civil action; provided, proceedings therefor are instituted within 3 months after the date on which such contributions are payable. General rules shall be prescribed whereby such an employing unit may recover the amount of such contributions from such individuals in the same manner as if it were the employer.

(5) Every employer who has elected to become an employer subject to this chapter (R. S. 43:21–1 et seq.), or to cease to be an employer subject to this chapter (R. S. 43:21–1 et seq.), pursuant to the provisions of section 43:21–8 of this Title, shall post and maintain printed notices of such election on his premises, of such design in such numbers, and at such places as the director may determine to be necessary to give notice thereof to persons in his service.

(6) Contributions by workers, payable to the division as herein provided, shall be exempt from garnishment, attachment, execution, or any other remedy for the collection of debts.

(e) Contributions by employers to State Disability Benefits Fund.

(1) Except as hereinafter provided, each employer shall, in addition to the contributions required by subsections (a), (b), and (c) of this section, contribute ½ of 1% of the wages paid by such employer to workers with respect to employment unless he is not a covered employer as defined in section 3 of the Temporary Disability Benefits Law (C. 43:21–27 (a)). Such contributions shall become due and be paid by the employer to the division for the State Disability Benefits Fund as established by law, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to $0.005 or more, in which case it shall be increased to $0.01.

(2) During the continuance of coverage of a worker by an approved private plan of disability benefits under the Temporary Disability Benefits Law, the employer shall be exempt from the contribution required by subparagraph (1) above with respect to wages paid to such worker.

(3) (A) The rates of contribution as specified in subparagraph (1) above shall be subject to modification as provided herein with respect to employer contributions due on and after July 1, 1951.

(B) A separate disability benefits account shall be maintained for each employer required to contribute to the State Disability Benefits Fund and such account shall be credited with contributions deposited in and credited to such fund with respect to employment occurring on and after January 1, 1949. Each employer's account shall be credited with all contributions paid on or before January 31 of any calendar year on his own behalf and on behalf of individuals in his service with respect to employment occurring in preceding calendar years; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him to the fund either on his own behalf or on behalf of such individuals. Benefits paid to any covered individual in accordance with Article III of the Temporary Disability Benefits Law on or before December 31 of any calendar year with respect to disability in such calendar year and in preceding calendar years shall be charged against the account of the employer by whom such individual was

employed at the commencement of such disability or by whom he was last employed if out of employment.

(C) The division may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(D) Prior to July 1 of each calendar year, the division shall make a preliminary determination of the rate of contribution for the 12 months commencing on such July 1 for each employer subject to the contribution requirements of this subsection (e).

(1) Such preliminary rate shall be ½ of 1% unless on the preceding January 31 of such year such employer shall have been a covered employer who has paid contributions to the State Disability Benefits Fund with respect to employment in the 3 calendar years immediately preceding such year.

(2) If the minimum requirements in (1) above have been fulfilled and the credited contributions exceed the benefits charged by more than $500.00, such preliminary rate shall be as follows:

(i) 2/10 of 1% if such excess over $500.00 exceeds 1% but is less than 1¼% of his average annual payroll (as defined in this chapter (R. S. 43:21–1 et seq.));

(ii) 15/100 of 1% if such excess over $500.00 equals or exceeds 1¼% but is less than 1½% of his average annual payroll;

(iii) 1/10 of 1% if such excess over $500.00 equals or exceeds 1½% of his average annual payroll.

(3) If the minimum requirements in (1) above have been fulfilled and the contributions credited exceed the benefits charged but by not more than $500.00 plus 1% of his average annual payroll, or if the benefits charged exceed the contributions credited but by not more than $500.00, the preliminary rate shall be ¼ of 1%.

(4) If the minimum requirements in (1) above have been fulfilled and the benefits charged exceed the contributions credited by more than $500.00, such preliminary rate shall be as follows:

(i) 35/100 of 1% if such excess over $500.00 is less than ¼ of 1% of his average annual payroll;

(ii) 45/100 of 1% if such excess over $500.00 equals or exceeds ¼ of 1% but is less than ½ of 1% of his average annual payroll;

(iii) 55/100 of 1% if such excess over $500.00 equals or exceeds ½ of 1% but is less than ¾ of 1% of his average annual payroll;

(iv) 65/100 of 1% if such excess over $500.00 equals or exceeds ¾ of 1% but is less than 1% of his average annual payroll;

(v) 75/100 of 1% if such excess over $500.00 equals or exceeds 1% of his average annual payroll.

(5) Determination of the preliminary rate as specified in (2), (3) and (4) above shall be subject, however, to the condition that it shall in no event be decreased by more than 1/10 of 1% of wages or increased by more than 2/10 of 1% of wages from the preliminary rate determined for the preceding year in accordance with (1), (2), (3) or (4), whichever shall have been applicable.

(E) (1) Prior to July 1 of each calendar year the division shall determine the amount of the State Disability Benefits Fund as of December 31 of the preceding calendar year increased by the contributions paid thereto during January of the current calendar year with respect to employment occurring in preceding calendar years. If such amount exceeds the total of the amounts withdrawn from the unemployment trust fund pursuant to section 23 of the Temporary Disability Benefits Law plus the amount at the end of such preceding calendar year of the unemployment disability account (as defined in section 22 of said law), such excess shall be expressed as a percentage of the wages on which contributions were paid to the State Disability Benefits Fund on or before January 31 with respect to employment in the preceding calendar year.

(2) The division shall then make a final determination of the rates of contribution for the 12 months commencing July 1 of such year for employers whose preliminary rates are determined as provided in (D) hereof, as follows:

(i) If the percentage determined in accordance with paragraph (E) (1) of this subsection equals or exceeds 1¼% the final employer rates shall be the preliminary rates determined as provided in (D) hereof, except that if the employer's preliminary rate is determined as provided in (D) (2) or (D) (3) hereof, the final employer rate shall be the preliminary employer rate decreased by such percentage of excess taken to the nearest 5/100 of 1%, but in no case shall such final rate be less than 1/10 of 1%.

(ii) If the percentage determined in accordance with paragraph (E) (1) of this subsection equals or exceeds ¾ of 1% and is less than 1¼ of 1%, the final employer rates shall be the preliminary employer rates.

(iii) If the percentage determined in accordance with paragraph (E) (1) of this subsection is less than ¾ of 1%, but in excess of ¼ of 1%, the final employer rates shall be the preliminary employer rates determined as provided in (D) hereof increased by the difference between ¾ of 1% and such percentage taken to the nearest $\frac{5}{100}$ of 1%; provided, however, that no such final rate shall be more than ¼ of 1% in the case of an employer whose preliminary rate is determined as provided in (D) (2) hereof, more than ½ of 1% in the case of an employer whose preliminary rate is determined as provided in (D) (1) and (D) (3) hereof, nor more than ¾ of 1% in the case of an employer whose preliminary rate is determined as provided in (D) (4) hereof.

(iv) If the amount of the State Disability Benefits Fund determined as provided in paragraph (E) (1) of this subsection is equal to or less than ¼ of 1%, then the final rate shall be ⅖ of 1% in the case of an employer whose preliminary rate is determined as provided in (D) (2) hereof $\frac{7}{10}$ of 1% in the case of an employer whose preliminary rate is determined as provided in (D) (1) and (D) (3) hereof, and 1.1% in the case of an employer whose preliminary rate is determined as provided in (D) (4) hereof. Notwithstanding any other provision of law or any determination made by the Division with respect to any 12-month period commencing on July 1, 1970, the final rates for all employers for the period beginning January 1, 1971, shall be as set forth herein.

5. Section 3 of P. L. 1971, c. 346 (C. 43:21–7.2) is amended to read as follows:

C. 43:21-7.2 Nonprofit organizations.

3. Nonprofit organizations. (a) Notwithstanding any other provisions of the Unemployment Compensation Law for payments of contributions by employers, benefits paid to individuals in the employ of nonprofit organizations, as described in section 501 (c) (3) of the Internal Revenue Code and which are exempt from income tax under section 501 (a) of the Internal Revenue Code, shall be financed in accordance with the following provisions:

(1) Any nonprofit organization which is, or becomes, subject to the Unemployment Compensation Law on or after January 1, 1972,

shall pay contributions under the provisions of R. S. 43:21–7, unless it elects in accordance with this paragraph, to pay to the division for the unemployment fund an amount equal to the amount of regular benefits and ½ of the extended benefits paid, that are attributable to base year service in the employ of such nonprofit organization during the effective period of such election;

(2) Any nonprofit organization which is, or becomes subject to the Unemployment Compensation Law on January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than 2 calendar years beginning with January 1, 1972, provided it files with the division a written notice of its election within the 120-day period immediately following such date or within a like period immediately following the enactment of this act, whichever occurs later;

(3) Any nonprofit organization which becomes subject to the Unemployment Compensation Law after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than 2 calendar years beginning with the date on which such subjectivity begins, by filing a written notice of its election with the division not later than 120 days immediately following the date of such subjectivity or not later than 30 days from the date the division notifies such organization of its subjectivity, whichever is later;

(4) Any nonprofit organization which makes an election in accordance with paragraph (2) or paragraph (3) shall be liable for payments in lieu of contributions on benefits paid that are attributable to base year service in the employ of such organization during the effective period of the election. Any nonprofit organization may file a written notice terminating its election, not later than February 1 of any year with respect to which the termination is to become effective;

(5) Any nonprofit organization which has been paying contributions under the Unemployment Compensation Law for a period subsequent to January 1, 1972 may change to a reimbursable basis by filing with the division not later than February 1 of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization during that calendar year or the next calendar year;

(6) The division may for good cause extend the period within which a notice of election or a notice of termination must be filed and may permit an election to be retroactive;

(7) If an election for payments in lieu of contributions is terminated by a nonprofit organization or canceled by the division, the nonprofit organization shall remain liable for payments in lieu of contributions with respect to all benefits paid based on base year wages earned in the employ of such nonprofit organization during the effective period of the election;

(8) The division in accordance with such regulations as it may prescribe, shall notify such nonprofit organization of any determination which the division may make of the effective date and the termination date of any such election and such determination shall be subject to reconsideration, appeal and review and

(9) As of the effective date of the termination of an election to make payments in lieu of contributions, a nonprofit organization shall become liable to pay unemployment insurance contributions on taxable wages paid to its employees subsequent to the termination. Its contribution rate beginning with the first July 1 in the period following the termination of an election shall be assigned in accordance with the provisions of R. S. 43:21–7 except that:

(A) The benefit charges to its account which are attributable to base year services in the employ of such nonprofit organization during the effective period of its election to make payments in lieu of contributions shall not be included in the total benefit charges to its account in the calculation of its reserve balance for determining its rate under R. S. 43:21–7(c);

(B) Its average annual payroll shall be determined without inclusion of any of the wages paid in any calendar year during which its election to make payments in lieu of contributions was effective for any part of the calendar year;

(C) The period during which the election to make payments in lieu of contributions was effective shall not be included in calculating the period of eligibility for modification of its rate under R. S. 43:21–7 (c) (3);

(D) For the period from the date of the termination of its election to the July 1 following termination, the nonprofit organization shall be assigned a rate of 1% for contributions under the Unemployment Compensation Law.

(b) Reimbursement payments. At the end of each calendar month, or at the end of any other period as determined by the division, the division shall bill each nonprofit organization or group of such organizations which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular

benefits plus ½ of the amount of any extended benefits paid during such month or other prescribed period that are attributable to base year service of individuals in the employ of such organization during the effective period of the election, and the provisions of the Unemployment Compensation Law (R. S. 43:21–1 et seq.), and the amendments and supplements thereto, shall be applicable with respect to the payment of claims for benefits and the charging thereof; provided, however, that no employer who elects to make payments in lieu of contributions shall be relieved of any charges for benefits paid to his workers by reason of R. S. 43:21–6(b)(1), R. S. 43:21–7(c)(1), or section 6 of chapter 324 of the laws of 1970 (C. 43:21–24.12, Extended Benefits Law).

(c) Payment of any bill rendered under subsection (b) above shall be made not later than 30 days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it unless there has been an application for review and redetermination in accordance with subsection (e).

(d) Payments made by any nonprofit organization under the provisions of this section shall not be deducted or deductible, in whole or in part from the remuneration of individuals in the employ of the organization.

(e) The amount of any payment required under subsection (b) from any nonprofit organization as specified in any bill from the division shall be conclusive on the organization unless, not later than 15 days after the bill was mailed to its last known address or otherwise delivered to it, the organization files an application for redetermination by the division setting forth the grounds for such application. The division shall promptly review and reconsider the amount specified in the bill and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless, not later than 15 days after the redetermination was mailed to its last known address or otherwise delivered to it, the organization files an appeal to the division setting forth the grounds for the appeal. Proceedings on appeal to the division from the amount of a bill rendered under this subsection or a redetermination of such amount shall be in accordance with the rules and regulations of the division.

(f) Any organization failing to file a timely report or to make a timely payment of the amount in lieu of contributions due hereunder shall be subject to the same interest, penalties, remedies and methods of enforcement that apply to contributions and re-

ports due under the provisions of the Unemployment Compensation Law.

(g) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under this section, the division may terminate such organization's election to make payments in lieu of contributions as of the January 1 immediately following, and such termination shall be effective for at least two calendar years and until all payments due the division have been satisfied.

(h) Provision for bond or other security. In the discretion of the division any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required within 30 days after the effective date of its election, to execute and file with the division a surety bond approved by the division or it may elect instead to deposit with the division moneys or securities approved by the division. The amount of the bond or deposit shall be determined by the division and shall not exceed the amount derived by multiplying the organization's taxable wages for the preceding calendar year, or the organization's estimated taxable wages for the ensuing year, whichever is the greater, by the maximum unemployment insurance contribution rate in effect at the beginning of the calendar year for which the bond or deposit is required; provided, however, that any organization which is a self-insurer and is exempt from insuring workers' compensation liability under the Workers' Compensation Law, shall so long as such exemption remains in effect be exempt from the surety bond and security deposit requirements of this subsection; and any other organization which shall satisfy the division as to its financial ability to meet the cost of benefits provided under the Unemployment Compensation Law and the Temporary Disability Benefits Law, may, upon application, be exempted from such requirements by written order of the division, which order shall be revocable at any time.

(1) Bond. The amount of any bond deposited under this subsection shall require adjustments as the division deems appropriate. If the bond is to be increased, the adjusted bond shall be filed by the organization within 30 days after notice of the required adjustment was mailed or otherwise delivered to it. Failure of any organization covered by such bond to pay the full amount of payment in lieu of contributions when due, together with any applicable interest and penalties, shall render the surety liable on said

bond to the extent of said bond as though the surety was such organization.

(2) Deposit of money or securities. Any deposit of money or securities in accordance with this subsection shall be retained by the division in an escrow account until liability under the election is terminated, at which time it shall be returned to the organization less any deductions as hereinafter provided. The division may deduct from any moneys deposited under this subsection by a nonprofit organization, or sell the securities it has so deposited, to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties. The division shall require the organization within 30 days following any deduction from a money deposit or sale of deposited securities under the provisions of this subsection to deposit sufficient additional money or securities to make whole the organization's deposit at the prior level. Any cash remaining from the sale of such securities shall be a part of the organization's escrow account. The division may at any time review the adequacy of the deposit made by any organization. If, as a result of such review, the division determines that an adjustment is necessary it shall require the organization to make an additional deposit within 30 days of written notice of the division's determination or shall return to it such portion as the division no longer considers necessary, as deemed appropriate. Disposition of income from securities held in escrow shall be governed by applicable State law.

(3) Authority to terminate elections. If any nonprofit organization fails to file a bond or make a deposit, or to increase or make whole the amount of a previously made bond or deposit, as provided under this subsection, the division may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for no less than 24 calendar months beginning with the first quarter in which such termination becomes effective, provided the division may extend for good cause the applicable filing, deposit or adjustment period by not more than 90 days.

(i) Group accounts. Two or more employers that have become liable for payments in lieu of contributions may file a joint application with the division for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to services in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purpose of this subsection. Upon

approval of the application, the division shall establish a group account for such employers effective as of the beginning of the calendar quarter in which the application is received or the next calendar quarter, in the discretion of the division, and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two calendar years and thereafter until terminated at the discretion of the division or upon application by the group. The division shall prescribe such regulations as it may deem necessary, with respect to applications for establishment, maintenance, and termination of group accounts authorized by this subsection, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subsection by members of the group, and the time and manner of such payments.

6. Section 4 of P. L. 1971, c. 346 (C. 43:21–7.3) is amended to read as follows:

C. 43:21-7.3 Governmental entity or instrumentality; payments.

4. (a) Notwithstanding any other provisions of the Unemployment Compensation Law for the payment of contributions, benefits paid to individuals based upon wages earned in the employ of any governmental entity or instrumentality which is an employer defined under R. S. 43:21–19(h)(5) shall, to the extent that such benefits are chargeable to the account of such governmental entity or instrumentality in accordance with the provisions of R. S. 43:21–1 et seq., be financed by payments in lieu of contributions.

(b) Any governmental entity or instrumentality may, as an alternative to financing benefits by payments in lieu of contributions, elect to pay contributions beginning with the date on which its subjectivity begins by filing written notice of its election with the division no later than 120 days after such subjectivity begins, provided that such election shall be effective for at least 2 full calendar years; or it may elect to pay contributions for a period of not less than 2 calendar years beginning January 1 of any year if written notice of such election is filed with the division not later than February 1 of such year; provided, further, that such governmental entity or instrumentality shall remain liable for payments in lieu of contributions with respect to all benefits paid based on base year wages earned in the employ of such entity or instrumentality in the period during which it financed its benefits by payments in lieu of contributions.

(c) Any governmental entity or instrumentality may terminate its election to pay contributions as of January 1 of any year by filing written notice with the division not later than February 1 of any year with respect to which termination is to become effective. It may not revert to a contributions method of financing for at least 2 full calendar years after such termination.

(d) Any governmental entity or instrumentality electing the option for contributions financing shall report and pay contributions in accordance with the provisions of R. S. 43:21–7 except that, notwithstanding the provisions of that section, the contribution rate for such governmental entity or instrumentality shall be 1% for the entire calendar year 1978 and the contribution rate for any subsequent calendar years shall be the rate established for governmental entities or instrumentalities under subsection (e) of this section.

(e) On or before September 1 of each year, the Commissioner of Labor and Industry shall review the composite benefit cost experience of all governmental entities and instrumentalities electing to pay contributions and, on the basis of that experience, establish the contribution rate for the next following calendar year which can be expected to yield sufficient revenue in combination with worker contributions to equal or exceed the projected costs for that calendar year.

(f) Any covered governmental entity or instrumentality electing to pay contributions shall each year appropriate, out of its general funds, moneys to pay the projected costs of benefits at the rate determined under subsection (e) of this section. These funds shall be held in a trust fund maintained by the governmental entity for this purpose. Any surplus remaining in this trust fund may be retained in reserve for payment of benefit costs for subsequent years either by contributions or payments in lieu of contributions.

(g) Any governmental entity or instrumentality electing to finance benefit costs with payments in lieu of contributions shall pay into the fund an amount equal to all benefit costs for which it is liable pursuant to the provisions of the Unemployment Compensation Law. Each subject governmental entity or instrumentality shall require payments from its workers in the same manner and amount as prescribed under R. S. 43:21–7(d) for governmental entities and instrumentalities financing their benefit costs with contributions. No such payment shall be used for a purpose other than to meet the benefits liability of such governmental entity or instrumentality. In addition, each subject governmental entity or

instrumentality shall appropriate out of its general funds sufficient moneys which, in addition to any worker payments it requires, are necessary to pay its annual benefit costs estimated on the basis of its past benefit cost experience; provided, that for its first year of coverage, its benefit costs shall be deemed to require an appropriation equal to 1% of the projected total of its taxable wages for the year. These appropriated moneys and worker payments shall be held in a trust fund maintained by the governmental entity or instrumentality for this purpose. Any surplus remaining in this trust fund shall be retained in reserve for payment of benefit costs in subsequent years. If a governmental entity or instrumentality requires its workers to make payments as authorized herein, such workers shall not be subject to the contributions required in R. S. 43:21–7(d).

7. R. S. 43:21–8 is amended to read as follows:

Period, election and termination of employers' coverage.

43:21–8. Period, election and termination of employers' coverage. (a) Any employing unit which is or becomes an employer subject to this chapter (R. S. 43:21–1 et seq.) within any calendar year shall be subject to this chapter (R. S. 43:21–1 et seq.) during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section, an employing unit shall cease to be an employer subject to this chapter (R. S. 43:21–1 et seq.) only as of January 1 of any calendar year, if

(1) The employing unit files with the division prior to February 1 of such year, a written application for termination of coverage, and the division finds that the employing unit did not pay wages in the amount of $1,000.00 or more within the preceding calendar year for employment subject to this chapter (R. S. 43:21–1 et seq.) or

(2) The division finds that during the 2 calendar years preceding such January 1, there was no day on which such employing unit employed one or more individuals in employment subject to this chapter (R. S. 43:21–1 et seq.).

For the purpose of this subsection, the employing units mentioned in section 43:21–19 (h) (2), (3) or (4) of the Revised Statutes shall be treated as a single employing unit.

(c) (1) An employing unit, not otherwise subject to this chapter (R. S. 43:21–1 et seq.), which files with the division its written election to become an employer subject hereto for not less than 2 calendar years shall become an employer subject hereto, to the

same extent as all other employers, as of the date of filing of such election or as of an earlier date if approved by the division, and shall cease to be subject to this chapter (R. S. 43:21–1 et seq.) as of January 1 of any calendar year subsequent to such period of election, only, if, prior to February 1, of such calendar year, such employing unit has filed with the division a written notice to that effect and it meets the conditions for termination of coverage set forth in subsection (b) hereof.

(2) If an employing unit for which services are performed that do not constitute employment as defined in this chapter (R. S. 43:21–1 et seq.) files with the division its written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all purposes of this chapter (R. S. 43:21–1 et seq.) for not less than 2 calendar years such services shall be deemed to constitute employment subject to this chapter (R. S. 43:21–1 et seq.) as of the date of the filing of such election, or as of an earlier date if approved by the division, and shall cease to be subject to this chapter (R. S. 43:21–1 et seq.) as of January 1 of any calendar year subsequent to such period of election, only, if, (A) prior to February 1 of such calendar year, such employing unit has filed with the division a written notice to that effect, or (B) the division finds that during the 2 calendar years preceding such January 1, there was no day on which such services were performed for the employing unit.

8. R. S. 43:21–19 is amended to read as follows:

Definitions.

43:21–19. Definitions. As used in this chapter (R. S. 43:21–1 et seq.) unless the context clearly requires otherwise:

(a) (1) "Annual payroll" means the total amount of wages paid during a calendar year (regardless of when earned) by an employer for employment.

(2) "Average annual payroll" means the average of the annual payrolls of any employer for the last 3 or 5 preceding calendar years, whichever average is higher, except that any year or years throughout which an employer has had no "annual payroll" because of military service shall be deleted from the reckoning; the "average annual payroll" in such case is to be determined on the basis of the prior 3 or 5 calendar years in each of which the employer had an "annual payroll" in the operation of his business, if the employer resumes his business within 12 months after

separation, discharge or release from such service, under conditions other than dishonorable, and makes application to have his "average annual payroll" determined on the basis of such deletion within 12 months after he resumes his business; provided, however, that "average annual payroll" solely for the purposes of paragraph (3) of subsection (e) of section 43:21–7 of this Title means the average of the annual payrolls of any employer on which he paid contributions to the State Disability Benefits Fund for the last 3 or 5 preceding calendar years, whichever average is higher; provided further, that only those wages be included on which employer contributions have been paid on or before January 31 (or the next succeeding day if such January 31 is a Saturday or Sunday) immediately preceding the beginning of the 12 months' period for which the employer's contribution rate is computed.

(b) "Benefits" means the money payments payable to an individual, as provided in this chapter (R. S. 43:21–1 et seq.), with respect to his unemployment.

(c) "Base year" with respect to benefit years commencing on or after January 1, 1953, shall mean the 52 calendar weeks ending with the second week immediately preceding an individual's benefit year.

(d) "Benefit year" with respect to any individual means the 364 consecutive calendar days beginning with the day on, or as of, which he first files a valid claim for benefits, and thereafter beginning with the day on, or as of, which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with subsection (a) of section 43:21–6 of this Title shall be deemed to be a "valid claim" for the purpose of this subsection if (1) no remuneration was paid or is payable for the day on which, or as of which he files a claim for benefits, and no work is available to him with his current employing unit on such day, or, he is unemployed for the week in which, or as of which, he files a claim for benefits; and (2) he has fulfilled the conditions imposed by subsection (e) of section 43:21–4 of this Title.

(e) "Division" means the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Industry established by c. 446, P. L. 1948, and any transaction or exercise of authority by the director of the division thereunder, or under this chapter (R. S. 43:21–1 et seq.), shall be deemed to be performed by the division.

(f) "Contributions" means the money payments to the State Unemployment Compensation Fund required by R. S. 43:21–7. "Payments in lieu of contributions" means the money payments to the State Unemployment Compensation Fund by employers electing or required to make payments in lieu of contributions as provided in section 3 or section 4 of this act (C. 43:21–7.2 and 43:21–7.3).

(g) "Employing unit" means the State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other States or political subdivisions or any individual or type of organization, any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this chapter (R. S. 43:21–1 et seq.). Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter (R. S. 43:21–1 et seq.), whether such individual was hired or paid directly by such employing unit or by such agent or employee; provided, the employing unit had actual or constructive knowledge of the work.

(h) "Employer" means:

(1) Any employing unit which in either the current or the preceding calendar year paid remuneration for employment in the amount of $1,000.00 or more;

(2) Any employing unit (whether or not an employing unit at the time of acquisition) which acquired the organization, trade or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this chapter (R. S. 43:21–1 et seq.);

(3) Any employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another employing unit and which, if treated as a single unit with such other

employing unit, would be an employer under paragraph (1) of this subsection;

(4) Any employing unit which together with one or more other employing units is owned or controlled (by legally enforcible means or otherwise), directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforcible means or otherwise), and which, if treated as a single unit with such other employing unit or interest, would be an employer under paragraph (1) of this subsection;

(5) Any employing unit for which service in employment as defined in R. S. 43:21–19 (i) (1) (B) (i); is performed after December 31, 1971; and as defined in R. S. 43:21–19 (i) (1) (B) (ii) is performed after December 31, 1977;

(6) Any employing unit for which service in employment as defined in R. S. 43:21–19 (i) (1) (C) is performed after December 31, 1971 and which in either the current or the preceding calendar year paid remuneration for employment in the amount of $1,000.00 or more;

(7) Any employing unit not an employer by reason of any other paragraph of this subsection (h) for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any Federal tax against which credit may be taken for contributions required to be paid into a State unemployment fund; or which, as a condition for approval of the Unemployment Compensation Law for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required pursuant to such act to be an employer under this chapter (R. S. 43:21–1 et seq.);

(8) Deleted by amendment (P. L. ...., C. .....).

(9) Deleted by amendment (P. L. ...., C. .....).

(10) Deleted by amendment (P. L. ...., C. .....).

(11) Any employing unit subject to the provisions of the Federal Unemployment Tax Act within either the current or the preceding calendar year except for employment hereinafter excluded under paragraph (7) of subsection (i) of this section.

(12) Any employing unit for which agricultural labor in employment as defined in R. S. 43:21–19(i)(1)(I) is performed after December 31, 1977;

(13) Any employing unit for which domestic service in employment as defined in R. S. 43:21–19(i)(1)(J) is performed after December 31, 1977;

(14) Any employing unit which, having become an employer under the Unemployment Compensation Law (R.S. 43:21–1 et seq.), has not under R. S. 43:21–8 ceased to be an employer; or for the effective period of its election pursuant to R. S. 43:21–8, any other employing unit which has elected to become fully subject to this chapter (R. S. 43:21–1 et seq.);

(i) (1) "Employment" means:

(A) Any service performed prior to January 1, 1972, which was employment as defined in the Unemployment Compensation Law (R. S. 43:21–1 et seq.) prior to such date, and, subject to the other provisions of this subsection, service performed on or after January 1, 1972, including service in interstate commerce, performed for remuneration or under any contract of hire, written or oral, express or implied.

(B) (i) Service performed after December 31, 1971 by an individual in the employ of this State or any of its instrumentalities or in the employ of this State and one or more other states or their instrumentalities for a hospital or institution of higher education located in this State, if such service is not excluded from employment under paragraph (D) below.

(ii) Service performed after December 31, 1977, in the employ of this State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of the foregoing and one or more other states or political subdivisions if such service is not excluded from "employment" under paragraph (D) below.

(C) Service performed after December 31, 1971 by an individual in the employ of a religious, charitable, educational, or other organization, which is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of section 3306 (c) (8) of that act, if such service is not excluded from employment under paragraph (D) below.

(D) For the purposes of paragraphs (B) and (C), the term "employment" does not apply to services performed

(i) In the employ of (I) a church or convention or association of churches, or (II) an organization or school which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member

of a religious order in the exercise of duties required by such order;

(iii) Prior to January 1, 1978, in the employ of a school which is not an institution of higher education, and after December 31, 1977, in the employ of a governmental entity referred to in section 19(i)(1)(B) if such service is performed by an individual in the exercise of duties

(aa) as an elected official;

(bb) as a member of a legislative body, or a member of the judiciary, of a State or political subdivision;

(cc) as a member of the State National Guard or Air National Guard;

(dd) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(ee) in a position which, under or pursuant to the laws of this State, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week; or

(iv) By an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of rehabilitation of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market;

(v) By an individual receiving work-relief or work-training as part of an unemployment work-relief or work-training program assisted in whole or in part by any Federal agency or an agency of a State or political subdivision thereof; or

(vi) Prior to January 1, 1978, for a hospital in a State prison or other State correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution.

(E) The term "employment" shall include the services of an individual who is a citizen of the United States, performed outside the United States after December 31, 1971 (except in Canada and in the case of the Virgin Islands, after December 31, 1971 and prior to January 1 of the year following the year in which the U.S. Secretary of Labor approves

the unemployment compensation law of the Virgin Islands under section 3304(a) of the Internal Revenue Code of 1954) in the employ of an American employer (other than the service which is deemed employment under the provisions of paragraphs 43:21–19 (i) (2) or (5) or the parallel provisions of another state's Unemployment Compensation Law), if

(i) The American employer's principal place of business in the United States is located in this State; or

(ii) The American employer has no place of business in the United States, but (I) the American employer is an individual who is a resident of this State; or (II) the American employer is a corporation which is organized under the laws of this State; or (III) the American employer is a partnership or trust and the number of partners or trustees who are residents of this State is greater than the number who are residents of any other state; or

(iii) None of the criteria of divisions (i) and (ii) of this subparagraph (E) is met but the American employer has elected to become an employer subject to the Unemployment Compensation Law (R. S. 43:21–1 et seq.) in this State, or the American employer having failed to elect to become an employer in any state, the individual has filed a claim for benefits, based on such service, under the law of this State.

(iv) An "American employer" for the purposes of this subparagraph (E), means (I) an individual who is a resident of the United States; or (II) a partnership if two-thirds or more of the partners are residents of the United States; or (III) a trust, if all the trustees are residents of the United States, or (IV) a corporation organized under the laws of the United States or of any state.

(F) Notwithstanding R. S. 43:21–19 (i) (2), all service performed after January 1, 1972 by an officer or member of the crew of an American vessel or American aircraft on or in connection with such vessel or aircraft, if the operating office from which the operations of such vessel or aircraft operating within, or within and without, the United States are ordinarily and regularly supervised, managed, directed, and controlled, is within this State.

(G) Notwithstanding any other provision of this subsection, service in this State with respect to which the taxes required to be paid under any Federal law imposing a tax against which credit may be taken for contributions required to be paid into

a State unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the Unemployment Compensation Law (R. S. 43:21–1 et seq.).

(H) The term "United States" when used in a geographical sense in subsection R. S. 43:21–19 (i) includes the states, the District of Columbia, the Commonwealth of Puerto Rico and, effective on the day after the day on which the U.S. Secretary of Labor approves for the first time under section 3304(a) of the Internal Revenue Code of 1954 an unemployment compensation law submitted to the Secretary by the Virgin Islands for such approval, the Virgin Islands.

(I) (i) Service performed after December 31, 1977 in agricultural labor in a calendar year for an entity which is an employer as defined in the Unemployment Compensation Law (R. S. 43:21–1 et seq.) as of January 1 of such year; or for an employing unit which

(aa) during any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of $20,000.00 or more to individuals employed in agricultural labor, or

(bb) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment of time.

(ii) For the purposes of this subsection any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other entity shall be treated as an employee of such crew leader

(aa) if such crew leader holds a valid certification of registration under the Farm Labor Contractor Registration Act of 1963; or P. L. 1971, c. 192 (C. 34:8A–7 et seq.); or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(bb) if such individual is not an employee of such other person for whom services were performed.

(iii) For the purposes of subparagraph (I) (i) in the case of any individual who is furnished by a crew leader to perform

service in agricultural labor for any other entity and who is not treated as an employee of such crew leader under (I) (ii)

(aa) such other entity and not the crew leader shall be treated as the employer of such individual; and

(bb) such other entity shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his own behalf or on behalf of such other entity) for the service in agricultural labor performed for such other entity.

(iv) For the purposes of subparagraph (I) (i), the term "crew leader" means an individual who

(aa) furnishes individuals to perform service in agricultural labor for any other entity;

(bb) pays (either on his own behalf or on behalf of such other entity) the individuals so furnished by him for the service in agricultural labor performed by them; and

(cc) has not entered into a written agreement with such other entity under which such individual is designated as an employee of such other entity.

(J) Domestic service after December 31, 1977 performed in the private home of an employing unit which paid cash remuneration of $1,000.00 or more to one or more individuals for such domestic service in any calendar quarter in the current or preceding calendar year.

(2) The term "employment" shall include an individual's entire service performed within or both within and without this State if:

(A) The service is localized in this State; or

(B) The service is not localized in any state but some of the service is performed in this State, and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

(3) Services performed within this State but not covered under paragraph (2) of this subsection shall be deemed to be employment subject to this chapter (R. S. 43:21–1 et seq.) if contributions are not required and paid with respect to such services under an un-

employment compensation law of any other state or of the Federal Government.

(4) Services not covered under paragraph (2) of this subsection and performed entirely without this State, with respect to no part of which contributions are required and paid under an Unemployment Compensation Law of any other state or of the Federal Government, shall be deemed to be employment subject to this chapter (R. S. 43:21–1 et seq.) if the individual performing such services is a resident of this State and the employing unit for whom such services are performed files with the division an election that the entire service of such individual shall be deemed to be employment subject to this chapter (R. S. 43:21–1 et seq.).

(5) Service shall be deemed to be localized within a state if:

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the State, for example, is temporary or transitory in nature or consists of isolated transactions.

(6) Services performed by an individual for remuneration shall be deemed to be employment subject to this chapter (R. S. 43:21–1 et seq.) unless and until it is shown to the satisfaction of the division that

(A) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact; and

(B) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

(7) Provided that such services are also exempted under the Federal Unemployment Tax Act, as amended, or that contributions with respect to such services are not required to be paid into a State Unemployment Fund as a condition for a tax offset credit against the tax imposed by the Federal Unemployment Tax Act, as amended, the term "employment" shall not include:

(A) Agricultural labor performed prior to January 1, 1978; and after December 31, 1977, only if performed in a calendar year for an entity which is not an employer as defined in the Unemployment Compensation Law (R. S. 43:21–1 et seq.) as

of January 1 of such calendar year; or unless performed for an employing unit which

(i) during a calendar quarter in either the current or the preceding calendar year paid remuneration in cash of $20,000.00 or more to individuals employed in agricultural labor, or

(ii) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment of time.

(B) Domestic service in a private home performed prior to January 1, 1978; and after December 31, 1977, unless performed in the private home of an employing unit which paid cash remuneration of $1,000.00 or more to one or more individuals for such domestic service in any calendar quarter in the current or preceding calendar year;

(C) Service performed by an individual in the employ of his son, daughter or spouse, and service performed by a child under the age of 18 in the employ of his father or mother;

(D) Service performed prior to January 1, 1978, in the employ of this State or of any political subdivision thereof or of any instrumentality of this State or its political subdivisions except as provided in R. S. 43:21–19 (i) (1) (B) above, and service in the employ of the South Jersey Port Corporation or its successors;

(E) Service performed in the employ of any other state or its political subdivisions or of an instrumentality of any other state or states or their political subdivisions: to the extent that such instrumentality is with respect to such service exempt under the Constitution of the United States from the tax imposed under the Federal Unemployment Tax Act, as amended, except as provided in R. S. 43:21–19 (i) (1) (B) above;

(F) Service performed in the employ of the United States Government or of an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by the Unemployment Compensation Law, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a State Unemployment Compensation Law, all of the provisions of this act shall be applicable to such instru-

mentalities, and to service performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided, that if this State shall not be certified for any year by the Secretary of Labor of the United States under section 3304 of the Federal Internal Revenue Code (26 U. S. C., sec. 3304), the payments required of such instrumentalities with respect to such year shall be refunded by the division from the fund in the same manner and within the same period as is provided in R. S. 43:21–14 (f) with respect to contributions erroneously paid to or collected by the division;

(G) Services performed in the employ of fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association, or their dependents;

(H) Services performed as a member of the board of directors, a board of trustees, a board of managers, or a committee of any bank, building and loan or savings and loan association, incorporated or organized under the laws of this State or of the United States, where such services do not constitute the principal employment of the individual;

(I) Service with respect to which unemployment insurance is payable under an unemployment insurance program established by an Act of Congress;

(J) Service performed by agents of mutual fund brokers or dealers in the sale of mutual funds or other securities, by agents of insurance companies, exclusive of industrial insurance agents, or by agents of investment companies, if the compensation to such agents for such services is wholly on a commission basis;

(K) Services performed by real estate salesmen or brokers who are compensated wholly on a commission basis;

(L) Services performed in the employ of any veterans' organization chartered by Act of Congress or of any auxiliary thereof, no part of the net earnings of which organization, or auxiliary thereof, inures to the benefit of any private shareholder or individual;

(M) Service performed for or in behalf of the owner or operator of any theatre, ballroom, amusement hall or other

place of entertainment, not in excess of 10 weeks in any calendar year for the same owner or operator, by any leader or musician of a band or orchestra, commonly called a "name band," entertainer, vaudeville artist, actor, actress, singer or other entertainer;

(N) Services performed after January 1, 1973 by an individual for a labor union organization, known and recognized as a union local, as a member of a committee or committees reimbursed by the union local for time lost from regular employment, or as a part-time officer of a union local and the remuneration for such services is less than $1,000.00 in a calendar year;

(O) Services performed in the sale or distribution of merchandise by home-to-home salespersons or in-the-home demonstrators whose remuneration consists wholly of commissions or commissions and bonuses.

(P) Service performed in the employ of a foreign government, including service as a consular, nondiplomatic representative, or other officer or employee;

(Q) Service performed in the employ of an instrumentality wholly owned by a foreign government if (i) the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof, and (ii) the division finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar services performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(R) Service in the employ of an international organization entitled to enjoy the privileges, exemptions and immunities under the International Organization Immunities Act (22 U. S. C. 288 et seq.).;

(S) Service covered by an election duly approved by an agency charged with the administration of any other state or Federal Unemployment Compensation or Employment Security Law, in accordance with an arrangement pursuant to R. S. 43:21–21 during the effective period of such election;

(T) Service performed in the employ of a school, college, or university if such service is performed (i) by a student enrolled at such school, college, or university on a full-time basis in an

educational program or completing such educational program leading to a degree at any of the severally recognized levels, or (ii) by the spouse of such a student, if such spouse is advised at the time such spouse commences to perform such service that (I) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (II) such employment will not be covered by any program of unemployment insurance;

(U) Service performed by an individual under the age of 22 who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(V) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital; service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and regularly attending classes in a nurses' training school approved under the laws of this State; and service performed as an intern in the employ of a hospital by an individual who has completed a 4-year course in a medical school approved pursuant to the law of this State.

(8) If one-half or more of the services in any pay period performed by an individual for an employing unit constitutes employment, all the services of such individual shall be deemed to be employment; but if more than one-half of the service in any pay period performed by an individual for an employing unit does not constitute employment, then none of the service of such individual shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period of not more than 31 consecutive days for which a payment for service is ordinarily made by an employing unit to individuals in its employ.

(j) "Employment office" means a free public employment office, or branch thereof operated by this State or maintained as a part of a State-controlled system of public employment offices.

(k) "Fund" means the unemployment compensation fund established by this chapter (R. S. 43:21–1 et seq.), to which all contributions required and from which all benefits provided under this chapter (R. S. 43:21–1 et seq.) shall be paid.

(l) "State" includes, in addition to the states of the United State of America, the District of Columbia, the Virgin Islands and Puerto Rico.

(m) Unemployment.

(1) An individual shall be deemed "unemployed" for any week during which he is not engaged in full-time work and with respect to which his remuneration is less than his weekly benefit rate, including any week during which he is on vacation without pay; provided, such vacation is not the result of the individual's voluntary action.

(2) The term "remuneration" with respect to any individual for benefit years commencing on or after July 1, 1961, and as used in this subsection, shall include only that part of the same which in any week exceeds 20% of his weekly benefit rate (fractional parts of a dollar omitted) or $5.00 whichever is the larger.

(3) An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the division may by regulation otherwise prescribe.

(n) "Unemployment compensation administration fund" means the unemployment compensation administration fund established by this chapter (R. S. 43:21–1 et seq.), from which administrative expenses under this chapter (R. S. 43:21–1 et seq.) shall be paid.

(o) "Wages" means remuneration paid by employers for employment; provided, however, that for eligibility and benefit purposes wages earned but not paid when the amount thereof has been calculated and is due as determined by the established and customary practices of the employer shall be construed as having been paid when earned. If a worker receives gratuities regularly in the course of his employment from others than his employer, his "wages" shall also include the gratuities so received if reported in writing to his employer in accordance with regulations of the division, and if not so reported, his "wages" shall be determined in accordance with the minimum wage rates prescribed under any labor law or regulation of this State or of the United States, or the

amount or remuneration actually received by the employee from his employer, whichever is the higher.

(p) "Remuneration" means all compensation for personal services, including commissions and bonuses and the cash value of all compensation in any medium other than cash.

(q) "Week" means such period or periods of 7 consecutive days ending at midnight, as the division may by regulation prescribe.

(r) "Calendar quarter" means the period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31.

(s) "Investment company" means any company as defined in paragraph 1-a of c. 322 of the laws of 1938, entitled "An act concerning investment companies, and supplementing Title 17 of the Revised Statutes by adding thereto a new chapter entitled 'investment companies.' "

(t) "Base week" means any calendar week of an individual's base year during which he earned in employment from an employer remuneration equal to not less than $30.00; provided, if in any calendar week, an individual is in employment with more than one employer, he may in such calendar week establish a base week with respect to each such employer from whom the individual earns remuneration equal to not less than $30.00 during such week.

(u) "Average weekly wage" means the amount derived by dividing an individual's total wages received during his base year base weeks (as defined in subsection (t) of this section) from that most recent base year employer with whom he has established at least 20 base weeks, by the number of base weeks in which such wages were earned. In the event that such claimant had no employer in his base year with whom he had established at least 20 base weeks, then such individual's average weekly wage shall be computed as if all of his base week wages were received from one employer and as if all his base weeks of employment had been performed in the employ of one employer.

If on application of a claimant it is determined that he has been employed during at least the 4 weeks immediately preceding his separation from employment by an employer on a substantially reduced schedule of weekly hours due to lack of work, all weeks of substantially reduced schedule within the base period and his wages therefor shall be disregarded in computing his average weekly wage.

(v) "Initial determination" means, subject to the provisions of R. S. 43:21–6 (b) (2) and (3), a determination of benefit rights as

measured by an eligible individual's base year employment with a single employer covering all periods of employment with that employer during the base year. Subject to the provisions of R. S. 43:21–3 (d) (3) if an individual has been in employment in his base year with more than one employer, no benefits shall be paid to that individual under any successive initial determination until his benefit rights have been exhausted under the next preceding initial determination.

(w) "Last date of employment" means the last calendar day in the base year of an individual on which he performed services in employment for a given employer.

(x) "Most recent base year employer" means that employer with whom the individual most recently, in point of time, performed services in employment in the base year.

(y) (1) "Educational institution" means any public or other nonprofit institution (including an institution of higher education)

(A) in which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor(s) or teacher(s);

(B) which is approved, licensed or issued a permit to operate as a school by the State Department of Education or other government agency that is authorized within the State to approve, license or issue a permit for the operation of a school; and

(C) which offers courses of study or training which may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

(2) "Institution of higher education" means an educational institution which:

(A) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) Is legally authorized in this State to provide a program of education beyond high school;

(C) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(D) Is a public or other nonprofit institution.

Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this State are institutions of higher education for purposes of this section.

(z) "Hospital" means an institution which has been licensed, certified or approved under the law of this State as a hospital.

9. Section 5 of P. L. 1970, c. 324 (C. 43:21–24.11) is amended to read as follows:

C. 43:21-24.11 Definitions.

5. Definitions. For the purposes of the extended benefit program and as used in this act, unless the context clearly requires otherwise:

a. "Extended benefit period" means a period which

(1) Begins with the third week after whichever of the following weeks occurs first:

(a) A week for which there is a national "on" indicator, or

(b) A week for which there is a state "on" indicator; and

(2) Ends with either of the following weeks, whichever occurs later:

(a) The third week after the first week for which there is both a national "off" indicator and a state "off" indicator; or

(b) The thirteenth consecutive week of such period;

Provided, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week after the close of a prior extended benefit period which was in effect with respect to this State; and

Provided further, that no extended benefit period may become effective in this State prior to the effective date of this act, and that, within the period beginning on the effective date of this act and ending on December 31, 1971, an extended benefit period shall be determined solely by reason of a state "on" and a state "off" indicator.

b. There is a "national 'on' indicator" for a week if the United States Secretary of Labor determines that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded 4.5% (determined by reference to the average monthly covered employment for the first 4 of the most recent 6 calendar quarters ending before the close of such period).

c. There is a "national 'off' indicator" for a week if the United States Secretary of Labor determines that for the period consisting

of such week and the immediately preceding 12 weeks, the rate of insured unemployment (seasonally adjusted) for all states was less than 4.5% (determined by reference to the average monthly covered employment for the first 4 of the most recent 6 calendar quarters ending before the close of such period).

d. There is a "state 'on' indicator" for this State for a week if the division determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the Unemployment Compensation Law (R. S. 43:21–1 et seq.).

(1) Equaled or exceeded 120% of the average of such rates for the corresponding 13-week period ending in each of the preceding 2 calendar years, and equaled or exceeded 4% or

(2) With respect to benefits for weeks of unemployment beginning after March 30, 1977, equaled or exceeded 5%.

e. There is a "state 'off' indicator" for this State for a week if the division determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding 12 weeks, neither subparagraph (1) or (2) of paragraph d. was satisfied.

f. "Rate of insured unemployment," for purposes of subsections d. and e. means the percentage derived by dividing

(1) The average weekly number of individuals filing claims in this State for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the division on the basis of its reports to the United State Secretary of Labor, by

(2) The average monthly covered employment for the specified period.

g. "Regular benefits" means benefits payable to an individual under the Unemployment Compensation Law (R. S. 43:21–1 et seq.) or under any other State law (including benefits payable to Federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits.

h. "Extended benefits" means benefits (including benefits payable to Federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this act for weeks of unemployment in his eligibility period.

i. "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended

benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

j. "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

(1) Has received prior to such week, all of the regular benefits that were available to him under the Unemployment Compensation Law or any other State law (including dependents' allowances and benefits payable to Federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week;

Provided, that for the purposes of this subparagraph, an individual shall be deemed to have received all of the regular benefits that were available to him although as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(2) His benefit year having expired prior to such week, has no, or insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week; and

(3) (a) Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other Federal laws as are specified in regulations issued by the United States Secretary of Labor; and

(b) Has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee if the other provisions of this definition are met: provided, that, the reference in this subparagraph to the Virgin Islands shall be inapplicable effective on the day on which the United States Secretary of Labor approves under section 3304(a) of the Internal Revenue Code of 1954, an unemployment compensation law submitted to the Secretary by the Virgin Islands for approval.

k. "State law" means the unemployment insurance law of any state approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

C. 43:21-7.6 Act exempt from provisions requiring expenditure limitations.

10. (New section) Notwithstanding the provisions of P. L. 1975, c. 212 (C. 18A:7A–3 and 18A:7A–25) or rules and regulations promulgated pursuant thereto, any increase in expenditure required as a result of this act shall not be subject to the expenditure limitations imposed pursuant to P. L. 1975, c. 212 (C. 18A:7A–3 and 18A:7A–25).

11. This act shall take effect on January 1, 1978, but the Commissioner of Labor and Industry is authorized to take such action prior to January 1, 1978 as may be necessary to prepare for implementation of the provisions thereof.

Approved December 30, 1977.

CHAPTER 308

AN ACT concerning the authority of certain municipalities to impose certain taxes and amending the "Local Tax Authorization Act of 1970," approved December 23, 1970 (P. L. 1970, c. 326).

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

1. Section 5 of P. L. 1970, c. 326 (C. 40:48C–5) is amended to read as follows:

C. 40:48C-5 Limitation.

5. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to alcoholic beverages delivered to a taxpayer on or after January 1, 1979.

2. Section 8 of P. L. 1970, c. 326 (C. 40:48C–8) is amended to read as follows:

C. 40:48C-8 Limitation.

8. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to parking services provided on or after January 1, 1979.

3. Section 12 of P. L. 1970, c. 326 (C. 40:48C–12) is amended to read as follows:

C. 40:48C-12 Limitation.

12. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to sales of motor fuels on or after January 1, 1979.

4. Section 19 of P. L. 1970, c. 326 (C. 40:48C–19) is amended to read as follows:

C. 40:48C-19 Limitation.

19. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to services performed prior to January 1, 1971, in a calendar quarter prior to that in which the ordinance is adopted on or after January 1, 1979, but any such ordinance shall remain in effect with respect to the right of the municipality to receive reports and enforce and collect taxes due thereunder for any period prior to January 1, 1979.

5. Section 26 of P. L. 1970, c. 326 (C. 40:48C–26) is amended to read as follows:

C. 40:48C-26 Limitation.

26. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to rental for use or occupancy of commercial premises on or after January 1, 1979.

6. Section 32 of P. L. 1970, c. 326 (C. 40:48C–32) is amended to read as follows:

C. 40:48C-32 Limitation.

32. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to transactions taking place on or after January 1, 1979.

7. This act shall take effect immediately.

Approved January 4, 1978.

CHAPTER 309

AN ACT authorizing municipalities to enact ordinances establishing restricted parking zones in certain cases and supplementing chapter 4 of Title 39 of the Revised Statutes.

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

C. 39:4-197.6 Restricted parking zones for benefit of handicapped.

1. Any municipality may, by ordinance, establish restricted parking zones in front of residences occupied by handicapped persons, provided a. such persons are holders of current drivers' licenses issued by this State; b. the motor vehicles to be parked in such zones are equipped with such special attachments and devices as the Director of the Division of Motor Vehicles may deem necessary to provide for the safe operation thereof by such persons; and c. such parking is not otherwise prohibited and the permitting thereof would not interfere with the normal flow of traffic.

C. 39:4-197.7 Issuance of permits; size; fee.

2. Any municipality enacting an ordinance pursuant to section 1 of this act shall provide for the issuance of permits which identify a specific motor vehicle and the location wherein it is to be parked. Such permits shall only be issued to persons who can prove ownership and operation of the motor vehicle and residency at the location specified thereon. The permit shall be 5½ inches by 8½ inches in size, shall bear an appropriate certification of authenticity and shall be displayed prominently within the vehicle when it is parked so as to be seen from the middle of the street. Only a motor vehicle for which a valid permit has been issued and which has such permit properly displayed shall be permitted to be parked in the restricted parking zone indicated on such permit. A municipality may, by ordinance, establish a fee for such permits.

3. This act shall take effect immediately.

Approved January 5, 1978.

CHAPTER 310

AN ACT concerning recovery for medical expenses incurred in automobile accidents, to amend the "New Jersey Automobile Reparation Reform Act," approved June 20, 1972 (P. L. 1972, c. 70), and amending and supplementing the "Unsatisfied Claim and Judgment Fund Law," approved May 10, 1952 (P. L. 1952, c. 174) and making an appropriation therefor.

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

1. Section 4 of P. L. 1972, c. 70 (C. 39:6A–4) is amended to read as follows:

C. 39:6A-4 Personal injury protection coverage, regardless of fault.

4. Personal injury protection coverage, regardless of fault.

Every automobile liability insurance policy insuring an automobile as defined in this act against loss resulting from liability imposed by law for bodily injury, death and property damage sustained by any person arising out of ownership, operation, maintenance or use of an automobile shall provide additional coverage, as defined herein below, under provisions approved by the Commissioner of Insurance, for the payment of benefits without regard to negligence, liability or fault of any kind, to the named insured and members of his family residing in his household who sustained bodily injury as a result of an accident involving an automobile, to other persons sustaining bodily injury while occupying the automobile of the named insured or while using such automobile with the permission of the named insured and to pedestrians, sustaining bodily injury caused by the named insured's automobile or struck by an object propelled by or from such automobile. "Additional coverage" means and includes:

a. Medical expense benefits. Payment of all reasonable medical expenses incurred as a result of personal injury sustained in an automobile accident. In the event of death, payment shall be made to the estate of the decedent. In the event benefits paid by an insurer pursuant to this subsection are in excess of $75,000.00 on account of personal injury to any one person in any one accident, such excess shall be paid by the insurer in consultation with the Unsatisfied Claim and Judgment Fund Board and shall be reimbursable to the insurer from the Unsatisfied Claim and Judgment Fund pursuant to section 2 of this act.

b. Income continuation benefits. The payment of the loss of income of an income producer as a result of bodily injury disability, subject to a maximum weekly payment of $100.00, per week. Such sum shall be payable during the life of the injured person and shall be subject to an amount or limit of $5,200.00, on account of injury to any one person, in any one accident.

c. Essential services benefits. Payment of essential services benefits to an injured person shall be made in reimbursement of necessary and reasonable expenses incurred for such substitute essential services ordinarily performed by the injured person for himself, his family and members of the family residing in the house-

hold, subject to an amount or limit of $12.00 per day. Such benefits shall be payable during the life of the injured person and shall be subject to an amount or limit of $4,380.00, on account of injury to any one person in any one accident.

d. Survivor benefits. In the event of the death of an income producer as a result of injuries sustained in an accident entitling such person to benefits under section 4 of this act, the maximum amount of benefits which could have been paid to the income producer, but for his death, under section 4 b. shall be paid to the surviving spouse, or in the event there is no surviving spouse, then to the surviving children, and in the event there are no surviving spouse or surviving children, then to the estate of the income producer.

In the event of the death of one performing essential services as a result of injuries sustained in an accident entitling such person to benefits under section 4 c. of this act, the maximum amount of benefits which could have been paid such person, under section 4 c., shall be paid to the person incurring the expense of providing such essential services.

e. Funeral expenses benefits. All reasonable funeral, burial and cremation expenses, subject to a maximum benefit of $1,000.00, on account of the death to any one person in any one account shall be payable to decedent's estate.

C. 39:6-73.1 Assumption of excess payment by fund; exceptions.

2. (New section) In the event medical expense benefits paid by an insurer, in accordance with section 4 a. of P. L. 1972, c. 70 (C. 39:6A–4), are in excess of $75,000.00 on account of personal injury to any one person in any one accident, the Unsatisfied Claim and Judgment Fund shall assume such excess and reimburse the insurer therefor in accordance with rules and regulations promulgated by the Director of the Division of Motor Vehicles after consultation with the Commissioner of Insurance; provided, however, that this provision is not intended to broaden the coverage available to accidents involving uninsured or hit-and-run automobiles, to provide extraterritorial coverage, nor to pay excess medical expenses.

3. Section 3 of P. L. 1952, c. 174 (C. 39:6–63) is amended to read as follows:

C. 39:6-63 Fund created.

3. For the purpose of creating and maintaining the fund:

(a) (Deleted by amendment, P. L. 1968, c. 323, § 3.)

(b) (Deleted by amendment, P. L. 1968, c. 323, § 3.)

(c) (Deleted by amendment, P. L. 1968, c. 323, § 3.)

(d) On December 30 in each year, beginning with 1956, the director shall calculate the probable amount which will be needed to carry out the provisions of this act during the ensuing registration license year. In such calculation, he shall take into consideration the amount presently reserved for pending claims, anticipated payments from the fund during said year, anticipated payments from the fund for medical expenses to be made pursuant to section 2 of this act during the 2 years after said year, anticipated amounts to be reserved for claims pending during said year, and the desirability of maintaining a surplus over and above such anticipated payments and present and anticipated reserves, such surplus not to exceed the amount actually paid from the fund during the 12 full calendar months immediately preceding the date of calculation. Such probable amount which will be needed to carry out the provisions of this act shall be assessed against insurers for such year's contribution to the fund. Such probable amount needed shall be apportioned among such insurers in the proportion that the net direct written premiums of each bears to the aggregate net direct written premiums of all insurers during the preceding calendar year as shown by the records of the commissioner. Each insurer shall pay the sum so assessed to the treasurer on or before March 31, next following.

(e) Whenever any of the provisions of this act concerning the method and sources of assessments, the maximum amounts payable from the fund, eligibility or qualifications of claimants, or amounts to be deducted from payments made from the fund are amended by law, between January 1 and April 30 in any year, the director may, if he deems it necessary, rescind any assessment made on December 30 of the preceding year. He shall then, within 15 days of the adoption of such amendment, recalculate the probable amount which will be needed to carry out the provisions of this act during the ensuing registration license year, in accordance with the provisions of subsection (d) of this section. If, in his judgment, the estimated balance of the fund at the beginning of the next registration license year will be insufficient to meet such needs, he shall determine the contributions of insurers, if any, in accordance with the provisions of subsection (d) of this section. In the event of a rescission and reassessment subsequent to March 1 in any year, insurers shall pay the sum so assessed, if any, to the treasurer within 90 days of the date of such assessment.

4. Section 13 of P. L. 1952, c. 174 (C. 39:6–73) is amended to read as follows:

C. 39:6-73 Limiting amounts payable from fund.

13. Except with respect to medical expense benefits paid pursuant to section 2 of this act, no order shall be made for the payment and the treasurer shall make no payment, out of the fund, of

(a) Any claim for damage to property for less than $100.00.

(b) The first $100.00 of any judgment for damage to property or of the unsatisfied portion thereof, or

(c) The unsatisfied portion of any judgment which, after deducting $100.00 therefrom if the judgment is for damage to property, exceeds

(1) the maximum or limit of, $15,000.00 exclusive of interest and costs, on account of injury to, or death of, one person in any one accident, and

(2) the maximum amount or limit, subject to such limit for any one person so injured or killed, of, $30,000.00 exclusive of interest and costs, on account of injury to, or death of, more than one person, in any one accident, and

(3) the maximum amount or limit of $5,000.00, exclusive of interest and costs, for damages to property in any one accident, provided, that such maximum amounts shall be reduced by any amount received or recovered as specified in subparagraph (m) of section 10.

(d) Any claim for damage to property which includes any sum greater than the difference between said maximum amounts and the sum of $100.00, and any amount paid out of the fund in excess of the amount so authorized may be recovered by the treasurer in an action brought to him against the person receiving the same.

5. Section 28 of P. L. 1952, c. 174 (C. 39:6–88) is amended to read as follows:

C. 39:6-88 Fund to be held in trust.

28. Fund to be held in trust. All sums paid to the director as Unsatisfied Claim and Judgment Fund Fees and as additional charges against owners of uninsured motor vehicles shall be remitted to the treasurer within 30 days after the receipt of the same. All sums received by the treasurer pursuant to any of the provisions of this act shall become part of the fund, and shall be held by the treasurer in trust for the carrying out of the purposes of this act and for the payment of the cost of administering this act. Said fund may be invested and reinvested in the same manner as

other State funds and shall be disbursed according to the order of the treasurer, as custodian of the fund.

6. There is hereby appropriated the sum of $45,000.00 to effectuate the purposes of this act.

7. This act shall take effect immediately and be applicable commencing with accidents occurring after 12:00 a.m. on the forty-fifth day following its enactment.

Approved January 5, 1978.

CHAPTER 311

AN ACT concerning pensions of certain widows and supplementing P. L. 1971, c. 22.

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

1. Notwithstanding the provisions of P. L. 1971, c. 22 (C. 43:16–4c et seq.) which required written application by the widow of any member of the police and fire departments enumerated in the act within 6 months after the effective date of that act, any widow who would have otherwise been qualified for a pension thereunder but who failed to file said application, shall, upon filing written application therefor with the commission not later than 60 days after the effective date of this act, be authorized a pension in accordance with the provisions of the act to which this act is a supplement.

2. This act shall take effect immediately.

Approved January 5, 1978.

CHAPTER 312

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, 1978 and regulating the disbursement thereof," approved June 30, 1977 (P. L. 1977, c. 137).

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

1. The following sums are hereby appropriated out of the General State Fund, or such other source of funds specifically indicated or as may be applicable, for the respective public officers and for the several purposes herein specified:

GENERAL STATE OPERATIONS

DEPARTMENT OF HEALTH

22100. Prevention, Treatment and Rehabilitation

22130. Narcotics and Drug Abuse Control

In addition to the sum provided for Narcotic and Drug Abuse Control, an amount of $1,045,899.31 is hereby transferred from the Capital Construction account for "life safety and fire protection" of the Division of Mental Retardation to the Department of Health for "upgrading private and public substance abuse treatment facilities to meet Life Safety Code licensing requirements".

CAPITAL CONSTRUCTION

DEPARTMENT OF HUMAN SERVICES

26920-770. Division of Mental Health

From sums previously appropriated from the Public Buildings Construction Fund to the Department of Health, an amount of $1,045,899.31 is hereby transferred to the Division of Mental Retardation for "life safety and fire protection".

2. This act shall take effect immediately.

Approved January 5, 1978.

CHAPTER 313

AN ACT to distribute moneys paid into the local expense fund.

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

C. 5:5-48.1 Moneys deposited in local expense fund; distribution.

1. Moneys deposited in the local expense fund created pursuant to section 28 of P. L. 1940, c. 17 (C. 5:5–48) as amended by section 2 of P. L. 1974, c. 181 shall be held for distribution to those municipalities at or in reasonable proximity to the site of race meetings, and which, in the determination of the commission, have incurred expenses as a result of said meetings, in accordance with the following:

a. The commission shall notify said municipalities of their eligibility for a share of said moneys;

b. Thereupon, said municipalities may submit claims setting forth the nature of the services performed and the amount expended for said services;

c. The commission shall evaluate and determine the validity of the claims based upon reasonable increases to said municipalities in police, fire and court costs, and the costs of other municipal services;

d. The commission shall distribute the moneys deposited in the fund to each municipality to the extent said moneys are available, and if not, then in the proportion that the valid claim bears to the total valid claims so submitted; and

e. Distributions shall be made to a municipality at or in reasonable proximity to the site of a race meeting from only those moneys deposited in the fund by the racing permit holders conducting the race meeting.

Distribution of moneys in the fund shall be subject to the approval of the State Treasurer.

Moneys undistributed in any year shall remain in the fund which shall continue from year to year.

2. This act shall take effect immediately.

Approved January 6, 1978.

CHAPTER 314

AN ACT concerning workers' compensation and amending R. S. 34:15–49.

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

1. R. S. 34:15–49 is amended to read as follows:

Original jurisdiction of claims; salaries and increments of director and judges.

34:15–49. The Division of Workers' Compensation shall have the exclusive original jurisdiction of all claims for workers' compensation benefits under this chapter. The judges of the Division of Workers' Compensation shall herinafter be appointed on a bipartisan basis by the Governor, with the advice and consent of the Senate and shall serve during good behavior. The salary of the director of the division shall be as provided in salary range 40 of the Compensation Plan adopted by the Civil Service Commission in accordance with Title 11, chapter 8 of the Revised Statutes of New Jersey. The salary of the judges of compensation shall be as provided in salary range 39 of the Compensation Plan adopted by the Civil Service Commission in accordance with Title 11, chapter 8 of the Revised Statutes of New Jersey. In addition to his salary, a judge of compensation regularly assigned as a supervising judge of compensation by the director shall receive additional compensation of $1,500.00 per annum during the period of such assignment. In establishing the applicable increment category level of the director and the judges of compensation appropriate credit shall be given for years of service heretofore and hereafter as judge of compensation, supervising judge of compensation, chief judge of compensation or director of the division. No subsequent annual increment for a judge of compensation shall be made unless the judge of compensation is evaluated favorably by the director of the division on the basis of recommendations made by the supervising judge of compensation. Judges of compensation shall not engage in the practice of law, shall devote full time to their judicial duties, and shall have been licensed attorneys for 10 years prior to their appointments. The director of the division shall have the same qualifications for appointment as a judge of compensation.

2. This act shall take effect immediately.

Approved January 10, 1978.

CHAPTER 315

AN ACT to amend "An act fixing the annual compensation of members of the Senate and General Assembly and providing for the payment thereof and for the payment of an additional allowance to the President of the Senate and the Speaker of the General Assembly," approved April 9, 1948 (P. L. 1948, c. 16).

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

1. Section 1 of P. L. 1948, c. 16 (C. 52:10A–1) is amended to read as follows:

C. 52:10A-1 Salaries of legislators.

1. Members of the Senate and General Assembly shall receive annually, during the term for which they shall have been elected and while they shall hold their office, compensation in the sum of $10,000.00 each, until the beginning of the legislative year following the next general election for members of the General Assembly and thereafter and beginning with said legislative year they shall receive annually during the term for which they shall have been elected and while they shall hold their office, compensation in the sum of $18,000.00 each. The President of the Senate and the Speaker of the General Assembly, each by virtue of his office, shall receive an additional allowance, equal to ⅓ of his compensation as a member. The compensation herein provided shall be paid to each member upon his qualifying into office as such member, and the additional allowance herein provided to the President of the Senate and the Speaker of the General Assembly shall be paid upon his qualifying into office as such officer.

2. This act shall take effect immediately.

Approved January 10, 1978.

CHAPTER 316

AN ACT to amend "An act concerning annual salaries and salary ranges in the Executive Branch and revising and repealing parts of the statutory law," approved June 28, 1974 (P. L. 1974, c. 55).

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

1. Section 1 of P. L. 1974, c. 55 (C. 52:14–15.107) is amended to read as follows:

C. 52:14-15.107 Annual salaries of certain cabinet members.

1. Notwithstanding the provisions of the Annual Appropriations Act and section 7 of P. L. 1974, c. 55 (C. 52:14–15.110) for the fiscal year ending June 30, 1978, the annual salaries for the following officers are fixed and established as follows:

Title	Salary
Agriculture Department	
Secretary of Agriculture	$49,000
Banking Department	
Commissioner, Department of Banking	49,000
Civil Service Department	
President, Civil Service Commission	49,000
Community Affairs Department	
Commissioner of Community Affairs	49,000
Corrections Department	
Commissioner, Department of Corrections	49,000
Defense Department	
Chief of Staff	46,500
Education Department	
Commissioner, Department of Education	49,000
Energy Department	
Commissioner, Department of Energy	49,000
President of the Board of Public Utilities Commissioners	49,000
Member, Board of Public Utilities Commissioners	49,000
Environmental Protection Department	
Commissioner, Environmental Protection	49,000
Health Department	
Commissioner, Department of Health	49,000
Higher Education Department	
Chancellor	49,000

Title	Salary
Human Services Department	
Commissioner, Human Services	49,000
Insurance Department	
Commissioner of Insurance	49,000
Labor and Industry Department	
Commissioner of Labor and Industry	49,000
Law and Public Safety Department	
Attorney General	49,000
Public Advocate Department	
Public Advocate	49,000
State Department	
Secretary of State	49,000
Transportation Department	
Commissioner of Transportation	49,000
Treasury Department	
State Treasurer	49,000

Any amounts required to pay increases in such salaries shall be transferred by the Director, Division of Budget and Accounting from their respective departmental appropriations.

2. This act shall take effect December 31, 1977.

Approved January 10, 1978.

CHAPTER 317

AN ACT to amend "An act concerning the annual salaries of the justices and judges of State and county courts and the establishment of salary ranges for certain offices and positions in the judicial branch of the State Government, and repealing P. L. 1970, c. 105," approved June 28, 1974 (P. L. 1974, c. 57), and "An act establishing the judicial retirement system, specifying contributions to be paid and benefit rights therein; and repealing sundry acts and parts of acts," approved May 22, 1973 (P. L. 1973, c. 140).

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

1. Section 1 of P. L. 1974, c. 57 (C. 2A:1A–6) is amended to read as follows:

C. 2A:1A-6 Salaries of justices and judges of State and county courts.

1. Annual salaries of the following justices and judges are fixed and established as follows:

Title	Salary
Chief Justice of the Supreme Court	$58,500
Associate Justice of the Supreme Court	56,000
Judge of the Superior Court, Appellate Division	53,000
Judge of the Superior Court, Assignment judge	51,000
Judge of the Superior Court	48,000
Judge of the County Court	48,000
Judge of the county district court	48,000
Judge of the juvenile and domestic relations court	48,000

2. Section 3 of P. L. 1973, c. 140 (C. 43:6A–3) is amended to read as follows:

C. 43:6A-3 Definitions.

3. As used in this act:

a. "Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a member or retirant.

b. "Child" means a deceased member's or retirant's unmarried child who is either (a) under the age of 18 (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board or (c) under the age of 21 and is attending school full time.

c. "Compensation" means the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the State for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additioal remuneration for performing temporary duties beyond the regular work schedule.

d. "Final salary" means the annual salary received by the member at the time of his retirement or death.

e. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

f. "Medical board" means the board of physicians provided for in section 29 of this act.

g. "Member" means the Chief Justice and associate justices of the supreme court, judges of the superior court, county courts, county district courts and juvenile and domestic relations courts of the State of New Jersey required to be enrolled in the retirement system established by this act.

For purposes of this act, the person holding the office of standing master by appointment pursuant to P. L. 1948, c. 382 or N. J. S. 2A:1–7 shall have the same privileges and obligations under this act as a judge of a county court.

h. "Parent" means the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

i. "Pension" means payment for life derived from contributions by the State.

j. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension computed on the basis of such mortality tables recommended by the actuary as shall be adopted by the State House Commission with regular interest.

k. "Regular interest" means interest as determined annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

l. "Retirant" means any former member receiving a pension as provided by this act.

m. "Retirement system" herein refers to the "Judicial Retirement System of New Jersey," which is the corporate name of the arrangement for the payment of pensions and other benefits under the provisions of this act including the several funds placed under said system. By that name, all of its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

n. "Service" means public service rendered for which credit is allowed on the basis of contributions made by the State.

o. "Several courts" means the Supreme, Superior, County, county district and juvenile and domestic relations courts.

p. "Widow" means the woman to whom a member or a retirant was married at least 4 years before the date of his death and to whom he continued to be married until the date of his death. The eligibility of such a widow to receive a survivor pension benefit will be considered terminated by the marriage of the widow subsequent to the member's or the retirant's death. In the event of accidental death the 4-year qualification shall be waived. When used in this act, the term "widow" shall mean and include "widower" as may be necessary and appropriate to the particular situation.

q. "Widower" means the man to whom a member or a retirant was married at least 4 years before the date of her death and to whom she continued to be married until the date of her death. The eligibility of such a widower to receive a survivor pension benefit will be considered terminated by the marriage of the widower subsequent to the member's or retirant's death. In the event of accidental death the 4-year qualification shall be waived.

3. This act shall take effect January 1, 1978.

Approved January 10, 1978.

CHAPTER 318

AN ACT concerning the manufacturing, introducing, delivering, prescribing, administering or dispensing of amygdalin.

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

C. 24:6F-1 Prescribing, administering or dispensing amygdalin; request by patient; form.

1. No duly licensed physician shall be subject to any penalty or disciplinary action by any State agency or private professional organization solely for prescribing, administering or dispensing amygdalin, also known as laetrile or vitamin B-17, to a patient who has made a written request for such substance on the following form:

WRITTEN INFORMED REQUEST FOR PRESCRIPTION OF AMYGDALIN (LAETRILE) FOR MEDICAL TREATMENT

Patient's name .....

Address .....

Age ..... Sex .....

Name and address of prescribing physician

.....

.....

Malignancy, disease, illness or physical condition diagnosed for medical treatment by amygdalin (laetrile) .....

.....

My physician has explained to me:

(a) That the manufacture and distribution of amygdalin (laetrile) has been banned by the Federal Food and Drug Administration.

(b) That neither the American Cancer Society, the American Medical Association, nor the Medical Society of New Jersey recommend use of amygdalin (laetrile) in the treatment of any malignancy, disease, illness or physical condition.

(c) That there are alternative recognized treatments for the malignancy, disease, illness or physical condition from which I suffer which he has offered to provide for me including: (Here describe)

.....

.....

That notwithstanding the foregoing, I hereby request prescription and use of amygdalin (laetrile) (a) in the medical treatment of the malignancy, disease, illness or physical condition from which I suffer☐, or (b) as a dietary supplement ☐. Check (a) or (b).

.....

Patient or person signing for patient

Attest:

.....

Prescribing physician

C. 24:6F-2 Dispensing of amygdalin by pharmacist.

2. No duly registered pharmacist shall be subject to any penalty or disciplinary action by any State agency or private professional organization for dispensing, upon receipt of a prescription,

amygdalin, provided that the pharmacist shall affix to the container containing amygdalin a label which shall contain the following statement: "Amygdalin has not been approved as a treatment or cure of any malignancy, disease, illness or physical condition by the United States Food and Drug Administration."

C. 24:6F-3 Administering or dispensing of amygdalin by health care facility; "health care facility" defined.

3. No health care facility or employee thereof may restrict or forbid the use of, refuse to administer or dispense, or be subject to any disciplinary action or penalty for administering or dispensing, amygdalin, also known as laetrile or vitamin B-17, when prescribed by a physician. For the purposes of this act, "health care facility" means any such facility as defined in the "Health Care Facilities Planning Act" (C. 26:2H–1 et seq.).

C. 24:6F-4 Delivery or introduction of amygdalin in State.

4. No person shall be held liable for any civil or criminal penalty solely for the manufacture, introduction or delivery or introduction for intrastate commerce in this State, the substance known as amygdalin, also known as laetrile or vitamin B-17; provided that such manufacture, introduction or delivery is conducted pursuant to chapters 6A and 6B of Title 24 of the New Jersey Statutes.

C. 24:6F-5 Keeping of records; rules and regulations.

5. The State Department of Health shall maintain records concerning the use of the substance amygdalin, also known as laetrile or vitamin B-17, and shall make periodic studies, based on such records, concerning the efficacy of such substance in the treatment of cancer. The Commissioner of Health is hereby authorized to promulgate rules and regulations to implement the provisions of this act, including: regulations to prohibit the use of amygdalin unless such substance is prescribed by a physician on the form set out in this act; and regulations to require copies of all such forms, when completed, to be sent to the Department of Health.

6. This act shall take effect immediately.

Approved January 10, 1978.

CHAPTER 319

A SUPPLEMENT to the "County Solid Waste Disposal Financing Law," approved October 28, 1970 (P. L. 1970, c. 242, C. 40:66A–31.1 et seq.).

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

C. 40:66A-31.4a. Declaration of taking; filing; contents; possession by county; notice; publication; determination of amount of compensation.

1. On or after the institution of an action by a county for condemnation of property and to fix the compensation to be paid for such property, pursuant to the act to which this act is a supplement, the county may file with the Clerk of the Superior Court a declaration of taking, signed by the duly authorized county official, declaring that all or any part of such property described in the petition is being taken by and for the use of the county. The declaration of taking shall set forth (1) a description of such tract or parcel of property to be taken, to which there may be attached a plan or map thereof; (2) a statement of the estate or interest in the said property being taken; and (3) a statement of the sum of money estimated by the county to be just compensation for the property taken, which sum shall not be less than the last assessed valuation for tax purposes of the estate or interest in the property to be taken.

Upon the filing of the aforesaid declaration of taking and the deposit in court to the use of the persons entitled thereto, of the sum of money estimated by the county to be just compensation for the property taken as stated above, title to the property described as being taken by said declaration shall vest in the county (free from the right, title, interest or lien of all persons), and said property shall be deemed to be condemned and taken for the use of the county and the right to just compensation for the same shall vest in the persons entitled thereto.

Upon the filing of the declaration of taking and the making of the deposit as aforesaid, the court shall designate a day not exceeding 90 days after such filing, except for good cause shown, on which persons in possession shall be required to surrender possession to the county.

Upon the expiration of the period designated by the court as herein provided, the county, without other process or proceedings shall be entitled to the exclusive possession and use of each tract or parcel of property described in the declaration and may forthwith enter into and take possession of said property, it being the intent of this provision that the action to fix the compensation to be paid or any other proceeding relating to the taking of such property or entering therein shall not delay the taking of possession and the use thereof by the county for purposes authorized by the act to which this act is a supplement. The county shall not abandon any condemnation proceeding pursuant to this act subsequent to the date upon which it has taken possession of the property as herein provided.

The county shall cause notice of the filing of said declaration of taking and the making of said deposit to be served upon each party to the action to fix the compensation to be paid, who resides in this State, either personally or by leaving a copy thereof at his dwelling house or usual place of abode, and upon each such party who resides out of the State by mailing notice thereof to him at his usual place of abode if known. In the event that the usual place of abode of any such party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county in which the property is located. Such service, mailing or publishing, shall be made within 30 days after the filing of the declaration.

Any party in interest after notice to other parties in interest, including the county, may make application to a judge of the Superior Court who may order that the money deposited with the Clerk of the Superior Court, or any part thereof, be paid forthwith to the person or persons entitled thereto for or on account of the just compensation to be awarded in said proceeding; provided, that each such person shall have filed with Clerk of the Superior Court a consent in writing and such security as may be required by the court that, in the event the award in the condemnation proceeding shall be less than the amount deposited, the court, after notice and hearing as herein provided, may determine the liability, if any, for the return of such difference or any part thereof and enter judgment therefor.

The ultimate amount of compensation shall be determined pursuant to the Eminent Domain Act of 1971, P. L. 1971, c. 361 (C. 20:3–1 et seq.). If the amount so fixed shall exceed the amount

so deposited in court by the county or otherwise paid to the persons entitled thereto, the court shall enter judgment against the county in the amount of such deficiency, together with interest at the legal rate on such deficiency from the date of the vesting of title to the date of the entry of the final judgment (subject, however, to abatement for use, income, rents or profits derived from such property by the owner thereof subsequent to the vesting of title in the county), and the court shall order the county to deposit the amount of such deficiency in court. The money deposited into court by a county shall be secured in such manner as may be directed by the court and shall be disbursed according to the order or judgment of the court to the persons found to be entitled thereto by the final award or judgment of the court. In case the amount deposited in court by the county as the estimated compensation for the property shall exceed the amount of the award or judgment, such excess shall be returned to the county unless the amount of the deposit or any part thereof shall have been distributed as aforesaid, in which event, the court, on petition of the county and notice to all persons interested in the award and affording them an opportunity to be heard, shall enter judgment in favor of the county for such difference against the party or parties liable for the return thereof. The county shall cause notice of the date, fixed for such hearing, to be served upon each party thereto residing in this State in accordance with the requirements of the laws of this State relating to service of process. In the event that the residence of any party or the name of any party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county. Such service, mailing or publication, shall be made at least 10 days before the date fixed for such hearing.

2. This act shall take effect immediately.

Approved January 10, 1978.

CHAPTER 320

AN ACT providing that persons before obtaining their initial trapping license shall satisfactorily complete a course of instruction on proper and lawful trapping methods and supplementing chapter 3 of Title 23 of the Revised Statutes.

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

C. 23:3-7.8 Completion of course in trapping methods; certificate.

1. Notwithstanding any provisions contained in R. S. 23:3–1 to 23:3–22, concerning the issuance of a resident or nonresident trapping license, at the time an application for license is made by an applicant of the age of 12 years or over, to whom a trapping license has not previously been issued, such applicant shall present to the issuing agent a certificate stating that the applicant has satisfactorily completed a course in trapping methods which shall be signed by an agent of the Division of Fish, Game and Shell Fisheries designated for that purpose, whose fitness to give instructions in proper trapping methods has been determined by the division. A person of the age of 12 years or over who previously had a license to engage in trapping issued to him, shall not be entitled to purchase another such license in a subsequent year unless at the time of making application he shall submit to the license issuing agent his license of a previous year, or a certification from the division stating that he held such license.

C. 23:3-7.9 Instructors; designation.

2. The division shall have authority to designate duly qualified persons to act as its agents in the giving of instructions in methods of trapping and the issuance of certificates, and a certificate shall not be issued to any person until in the opinion of his instructor he has qualified therefor.

C. 23:3-7.10 Forwarding certificates to division.

3. The license issuing clerk or agent designated under R. S. 23:3–7 to issue licenses shall forward such certificate to the division with his monthly returns.

C. 23:3-7.11 Charges.

4. No charge shall be made for any certificate or instructions given to a person to qualify him to purchase a trapping license.

C. 23:3-7.12 Issuance of license; requirements; violation of act; penalty.

5. No license agent shall issue a trapping license to a person of the age of 12 years or over, who has not submitted his trapping license of a previous year, or a certificate showing that he has successfully completed a course in trapping methods given by an individual duly designated by the Division of Fish, Game and Shell Fisheries, and any person on reaching 12 years of age who obtains a trapping license under false information within the scope

of this act shall be subject to a penalty of not less than $25.00 nor more than $200.00 for each offense.

6. This act shall take effect 90 days following its enactment.

Approved January 10, 1978.

CHAPTER 321

AN ACT providing for the testing of newborn children for purposes of the early detection of hypothyroidism.

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

C. 26:2-110 Declaration of policy.

1. It is hereby declared to be the public policy of this State that in the interests of public health every newborn infant should be given a test approved by the State Department of Health for the detection of hypothyroidism in order to prevent mental retardation resulting from this disease. No such test shall be made on any newborn infant if the parents of said child object thereto on the grounds that such a test would conflict with their religious tenets or practices.

C. 26:2-111 Hypothyroidism program established.

2. The State Department of Health shall institute and carry on such laboratory services as are deemed necessary by the Public Health Council and an intensive educational and training program among physicians, hospitals, public health nurses and the public concerning the disease of hypothyroidism. This program shall include information concerning the nature of the disease and testing for the detection of this disease in infancy in order that measures may be taken to prevent mental retardation resulting from this disease. The State Commissioner of Health shall make rules governing the submission to the State Laboratory of specimens for testing for hypothyroidism.

The commissioner shall provide a program of reviewing and following up on positive cases in order that measures may be taken to prevent mental retardation resulting from the disease.

3. This act shall take effect on July 1 following enactment.

Approved January 10, 1978.

CHAPTER 322

AN ACT concerning education and amending N. J. S. 18A:4–32, N. J. S. 18A:4–34 and P. L. 1969, c. 158.

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

1. N. J. S. 18A:4–32 is amended to read as follows:

Assistant commissioners; appointment; compensation.

18A:4–32. Assistant commissioners; appointment; compensation. The commissioner, subject to the approval of the State board, shall appoint not more than seven assistant commissioners of education, and fix their compensation, and he shall from time to time designate one of them to act in his place and stead during his absence.

2. N. J. S. 18A:4–34 is amended to read as follows:

Duties of assistant commissioners.

18A:4–34. Duties of assistant commissioners. Each assistant commissioner shall perform such duties in the public school system of the State as may from time to time be assigned to him by the commissioner, which shall include, but need not be limited to, any one or more of the following:

a. The supervision of curriculum and instruction;

b. The supervision of vocational education;

c. The hearing and determination of controversies and disputes which may arise under the school laws, or the rules of the State board, or of the commissioner;

d. The supervision of business and financial matters; and

e. The supervision of the Division of the State Library, Archives and History.

3. Section 12 of P. L. 1969, c. 158 (C. 18A:73–27) is amended to read as follows:

C. 18A:73-27 Assistant commissioner; council and personnel.

18A:73–27. The division shall consist of an assistant commissioner and an advisory council and such other personnel as the Commissioner of Education may deem necessary for the efficient administration thereof.

4. Section 17 of P. L. 1969, c. 158 (C. 18A:73–32) is amended to read as follows:

C. 18A:73-32 Assistant commissioner to be State Librarian; qualifications.

18A:73–32. The assistant commissioner for the division shall be the State Librarian.

The assistant commissioner shall be a graduate of an accredited university or college and shall, prior to his appointment, have graduated from a school of library service accredited by the American Library Association, and have had at least 4 years of library experience in a responsible administrative capacity.

5. This act shall take effect immediately.

Approved January 10, 1978.

CHAPTER 323

AN ACT to amend "An act concerning payment for services rendered by clinical or bio-analytical laboratories, and supplementing chapter 9 of Title 45 of the Revised Statutes," approved December 18, 1973 (P. L. 1973, c. 322).

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

1. Section 1 of P. L. 1973, c. 322 (C. 45:1–10) is amended to read as follows:

C. 45:1-10 Disclosure of certain information on bills to patients.

1. It shall be unlawful for any person licensed in the State of New Jersey to practice medicine or surgery, dentistry, osteopathy, podiatry or chiropractic to agree with any clinical, bio-analytical or hospital laboratory, wheresoever located, to make payments to such laboratory for individual tests, combination of tests, or test series for patients unless such person discloses on the bills to patients and third party payors the name and address of such laboratory and the net amount or amounts paid or to be paid to such laboratory for individual tests, combination of tests or test series.

2. This act shall take effect immediately.

Approved January 10, 1978.

CHAPTER 324

AN ACT concerning elected boards of education and amending N. J. S. 18A:12–15.

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

1. N. J. S. 18A:12–15 is amended to read as follows:

Vacancies.

18A:12–15. Vacancies in the membership of the board shall be filled as follows:

a. By the county superintendent, if the vacancy is caused by the absence of candidates for election to the school board or by the removal of a member because of lack of qualifications, or is not filled within 65 days following its occurrence;

b. By the county superintendent, to a number sufficient to make up a quorum of the board if, by reason of vacancies, a quorum is lacking;

c. By special election, if in the annual school election two or more candidates qualified by law for membership on the school board receive an equal number of votes. Such special election shall be held only upon recount and certification by the commissioner of such election result, shall be restricted to such candidates, shall be held within 60 days of the annual school election, and shall be conducted in accordance with procedures for annual and special school elections set forth in chapter 14 of Title 18A of the New Jersey Statutes. The vacancy shall be filled by the county superintendent if in such special election two or more candidates qualified by law for membership on the school board receive an equal number of votes;

d. By special election if there is a failure to elect a member at the annual school election due to improper election procedures. Such special election shall be restricted to those persons who were candidates at such annual school election, shall be held within 60 days of such annual school election, and shall be conducted in accordance with the procedures for annual and special school elections set forth in chapter 14 of Title 18A of the New Jersey Statutes;

e. By the commissioner if there is a failure to elect a member at the annual school election due to improper campaign practices; or

f. By the board in all other cases.

Each member so appointed shall serve until the Monday following the next annual election unless he is appointed to fill a vacancy occurring within the 60 days immediately preceding such election to fill a term extending beyond such election, in which case he shall serve until the Monday following the second annual election next succeeding the occurrence of the vacancy, and any vacancy for the remainder of the term shall be filled at the annual election or the second annual election next succeeding the occurrence of the vacancy as the case may be.

2. This act shall take effect immediately.

Approved January 10, 1978.

CHAPTER 325

AN ACT concerning school district election officers and amending N. J. S. 18A:14–8.

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

1. N. J. S. 18A:14–8 is amended to read as follows:

Compensation.

18A:14–8. Each election officer may be paid by the board for his services in conducting each election not to exceed $4.00 per hour for each hour actually worked, as may be fixed by the board of education.

2. This act shall take effect immediately.

Approved January 10, 1978.

CHAPTER 326

AN ACT concerning the selection of polling places and amending R. S. 19:8–3.

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

1. R. S. 19:8–3 is amended to read as follows:

Schoolhouses and public buildings; other locations; certification of expenses.

19:8–3. The county board may select the schoolhouse or schoolhouses, public building or public buildings as the polling places in any municipality in the county whether or not such schoolhouses or public buildings are located within the election district for which the polling place is established; and shall designate the rooms or places, entrances and exits to be used in the schoolhouses or public buildings.

The county board may select a polling place other than a schoolhouse or public building for an election district, when the location of the election district and of the schoolhouses and public buildings in the municipality in which the election district is located is such that inconvenience would be caused the voters of such election district by locating the polling place thereof in a schoolhouse or public building. In the selection of a polling place other than a schoolhouse or public building for an election district, consideration shall be given to the use of buildings accessible to elderly and physically disabled persons.

The county board shall determine and certify to the board of chosen freeholders the amount to be paid the several boards of education or municipalities, as the case may be, for expenses in connection with the use of schoolhouses or public buildings for election purposes; not to exceed in any case the amount paid for polling places in private premises.

2. This act shall take effect immediately.

Approved January 10, 1978.

CHAPTER 327

AN ACT concerning elections to regional boards of education and amending N. J. S. 18A:13–9.

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

1. N. J. S. 18A:13–9 is amended to read as follows:

Reapportionment of membership.

18A:13–9. Each apportionment shall continue in effect unless and until a reapportionment shall become necessary by reason of the official promulgation of the next Federal census or the enlargement of the regional district by the admission of one or more local districts. In any such case, immediately after the official promulgation of said census or the certification of a favorable result of the election for enlargement of the regional district the county superintendent or county superintendents of the county or counties in which the constituent districts are situate shall reapportion the members accordingly but all members shall continue in office for the terms for which they were elected or appointed notwithstanding any reapportionment. If any constituent district shall become entitled to increased representation on the board the additional members shall be elected at the next annual school election of the regional district. If, as a result of such reapportionment, a disproportionate number of the total representatives of any one constituent district to a regional board are to be elected at a single annual school election, the commissioner shall have the power, on petition of a constituent district board of education, to alter the term of any member representing such constituent district by not more than 1 year, so as to temporarily apportion, as equally as possible over any given 3-year period, the election of the members representing such constituent district.

2. This act shall take effect immediately.

Approved January 10, 1978.

CHAPTER 328

AN ACT to supplement the "Solid Waste Management Act," approved May 6, 1970 (P. L. 1970, c. 39, C. 13:1E–1 et seq.).

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

C. 13:1E-43 Legislature's findings.

1. a. The Legislature hereby finds that the current practice of ocean disposal of sludge is, to a large degree, responsible for the degradation of the coastal waters of this State and the serious environmental and economic problems related thereto; that such

degradation and problems will be aggravated by a continued reliance upon this practice to the point of being virtually irreversible; that land disposal methods and new technological processes now make it feasible to minimize the adverse effects of sludge while deriving useful products therefrom; and that the health, safety and welfare of the citizens of this State now require that such methods and processes replace the practice of ocean disposal of sludge.

b. The Legislature further finds that the efficient and reasonable management of solid waste and sludge are inherently compatible; that the recycling of solid waste and the processing of sludge into energy, fertilizers and other useful products are complementary; that State programs which seek to provide for comprehensive approaches to the proper disposal or utilization of solid waste or sludge must be regional in nature; and that the interests of the citizens of this State would best be served through an integration of sludge management with the regional solid waste planning and management process.

c. The Legislature, therefore, declares that it is the policy of this State to supplement the regional objectives of the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E–1 et seq.), by requiring that the solid waste management districts established therein plan and provide for the processing or land disposal of sludge in the manner and extent hereinafter provided.

C. 13:1E-44 Definitions.

2. As used in this act:

a. "Sludge" means the solids, precipitates and liquids, other than effluent, which are produced as a result of the storage or treatment of domestic or industrial sewage; provided, however, that any waste material which is disposed of in accordance with the provisions of a special permit issued by the Administrator of the U. S. Environmental Protection Agency pursuant to the provisions of section 102 of the "Marine Protection, Research and Sanctuaries Act of 1972" (P. L. 92–532, 33 U. S. C. s. 1412), as implemented by 40 CFR 220.3 shall not be considered sludge for the purposes of this supplementary act.

b. "Processing of sludge" means the use of sludge for the production of energy, fertilizer or other useful materials.

c. "Land disposal" means the disposal of sludge at a sanitary landfill or the application of wet or dry sludge on agricultural, park or institutional lands in a manner which conforms to the Statewide solid waste management plan and the solid waste

management plan for the district wherein such disposal or application occurs.

d. "Effluent" means liquids which are treated in, and discharged by, public sewage treatment plants.

C. 13:1E-45 Solid waste management plan.

3. The solid waste management plan developed and formulated for every solid waste management district in this State pursuant to sections 11 through 15 of P. L. 1975, c. 326 (C. 13:1E–20 to 13:1E–24) shall provide:

a. An inventory of the sources, composition, and quantity of sludge presently generated within the solid waste management district;

b. Projections of the amounts and composition of sludge which will be generated within the district in each of the subsequent 10 years;

c. An inventory and appraisal, including the identity, location and life expectancy, of any solid waste facility or recycling facility located within the district which could be utilized for the processing or land disposal of sludge;

d. An analysis of the present systems of sludge disposal for the district;

e. A statement of the sludge disposal strategy to be applied in the district, which strategy shall provide for the maximum practical processing of all sludge generated within the district following the adoption of the solid waste management plan by such district and for the processing or land disposal of any sludge generated within the district after December 31, 1981; provided, however, that such strategy takes into account, and incorporates where possible, facilities planning for environmentally sound land-based alternatives to the ocean dumping of sludge prepared by local agencies under Section 201 of P. L. 92–500, the "Federal Water Pollution Control Act Amendments of 1972" and conforms to the sludge management strategy developed by the department pursuant to section 4 of this supplementary act;

f. A site plan, which shall include all existing solid waste facilities or recycling facilities which could be utilized for the processing or land disposal of sludge, provided that they are operated and maintained in accordance with all applicable health and environmental standards, and sufficient additional available suitable sites to provide for the processing or land disposal of the amounts of sludge presently generated within the district as well as the

amounts of sludge projected to be generated in each of the subsequent 10 years.

C. 13:1E-46 Sludge management strategy; powers of department.

4. a. The Statewide solid waste management plan developed and formulated by the department pursuant to section 6 of the act to which this act is a supplement shall contain a sludge management strategy, which strategy shall provide for the maximum practical processing of all sludge generated within the State following the adoption of such plan, and for the processing or land disposal of any such sludge generated within the State after December 31, 1981.

b. The department is hereby empowered to direct any solid waste management district, pursuant to the Statewide solid waste management plan, (1) to plan for the utilization of any existing solid waste facility or recycling facility for the land disposal or processing of sludge, or (2) to develop a program, singly or with one or more other districts, to provide for the land disposal or processing of sludge generated within such district or districts.

C. 13:1E-47 Disposal.

5. All sludge generated within the boundaries of any solid waste management district in this State shall be disposed of in a manner which conforms to the Statewide solid waste management plan and the solid waste management plan for the district wherein such sludge is generated.

C. 13:1E-48 Federal, State or private aid.

6. The commissioner shall vigorously pursue all Federal, State or private aid which is available or may become available for the processing or land disposal of sludge and shall coordinate such aid requests as may be forthcoming with the appropriate State, county and local agencies and authorities.

7. The commissioner shall, within 90 days of the effective date of this supplementary act, prepare and submit to the Legislature a report concerning the practicability and feasibility of adopting pretreatment standards for sewage, as authorized by P. L. 1972, c. 42 (C. 58:11–49 et seq.). Such report shall further summarize past and present State and Federal efforts relating to such pretreatment and shall include a recommendation as to the appropriate role of the State concerning the establishment of such standards.

8. This act shall take effect immediately; provided however, section 3 shall be implemented pursuant to the following schedule:

a. Immediately, with respect to any solid waste management plans not due to be submitted to the commissioner within 120 days of the effective date of this supplementary act; and

b. Two years, from the effective date of this act with respect to any other solid waste management plan.

Approved January 10, 1978.

CHAPTER 329

AN ACT prohibiting the sexual exploitation of children in photographs and films 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:142A-1 Definitions.

1. As used in this act:

a. "Child" shall mean any person under 16 years of age.

b. "Prohibited sexual act" means

(1) Sexual intercourse; or

(2) Anal intercourse; or

(3) Masturbation; or

(4) Bestiality; or

(5) Sadism; or

(6) Masochism; or

(7) Fellatio; or

(8) Cunnilingus, or

(9) Any other sexual activity, or

(10) Nudity, if such nudity is to be depicted for the purpose of sexual stimulation or gratification of any person who may view such depiction.

C. 2A:142A-2 Allowing child to engage in prohibited sexual act; high misdemeanor.

2. Any person, including any parent, guardian, or other person legally charged with the care or custody of a child, who causes or permits a child to engage in a prohibited sexual act or in the simulation of such an act if such person knows, has reason to know or intends that such act may be photographed or filmed is guilty of a high misdemeanor.

C. 2A:142A-3 Photographing child in prohibited sexual act; high misdemeanor.

3. Any person who photographs or films a child in a prohibited sexual act or in the simulation of such an act is guilty of a high misdemeanor.

C. 2A:142A-4 Sale of photograph or film; high misdemeanor.

4. Any person who knowingly receives for the purpose of selling or who sells any photograph or film which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, is guilty of a high misdemeanor.

C. 2A:142A-5 Person depicted as under 16.

5. For purposes of this act, a person who is depicted as or presents the appearance of being under the age of 16 in any photograph or film shall be rebuttably presumed to be under the age of 16.

6. This act shall take effect immediately.

Approved January 10, 1978.

CHAPTER 330

AN ACT creating a Student Assistance Board supplementing Title 18A of the New Jersey Statutes and repealing N. J. S. 18A:71–3.

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

C. 18A:71-15.1 Student assistance board; creation; membership; appointment; terms; compensation.

1. There is hereby created the Student Assistance Board which is responsible to the Board of Higher Education and which shall consist of the Chancellor of the Department of Higher Education or his designee and 12 other members to be appointed by the Governor as follows:

Four public members who shall be residents of the State;

One representative of Rutgers, The State University;

One representative of the State-supported county colleges;

One representative of the State Colleges;

One representative of the nontax supported institutions of higher education in the State;

One representative of the New Jersey Institute of Technology;

One member of the Educational Opportunity Fund Board;

Two New Jersey residents currently enrolled as students in their final year of undergraduate education, one of whom shall attend a public institution of higher education of this State and one who shall attend a nontax supported institution of higher education in this State. These student members shall be selected from candidates recommended by the Student Advisory Committee. The term of office of the appointed student members shall be for 1 year.

The term of office of the appointed members, except for the initial appointments, shall be for 4 years.

The terms of the initial appointed members shall be fixed by the Governor in such manner as two shall serve 1-year terms, two shall serve 2-year terms, three shall serve 3-year terms and three shall serve 4-year terms. Each member shall serve until his successor has been appointed and is qualified. Any vacancy in the board shall be filled by the Governor by the apppointment of a person who shall hold office for the balance of the unexpired terms. The Student Assistance Board shall annually elect a chairperson and vice-chairperson from among its public members. The members of the Student Assistance Board shall serve without compensation, but shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties.

C. 18A:71-15.2 Student advisory committee; creation; membership; election of chairperson and vice-chairperson.

2. The Student Assistance Board shall create a Student Advisory Committee which shall include students from all collegiate institutional sectors as defined by the Student Assistance Board in regulations. The chairperson and the vice-chairperson of this committee shall be elected by its membership and shall serve as the student representatives on the Student Assistance Board pursuant to section 1 of this act.

C. 18A:71-15.3 Coordination and administration of tuition and scholarship programs; annual report.

3. The Student Assistance Board shall coordinate and administer, such undergraduate scholarship and tuition aid programs as provided by law and shall provide an annual report on these programs to the Board of Higher Education and to the Legislature.

C. 18A:71-15.4 Falsification of information to obtain assistance; fine.

4. Any person who obtains a scholarship or tuition assistance grant under any program administered by the Student Assistance Board by knowingly and willfully furnishing false information shall be guilty of a misdemeanor and upon conviction thereto be punished by a fine of not more than $1,000.00 or by imprisonment for not more than 3 years, or both. A statement to this effect shall

be distributed with all application forms utilized for any program administered by the Student Assistance Board.

Repealer.

5. N. J. S. 18A:71–3 is repealed.

6. This act shall take effect immediately; however, the State Scholarship Commission shall continue to administer all scholarship and tuition aid programs as presently provided by law until the appointment and qualification in office of the members of the Student Assistance Board.

Approved January 10, 1978.

CHAPTER 331

AN ACT concerning the licensing of real estate brokers and salesmen and amending R. S. 45:15–5, 45:15–9, 45:15–10, 45:15–11, 45:15–17 and P. L. 1966, c. 227, s. 1 (C. 45:15–10.1).

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

1. R. S. 45:15–5 is amended to read as follows:

New Jersey real estate commission; membership; appointment; terms of office; vacancies; removals.

45:15–5. The New Jersey Real Estate Commission, hereinafter in this article designated as the "commission," created and established by an act entitled "An act to define, regulate and license real estate brokers and salesmen, to create a State real estate commission and to provide penalties for the violation of the provisions hereof," approved April 5, 1921 (P. L. 1921, c. 141, p. 370), as amended by an act approved April 23, 1929 (P. L. 1929, c. 168, p. 310), is continued. The commission shall constitute the division of the New Jersey Real Estate Commission in the Department of Insurance. The commission shall consist of seven members, appointed by the Governor pursuant to the provisions of P. L. 1971, c. 60 (C. 45:1–1 et seq.), each of whom shall have been a resident of this State for a period of at least 10 years, five members shall have been real estate brokers for a period of at least 10 years; one member shall be a public member, and one member shall be a representative of an appropriate department. The department representative shall serve at the pleasure of the Governor. Upon

the expiration of the term of office of any other member, his successor shall be appointed by the Governor for a term of 3 years. A majority of the voting members of the commission shall constitute a quorum thereof. Each member shall hold his office until his successor has qualified. Members to fill vacancies shall be appointed by the Governor for the unexpired term. The Governor may remove any commissioner for cause, upon notice and opportunity to be heard.

2. R. S. 45:15–9 is amended to read as follows:

Applications for licenses; qualifications; failure to renew license.

45:15–9. All persons desiring to become real estate brokers or real estate salesmen shall apply to the commission for a license under the provisions of this article. Every applicant for a license as a broker or salesman shall be of the age of 18 years or over and a citizen of the United States, and in the case of an association or a corporation the directors thereof shall be of the age of 18 years or over and citizens of the United States. Application for a license, whether as a real estate broker or a real estate salesman, shall be made to the commission upon forms prescribed by it and shall be accompanied by a fee of $10.00 which fee shall not be refundable. Every applicant for a license as a broker shall have the equivalent of a high school education and every applicant for a license as a real estate salesman shall have the equivalent of an eighth grade school education. The issuance of a license to an applicant who is a nonresident of this State shall be deemed to be his irrevocable consent that service of process upon him as a licensee in any action or proceeding may be made upon him by service upon the secretary of the commission or the person in charge of the office of the commission. The applicant shall furnish evidence of good moral character, and in the case of an association, partnership or corporation, the members, officers or directors thereof shall furnish evidence of good moral character. The commission may make such investigation and require such proof as it deems proper and in the public interest as to the honesty, trustworthiness, character and integrity of an applicant. Every such application shall be on file with the commission at least 10 days prior to the granting of a license, except in the case of record changes. Every applicant for a license as a broker shall have first served an apprenticeship of 2 full years as a duly licensed real estate salesman in this State immediately preceding the date of application which requirement may be waived by the commission

where the applicant has been the holder of a broker's license in another state for at least 2 years immediately preceding the date of his application, meets the educational requirements and qualifies by examination. No license as broker shall be granted to a partnership or corporation unless at least one of the partners or officers of said partnership or corporation qualifies as and holds a license as a broker to transact business in the name and on behalf of said partnership or corporation as its authorized broker and no such authorized broker shall act as a broker on his own individual account unless he is also licensed as a broker in his individual name; the license of said partnership or corporation shall cease if at least one partner or officer does not hold a license as its authorized broker at all times. A change in the status of the license of an authorized broker to an individual capacity or vice versa shall be effected by application to the commission accompanied by a fee of $5.00.

In event that any person to whom a broker's license has been or shall have been issued shall fail to renew such license or obtain a new license for a period of 3 consecutive years or more after the expiration of the last license, the commission may require such person to serve the same apprenticeship, to pass an examination to attend school or to comply with any number of the same conditions on application for a broker's license as if he had never had a broker's license issued to him or, in lieu thereof, the commission may grant the former licensee a salesman's license with or without examination.

In event that any person to whom a salesman's license has been or shall have been issued shall fail to renew such license or obtain a new license for a period of 5 consecutive years or more after the expiration of the last license, the commission may require such person to attend school and pass an examination, or either thereof, prior to issuance of a further license.

3. R. S. 45:15–10 is amended to read as follows:

Examinations; granting and annual renewal of licenses; expiration.

45:15–10. Before any such license shall be granted the applicant, and in the case of a partnership, association or corporation the partners, directors or officers thereof actually engaged in the real estate business as a broker and salesman, shall submit to an examination to be conducted under the supervision of the commission which examination may be written or oral, or partly written and partly oral, and shall include reading, writing, spelling,

elementary arithmetic, a general knowledge of the statutes of New Jersey concerning real property, conveyancing, mortgages, agreements of sale, leases and of the provisions of this article and the rules and regulations of the commission. The commission may make rules and regulations for the conduct of such examinations. Upon satisfactorily passing such examination and other qualifications a license shall be granted by the commission to the successful applicant therefor as a real estate broker or a real estate salesman, and the applicant upon receiving the license is authorized to conduct in this State the business of a real estate broker or of a real estate salesman, as the case may be. Such license shall expire on the last day of the twelfth calendar month following the calendar month in which issued; provided, however, the commission may, in order to stagger the expiration dates of licenses, issue or renew licenses which shall expire on a date fixed by the commission, with the approval of the Commissioner of Insurance, not sooner than 5 months nor later than 17 months, after the date of issue, and the fee for such licenses shall be in amounts proportionately less or greater than the fee fixed in R. S. 45:15–15; such license shall be renewed, without examination, annually thereafter, upon the payment of the fee fixed by R. S. 45:15–15.

4. Section 1 of P. L. 1966, c. 227 (C. 45:15–10.1) is amended to read as follows:

C. 45:15-10.1 Prerequisite to admission to examination.

1. A. As a prerequisite to admission to an examination, every individual applicant for license as a real estate salesman shall give evidence of 45 hours satisfactory completion in the aggregate of such courses of education in real estate subjects at a school approved by the commission as the commission shall by regulation prescribe.

B. As a prerequisite to admission to an examination, every individual applicant for license as a real estate broker shall give evidence of 90 hours satisfactory completion in the aggregate of such courses of education in real estate and related subjects at a school approved by the commission as the commission shall by regulation prescribe.

5. R. S. 45:15–17 is amended to read as follows:

Investigations of actions of licensees; suspension or revocation of licenses and causes therefor.

45:15–17. The commission may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate

the actions of any real estate broker or real estate salesman, or any person who assumes, advertises or represents himself as being authorized to act as a real estate broker or salesman or engages in any of the activities described in section 45:15–3 or this article without being licensed so to do. The lapse or suspension of a license by operation of law or the voluntary surrender of a license by a licensee shall not deprive the commission of jurisdiction to proceed with any investigation as herein provided or prevent the commission from taking any regulatory action against such licensee, provided, however, that alleged charges arose while said licensee was duly licensed. Each transaction shall be construed as a separate offense.

The commission may place on probation, suspend for a period less than the unexpired portion of the license period, or may revoke any license issued under the provisions of this article, or the right of licensure when such person is no longer the holder of a license at the time of hearing, or may impose, in addition or as an alternative to such probation, revocation or suspension, a penalty of not more than $1,000.00 for the first violation, and a penalty of not more than $2,000.00 for any subsequent violation, which penalty shall be sued for and recovered by and in the name of the commission and shall be collected and enforced by summary proceedings pursuant to the Penalty Enforcement Law (N. J. S. 2A:58–1 et seq.), where the licensee or any person, in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

a. Making any false promises or any substantial misrepresentation; or

b. Acting for more than one party in a transaction without the knowledge of all parties thereto; or

c. Pursuing a flagrant and continued course of misrepresentation or making of false promises through agents, salesmen, advertisements or otherwise; or

d. Failure to account for or to pay over any moneys belonging to others, coming into the possession of the licensee; or

e. Any conduct which demonstrates unworthiness, incompetency, bad faith or dishonesty; or

f. Failure to provide his client with a fully executed copy of any sale or exclusive sales or rental listing contract at the time of execution thereof, and failure to specify therein a definite terminal date which terminal date shall not be subject to any qualifying terms or conditions; or

g. Using any plan, scheme or method for the sale or promotion of the sale of real estate which involves a lottery, a contest, a game, a prize, a drawing, or the offering of a lot or parcel or lots or parcels for advertising purposes; or

h. Being convicted of a crime, knowledge of which the commission did not have at the time of last issuing a real estate license to the licensee; or

i. Collecting a commission as a real estate broker in a transaction, when at the same time representing either party in a transaction in a different capacity for a consideration; or

j. Using any trade name or insignia of membership in any real estate organization of which the licensee is not a member; or

k. Paying any rebate, profit, compensation or commission to anyone not possessed of a real estate license; or

l. Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing; or

m. Accepting a commission or valuable consideration as a real estate salesman for the performance of any of the acts specified in this act, from any person, except his employing broker, who must be a licensed broker; or

n. Procuring a real estate license, for himself or anyone else, by fraud, misrepresentation or deceit; or

o. Commingling the money or other property of his principals with his own or failure to maintain and deposit in a special account, separate and apart from personal or other business accounts, all moneys received by a real estate broker, acting in said capacity, or as escrow agent, or the temporary custodian of the funds of others, in a real estate transaction; or

p. Selling property in the ownership of which he is interested in any manner whatsoever, unless he first discloses to the purchaser his interest therein; or

q. For the violation of any of the provisions of this article.

The commission is expressly vested with the power and authority to make, prescribe and enforce any and all rules and regulations for the conduct of the real estate brokerage business consistent with the provisions of this act.

6. R. S. 45:15–11 is amended to read as follows:

Disabled war veterans; granting of licenses.

45:15–11. Any citizen of New Jersey who has served in the military or naval forces of the United States in any war, has been

honorably discharged, and who, having been wounded or disabled in line of duty, has completed a program of courses in real estate in any college or school approved by the Department of Education of the State of New Jersey, and who has successfully passed an examination conducted by said commission qualifying him to operate as a real estate broker or a real estate salesman, may, upon presentation of a certificate certifying that he has completed such program of courses as aforesaid, obtain without cost from the commission and without qualification through apprenticeship, a license to operate as a real estate broker or a real estate salesman, as the case may be, which licenses shall be the same as other licenses issued under this article. Renewal of licenses may be granted under this section for each ensuing year, upon request, without annual fees therefor.

7. Section 4 of this act shall take effect July 1, 1978 and the remainder of this act shall take effect immediately.

Approved January 11, 1978.

CHAPTER 332

AN ACT to amend and supplement the "State Health Aid Act of 1966," approved May 16, 1966 (P. L. 1966, c. 36) and repealing sections 2, 4, 5, 6 and 10 thereof.

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

1. Section 1 of P. L. 1966, c. 36 (C. 26:2F–1) is amended to read as follows:

C. 26:2F-1 Short title.

1. This act shall be known as the Public Health Priority Funding Act of 1977.

C. 26:2F-2.1 Legislature's findings.

2. (New section) The Legislature finds and declares that there exists in New Jersey a serious and increasing incidence of various communicable and chronic diseases such as cancer, hypertension, heart disease, diabetes, venereal disease, alcoholism and drug abuse which requires a continuing commitment of public health personnel and resources; and that there has been in recent years

a diminished financial support for agencies engaged in providing primary prevention programs.

The Legislature also recognizes that there exists a framework for the provision of such services at the municipal, regional and county levels but that changing socio-economic, environmental and technological conditions warrant a redirection of the ways of addressing these health problems. The Legislature finds that there should be provided funds to support certain public health priority activities.

3. Section 3 of P. L. 1966, c. 36 (C. 26:2F–3) is amended to read as follows:

C. 26:2F-3 Definitions.

3. For the purposes of this act unless the context clearly requires a different meaning:

(a) "Local health agency" means any county, regional, municipal or other governmental agency organized for the purpose of providing health services, administered by a full-time health officer and conducting a public health program pursuant to law.

(b) "Commissioner" shall mean the State Commissioner of Health or his designee.

(c) "Special projects and development fund" shall mean the fund established in section 7 of this act.

(d) "Priority health services" means those core activities pertaining to communicable disease and chronic illness as contained in the "standards of performance" or supplemented from the list of recognized activities as contained in the "standards of performance," and designated annually by the commissioner with the approval of the Public Health Council. For the purposes of this subsection, "standards of performance" means the "Recognized Public Health Activities and Minimum Standards of Performance for Local Boards of Health in New Jersey" as prescribed by the Public Health Council of the State Department of Health under authority of P. L. 1947, c. 177 (C. 26:1A–1 et seq.).

(e) "Public health priority fund" shall mean State funds for priority health services to be rendered by local health agencies but shall not include grants from the special projects and development fund.

(f) "Annual expenditures for health purposes" shall mean the local effort as represented by the expenditures by a local health agency for health services which comply with the "standards of performance" excluding any sum paid to the local health agency as public health priority funds under the provisions of this act.

(g) (1) "Noninstitutional population" shall mean the number of inhabitants of a municipality or a group of municipalities making up a local health agency jurisdiction as enumerated in the last Federal census, or by a special census made by the Federal Bureau of the Census, or as estimated annually by the Department of Labor and Industry, whichever is the most recent, except that military personnel living on military reservations, inmates of Federal, State, and county institutions, and boarding students of colleges and universities shall be excluded.

(2) "Special needs population" shall mean the sum of the number of persons having income less than the poverty level and the number of persons over the age of 65, as listed in the most recent Federal census.

(h) "Full-time health officer" means a holder of a license as a health officer issued by the State Department of Health and who is employed by a local health agency to function during all the working hours of the regularly scheduled work week of the governmental unit to which the local health agency is attached and not regularly employed during the working hours of that scheduled work week in other activities for which he receives remuneration.

(i) Deleted by amendment.

(j) Deleted by amendment.

(k) "Criteria for participation" shall mean that a local health agency serving a minimum population of 25,000 is under the administrative direction of a full-time health officer, and all other employees are appropriately qualified and licensed as required by law. The minimum population of 25,000 may be waived at the discretion of the commissioner in the case of a local health agency which from the period beginning January 1, 1960, has carried on and continues to carry on a comprehensive public health program under the direction of a full-time health officer.

C. 26:2F-6.1 Determination of public health priority funds; formula.

4. (New section) Public health priority funds for each municipality within the local health agency shall be determined by the following formula:

PHPF=(p/c factor × NIP × (2—RFS)) + (p/c factor × SNP)

PHPF =Public health priority fund
p/c factor=Per capita amount deemed necessary to provide priority health services
NIP =Noninstitutional population
SNP =Special needs population

RFS =The relative fair share factor of a municipality, and is the ratio that the equalized valuation of a municipality divided by its noninstitutional population bears to the total equalized valuation of all municipalities divided by the noninstitutional population of the State. The equalized valuation for each municipality is the equalized valuation promulgated by the Director of the Division of Taxation pursuant to P. L. 1954, c. 86 (C. 54:1–35.1) plus the amount determined by dividing the sum of the amounts received by the municipality for personal property tax replacement pursuant to P. L. 1966, c. 135 (C. 54:11D–1 et seq.) and from public utility franchise and gross receipt taxes pursuant to P. L. 1940, c. 4 (C. 54:30A–16 et seq.) by the equalized tax rate of the municipality. The equalized tax rate of a municipality is determined by dividing the amount on which the local tax rate is computed, as indicated in the table of aggregates prepared pursuant to R. S. 54:4–52, by the equalized valuation promulgated by the Director of the Division of Taxation.

For any municipality whose ratio is one-half or less, its factor shall be zero. For any municipality whose ratio is greater than two, its factor is two.

C. 26:2F-6.2 Use of funds.

5. (New section) Public health priority funds shall be used only for the support of priority health services provided by the local health agency, and shall not be provided for use in substitution for the mean annual expenditures for health purposes of the agency during the 2 years immediately preceding the year for which public health priority funds are requested.

6. Section 8 of P. L. 1966, c. 36 (C. 26:2F–8) is amended to read as follows:

C. 26:2F-8 Qualification for grant by local health agency.

8. A local health agency may qualify for a grant under one or more of the sections of this act.

7. Section 9 of P. L. 1966, c. 36 (C. 26:2F–9) is amended to read as follows:

C. 26:2F-9 Notification to local health agency; submission of application.

9. Pending final passage of the applicable General Appropriations Act, the commissioner shall notify each eligible local health agency as to the priority health services and the amount of public health priority funds estimated to be payable during the next State fiscal year to provide these services. On or before a date set by the commissioner, the health officer of each local health agency, or in his absence another person designated by the official body under which the local health agency operates, may submit an application for public health priority funds for the year beginning July 1. The application shall include the budget of the agency, the plan of work and such other information as the commissioner may require, to be presented in a form prescribed by the commissioner. It shall be the responsibility of the applicant to describe in detail in the application how all the public health priority services will be met by the local health agency. The application shall be certified, under the penalties of perjury, as true to the best knowledge of the person making it.

8. Section 11 of P. L. 1966, c. 36 (C. 26:2F–11) is amended to read as follows:

C. 26:2F-11 Dates payments due.

11. The sum payable as public health priority funds to each local health agency shall be payable one-half on July 1, and one-half on January 1. Payments shall be made by the State Treasurer upon certificate of the commissioner and warrant of the Director of the Division of Budget and Accounting.

9. Section 12 of P. L. 1966, c. 36 (C. 26:2F–12) is amended to read as follows:

C. 26:2F-12 Audit.

12. In order to insure that the public health priority funds are expended in conformance with the provisions of this act, the commissioner shall, when he deems it in order, have an audit made of the expenditures of moneys and of services provided by the local health agency receiving public health priority funds and shall, when he shall deem it necessary, have examined all books, papers and vouchers of the agency and its fiscal agent shall have free and unrestricted access thereto for that purpose.

Following fiscal audits, all unexpended public health priority funds and audit exceptions as determined by the commissioner shall be returned to the State Department of Health within 3 months of notification. Such funds shall be expended for priority health

services in accordance with the standards of performance and made available as special grants to local health agencies upon application and amounts approved by the commissioner with concurrence of the Public Health Council.

10. Section 13 of P. L. 1966, c. 36 (C. 26:2F–13) is amended to read as follows:

C. 26:2F-13 Aid reduced or discontinued.

13. When it has been determined that a local health agency fails to provide priority health services in accordance with standards of performance called for in its plan of work as stated in its application for public health priority funds or ceases to comply with the criteria for participation, public health priority funds may be reduced or discontinued by the commissioner when, in his judgment, such action serves to further the general purposes of this act. When it has been determined that a local health agency fails to meet the dates established pursuant to sections 9 and 14 of P. L. 1966, c. 36 (C. 26:2F–9 and C. 26:2F–14) for submission of the application for public health priority funds or required reports, public health priority funds will be reduced by 1 day's allocation of the total amount, for each day that the application or report is late. This penalty may be waived, or modified, at the discretion of the commissioner for good cause shown. The penalty may be imposed by decreasing the local health agency allocation of public health funds for the following year.

C. 26:2F-13.1 Special grants.

11. (New section) Unallocated public health priority funds for the fiscal year may be carried forward and made available in the following fiscal year as special grants to local health agencies upon application by such agencies. The amounts of special grants shall be approved by the commissioner with the concurrence of the Public Health Council. Such special grants shall be made available to local health agencies only for extraordinary purposes.

C. 26:2F-13.2 Rules and regulations.

12. (New section) The commissioner shall have all the powers necessary to make, establish and amend, after consultation with the Public Health Council, such administrative rules as may be necessary, desirable or proper to carry out his powers and duties under this act.

13. Section 14 of P. L. 1966, c. 36 (C. 26:2F–14) is amended to read as follows:

C. 26:2F-14 Annual report.

14. Each local health agency receiving public health priority funds shall on or before October 15 in each year, following the year for which the public health priority funds were received, prepare and file with the commissioner an annual report for the preceding State fiscal year. Such report shall state the condition of the public health within the limits of its jurisdiction, noting therein any special cause for the deterioration of health or of hazard thereto, and shall contain answers to any questions which may have been addressed to the local health agency by the commissioner.

14. Section 15 of P. L. 1966, c. 36 (C. 26:2F–15) is amended to read as follows:

C. 26:2F-15 Per capita factor.

15. The per capita factor for the purposes of this act shall be specified for each year in the General Appropriations Act or in a supplement thereto.

Repealer.

15. Sections 2, 4, 5, 6 and 10 of P. L. 1966, c. 36 (C. 26:2F–2, C. 26:2F–4, C. 26:2F–5, C. 26:2F–6 and C. 26:2F–10) are repealed.

16. This act shall take effect immediately.

Approved January 23, 1978.

CHAPTER 333

AN ACT permitting counties to finance, construct, acquire and operate flood control facilities which contribute to the overall management of the surface water of river basins; supplementing chapter 23 of Title 40 of the Revised Statutes; and repealing sections 40:29–2 through 40:29–9 of the Revised Statutes.

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

C. 40:23-34 Short title.

1. This act shall be known and may be cited as the "County Flood Control Financing Law."

C. 40:23-35 Declaration of policy.

2. It is hereby declared to be in the public interest and to be the policy of this State to foster and promote by all reasonable

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means the relief of persons and property from the adverse effects of uncontrolled storm water drainage and conditions of flooding. It is the purpose and object of this act to further implement such policy by authorizing counties, either separately or in combination with other counties or municipalities, to acquire, construct, maintain, operate or improve works for the collection, diversion, impoundment, transportation and disposal of surface water in order to foster flood control; to promote a basinwide or subbasinwide approach to controlling floods; and thereby to protect the public from the adverse effects of uncontrolled storm water drainage and conditions of flooding.

C. 40:23-36 Definitions.

3. As used in this act the following words and terms shall have the following meanings unless some other meaning is plainly indicated:

a. "Cost," as applied to flood control facilities or extensions or additions thereto, means and includes the cost of construction, reconstruction or improvement, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights and easements acquired, financing charges, interest on bonds issued to finance such facilities prior to and during construction, cost of plans and specifications, surveys or estimates of costs and of revenues, cost of engineering and legal services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction, reconstruction or improvement, administrative expenses and such other expenses as may be necessary or incident to the construction or acquisition of such facilities, and the financing herein authorized. Any obligation or expense incurred by any county in connection with any of the foregoing items of cost prior to the issuance of bonds or notes as authorized herein may be regarded as part of such cost and reimbursed to the county out of the proceeds of bonds issued under the provisions of this act;

b. "Flood control facilities" means the dams, drainageways, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by a county for the purposes of flood control, including storage reservoirs, dikes, diversions, dams, spillways, levees, revetments, drains, ditches or channel improvements, such as widening, deepening, straightening, clearing, sloping, building and filling in, and other plants, structures, boats, conveyances and other real and personal property and rights therein, and appurtenances necessary or useful

and convenient for the control of flooding, the drainage of swamp land, the preservation of stream flow and the management of surface water;

c. "General obligation bonds" means general obligations of the county which are payable from unlimited ad valorem taxes or from such taxes and additionally secured by a pledge of the revenues derived from the assessment of such local improvement charges as may be assessed.

C. 40:23-37 Acquisition, construction and operation of flood control facility by county.

4. Any board of chosen freeholders may acquire, construct and operate a flood control facility upon concluding, by resolution, that the public health, safety and welfare can best be assured by the acquisition or construction of such a facility by the county or in cooperation with any municipality or any other county and that such a facility will contribute to the overall management of the surface water of the river basin or subbasin to be affected by such a facility. Prior to reaching such a conclusion, the board of chosen freeholders shall take cognizance of all existing and proposed upstream and downstream developments which may affect or be affected by the proposed flood control facility. The board of chosen freeholders of any county choosing to implement this act shall notify, by certified mail, all upstream and downstream municipalities, soil conservation districts, and counties and the State Department of Environmental Protection of its intent to construct one or more flood control facilities. Such notification shall include a request for information from all such upstream governments to indicate what proposed developments in their area might alter the flow of water at the proposed flood control facility. The board of chosen freeholders shall also make its staff available for consultation with those concerned public or private persons who may affect or be affected by such a flood control facility.

Upon the completion of such a basinwide or subbasinwide analysis and after consideration of the responses of concerned parties, the board of chosen freeholders may adopt said resolution.

C. 40:23-38 Powers of county.

5. Any county which may hereafter come under the provisions of this act as provided herein is hereby authorized and empowered:

a. To purchase, construct, improve, extend, enlarge or reconstruct flood control facilities within or adjacent to such county either alone or jointly with other counties or municipalities and

to operate, manage and control all or part of such facilities so purchased or constructed and all properties pertaining thereto;

b. To issue general obligation bonds of the county to pay all or part of the cost of such purchase, construction, improvement, extension, enlargement or reconstruction of such facilities;

c. To receive and accept from the Federal or State Governments or any agency thereof grants for or in aid of the planning, purchase, construction, extension, enlargement or reconstruction, or financing of any of such facilities and to receive and accept contributions from any source of either money, property, labor, or other things of value to be held, used and applied only for the purposes for which such grants and contributions may be made;

d. To acquire in the name of the county by gift, purchase, or by the exercise of the right of eminent domain, such lands and rights and interests therein, including lands under water and riparian rights, and to acquire such personal property, as it may deem necessary for the purchase, construction, improvement, extension, enlargement or reconstruction, or for the efficient operation of any facilities purchased or constructed under the provisions of this act and to hold and dispose of all real and personal property under its control;

e. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act and to employ such consulting and other engineers, superintendents, managers, attorneys, financial or other consultants or experts and such other employees and agents as it may deem necessary in its judgment and to fix their compensation;

f. Subject to the provisions and restrictions as may be set forth in any resolution authorizing or securing any bonds issued under the provisions of this act, to enter into contracts with the government of the United States or of the State, or any agency or instrumentality of either thereof, or with any other county or with any municipality, private corporation, copartnership, association, or individual providing for or relating to flood control, which contracts may provide for the furnishing of flood control services either by or to the county, or the joint construction or operation of flood control facilities.

C. 40:23-39 Surveys, investigations, studies, plans, etc.; payment of costs; restoration or compensation to owners of damaged property.

6. Whenever the board of chosen freeholders of any county by resolution chooses to exercise the powers granted by this act, it

shall make or cause to be made such surveys, investigations, studies, borings, maps, plans, drawings and estimates of costs and of revenues as it may deem necessary relating to the provisions of flood control facilities, the purchase or construction of which shall be deemed by the board to be desirable to protect the health and safety of the inhabitants of the county.

The obtaining of such surveys, investigations, studies, borings, maps, plans, drawings and estimates is hereby declared to be a county purpose and the costs thereof may be paid out of the general funds of the county or from the proceeds of any bonds issued pursuant to this act.

All public or private property damaged or destroyed in carrying out the powers granted by this act shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of the funds provided by this act.

C. 40:23-40 Authorization to issue bonds.

7. The board of chosen freeholders of any county exercising the powers granted by this act is hereby authorized to provide by resolution at one time, or from time to time, for the issuance of general obligation bonds of the county for the purpose of paying all or any part of the cost of any flood control facilities constructed, acquired, improved, extended, enlarged or reconstructed pursuant to this act. The bonds of each issue shall be issued pursuant to the provisions of the Local Bond Law, N. J. S. 40A:2–1 et seq.

The proceeds of such bonds shall be used solely for the payment of costs of the flood control facilities for the purchase, construction, reconstruction, enlargement or improvement of which such bonds shall have been authorized.

C. 40:23-41 Financing flood control facilities by local improvement assessments; procedure.

8. If in its judgment, any such board of chosen freeholders determines that public necessity and interest require the cost of construction of flood control facilities to be financed by local improvement assessments, it shall pass a resolution of its intention to undertake and so finance such flood control facilities and shall give notice of such intention by advertising in one or more newspapers circulating in the county and by notifying each concerned property owner by certified mail; and such notice shall fix a time and place, not earlier than 2 weeks after the date of such notice, for a public hearing on said proposed action. At said public hearing the board of chosen freeholders shall present a tentative assess-

ment of the concerned properties. After said hearing, if the board of chosen freeholders decides to carry out said local improvements, it shall pass a resolution declaring such determination and proceed to make such local improvements.

Upon the completion of said local improvements, the board of chosen freeholders shall assess the costs and expenses of the flood control facilities on the lands especially benefited thereby in proportion to the benefit received. When the assessment shall be completed it shall be filed as a report with the clerk of the board of chosen freeholders, who shall give notice, by advertising in one or more newspapers circulated in the county and by notifying each concerned property owner, by certified mail, of the fact that the report has been filed and that the board of chosen freeholders will meet at a time and place designated in the notice to hear remonstrances against the same. The board of chosen freeholders shall meet at the time and place designated in the notice to hear remonstrances against its report, and shall revise the same as it shall deem proper in view of the remonstrances, after which it shall file the report with the clerk of the board of chosen freeholders, and the assessments shall constitute liens upon the lands so assessed for special benefits.

The clerk shall deliver a duplicate copy of such report to the appropriate officer of the county, who shall immediately thereafter send out by mail or deliver to owners of such lands bills for such assessments. Such officer, shall mail or deliver a bill for an assessment in the manner required in connection with local improvements and shall keep a record and books of assessments in the same manner required for local improvements under R. S. 40:56–31 at the expense of the county. The board of chosen freeholders may make additional requirements for recording, accounting for and collecting assessments.

The board of chosen freeholders may by resolution provide that the owner of any real estate upon which any assessments for any improvement shall have been made may pay such assessments in installments pursuant to the procedures contained in R. S. 40:56–35.

When any unpaid assessment, interest thereon or other charges for collection thereof, remains in arrears on July 1, of the calendar year following the calendar year when the same becomes in arrears, the appropriate officer of the authority shall enforce the lien by selling the property in the manner set forth in Chapter 5 of Title 54 of the Revised Statutes and supplements thereto.

C. 40:23-42 Negotiating and entering into contracts with other counties and municipalities.

9. A county may negotiate and enter into contracts with other counties and with municipalities, hereafter known as "local governments," for the provision of flood control facilities pursuant to the provisions of this act.

If a county, pursuant to a contract with any such local government or governments shall construct or acquire flood control facilities which will benefit such local government or governments such county may either a. bear the entire cost of the construction or acquisition of such facilities by itself: or, b. share the cost of the construction or acquisition of such improvements with the local government or governments. The county may issue its bonds for all or part of the cost of the construction or acquisition of such facilities. If the cost thereof is to be shared by such local government or governments, the county may issue its bonds for its share of such cost and such local government or governments may issue their bonds for their share of such cost, or the county may issue its bonds for all of the cost of such facilities, and the share of such cost to be borne by such local government or governments, shall be repaid to the county by such local government or governments in annual installments over a period not exceeding 40 years as shall be agreed upon between the county and such local government or governments. The amount of said annual installments shall include interest at such rate or rates as the county and such local government or governments shall agree upon, and the county and such local government or governments are hereby authorized to enter into agreements relating to such facilities which agreements shall have such terms and conditions as shall be deemed necessary and proper by such county and such participating local government or governments. Such agreements shall be authorized by a resolution duly adopted by the board of chosen freeholders of the concerned counties and by an ordinance duly adopted by the governing body of such municipality or municipalities. Such annual payments received by a county from such local government or governments may also include an additional annual amount as shall be agreed upon for the payment of the agreed share of the cost of operation and maintenance and improvement or enlargement of such facilities.

C. 40:23-43 Powers of municipality.

10. Any municipality with which a county is authorized to contract under the terms and provisions of this act shall have power,

by ordinance duly adopted by its governing body to authorize its proper officials to enter into and execute for it a contract, for such periods of time and under such terms as are deemed proper and necessary, with a county, for the provision of flood control facilities notwithstanding that no appropriation was made or provided to cover the estimated cost of such contract, and the governing body of any such contracting municipality shall have full power and authority to do and perform all acts and things on the part of the municipality to be done and performed under the terms and provisions of such contract.

C. 40:23-44 Investments.

11. Notwithstanding any restriction contained in any other law, the State and all public officers, municipalities, counties, political subdivisions and public bodies, and agencies thereof, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and banking businesses, all insurance companies, insurance associations and other persons carrying on any insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking fund moneys or other funds belonging to them or within their control in any bonds of a county authorized pursuant to this act, and such bonds are hereby made and shall be authorized security for any and all public deposits. Any such bonds and the interest thereon shall be exempt from taxation except for transfer and inheritance taxes.

C. 40:23-45 Payments by municipality; default; interest.

12. The chief fiscal officer of each municipality which shall have entered into a contract pursuant to this act, shall cause to be paid to the county with which such contract is in force, at such times to be agreed upon, the amount of money certified to the municipality by the county pursuant to this act. The power and obligation of such municipality to provide for and make all such payments shall be unlimited and the sums necessary for such payment shall be included in each annual budget of such municipality; and such municipality shall be irrevocably and unconditionally obligated to levy ad valorem taxes on all taxable property therein, without limit as to rate or amount to the full extent necessary to make all such payments in full as the same become due. If any part of the amount certified to a municipality by a county, pursuant to this act, shall remain unpaid for 30 days following the date fixed for payment by the contract, the municipality thus in default shall be

charged with and be liable for, and the chief fiscal officer thereof shall pay to such county, interest upon the amount unpaid at the rate of 8% per annum.

C. 40:23-46 Construction of act.

13. The object and design of this act being the protection and preservation of public health, safety and welfare, this act shall be liberally construed and the powers granted and the duties imposed by this act shall be construed to be independent and severable. If any one or more sections, clauses, sentences or parts of this act shall for any reason be questioned in any court, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.

Repealer.

14. R. S. 40:29–2 through R. S. 40:29–9, inclusive, are repealed.

15. This act shall take effect immediately.

Approved January 24, 1978.

CHAPTER 334

AN ACT concerning employee plans of certain corporations and amending N. J. S. 14A:8–2.

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

1. N. J. S. 14A:8–2 is amended to read as follows:

Adoption of plan; approval of shareholders in certain instances.

14A:8–2. The board alone, by affirmative vote of a majority of directors in office, may adopt any plan described in section 14A:8–1 and may include such provisions therein as the board may deem advisable; provided that, except as hereinafter set forth, the approval of the shareholders shall be required for the adoption of any plan which permits the use or issuance of treasury shares or authorized but unissued shares, and shall also be required for the adoption of any other plan if the certificate of incorporation or the bylaws so provide. Nothing herein or in subsection 14A:7–7(2) shall be deemed to require shareholder approval (1) for the issu-

ance by a corporation of share options or rights in substitution for outstanding options or rights issued by another corporation prior to its merger or consolidation with, or the acquisition of its shares or assets by, the corporation issuing such substituted options or rights or its subsidiary, or (2) for the adoption of any plan for the use or issuance of treasury shares or authorized but unissued shares which have been authorized by the Board of Public Utilities pursuant to R. S. 48:3-9 or which are listed on a national securities exchange or are held of record by not less than 1,000 holders.

2. This act shall take effect immediately.

Approved January 24, 1978.

CHAPTER 335

A SUPPLEMENT to "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1978 and regulating the disbursement thereof," approved June 30, 1977 (P. L. 1977, c. 137).

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

1. The following sums are hereby appropriated out of the General Treasury for the purposes hereinafter specified:

LEGISLATIVE BRANCH

LEGISLATIVE AFFAIRS

721.00. LEGISLATURE

72110-001. Senate		
Salaries:		
Members' staff services	($100,000)	
72110-002. General Assembly		
Salaries:		
Members' staff services	($200,000)	
Total Appropriation		$300,000

2. This act shall take effect upon the adoption of joint rules by the Senate and General Assembly setting forth standards with respect to the hiring and qualifications of members' staff assistants.

Approved January 24, 1978.

CHAPTER 336

AN ACT requiring corporations and partnerships applying for certain subdivisions and variances to disclose all owners of 10% or more of their stock or in the case of a partnership, owning a 10% or greater interest therein, and providing penalties for the violation thereof.

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

C. 40:55D-48.1 Disclosure of owners of corporation or partnership applying for certain subdivisions or variances.

1. A corporation or partnership applying to a planning board or a board of adjustment or to the governing body of a municipality for permission to subdivide a parcel of land into six or more lots, or applying for a variance to construct a multiple dwelling of 25 or more family units or for approval of a site to be used for commercial purposes shall list the names and addresses of all stockholders or individual partners owning at least 10% of its stock of any class or at least 10% of the interest in the partnership, as the case may be.

C. 40:55D-48.2 Listing of names and addresses of stockholders holding 10% or more stock or 10% or greater interest in partnership.

2. If a corporation or partnership owns 10% or more of the stock of a corporation, or 10% or greater interest in a partnership, subject to disclosure pursuant to section 1 of this act, that corporation or partnership shall list the names and addresses of its stockholders holding 10% or more of its stock or of 10% or greater interest in the partnership, as the case may be, and this requirement shall be followed by every corporate stockholder or partner in a partnership, until the names and addresses of the noncorporate stockholders and individual partners, exceeding the 10% ownership criterion established in this act, have been listed.

C. 40:55D-48.3 Approval of application.

3. No planning board, board of adjustment or municipal governing body shall approve the application of any corporation or partnership which does not comply with this act.

C. 40:55D-48.4 Concealing names of owners; fine.

4. Any corporaiton or partnership which conceals the names of the stockholders owning 10% or more of its stock, or of the in-

dividual partners owning a 10% or greater interest in the partnership, as the case may be, shall be subject to a fine of $1,000.00 to $10,000.00 which shall be recovered in the name of the municipality in any court of record in the State in a summary manner pursuant to "The Penalty Enforcement Law" (N. J. S. 2A:58–1 et seq.).

5. This act shall take effect immediately.

Approved January 24, 1978.

CHAPTER 337

AN ACT to amend and supplement "An act establishing and concerning a Department of Transportation as a principal department in the Executive Branch of the State Government, establishing therein a Commuter Operating Agency, providing an appropriation therefor, repealing chapter 88 of the laws of 1964, and supplementing Title 27 of the Revised Statutes," approved December 12, 1966 (P. L. 1966, c. 301).

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

1. Section 16 of P. L. 1966, c. 301 (C. 27:1A–16) is amended to read as follows:

C. 27:1A-16 Commuter operating agency; establishment; membership; officers and employees; quorum; minutes.

16. (a) There is hereby established in the Department of Transportation the Commuter Operating Agency which for civil service purposes shall be considered to be a board.

(b) The agency shall consist of four members who shall be the Commissioner of Transportation, the assistant Commissioner for Public Transportation, the State Treasurer and the President of the Board of Public Utility Commissioners, or their respective designees.

(c) The Commissioner and the assistant Commissioner for Public Transportation shall be the chairman and secretary, respectively, of the agency.

(d) The commissioner shall assign to the agency such employees of the department as may be necessary for the efficient performance of the work of the agency in a division of commuter services under

the supervision of the assistant Commissioner for Public Transportation. To assist the assistant Commissioner for Public Transportation in the conduct of the work of the agency, the commissioner, acting as chairman of the agency, may also appoint a director of commuter services who shall serve at his pleasure and whose duties he shall determine. The director of commuter services shall be a person qualified by training and experience in public transportation to perform the duties of his office, and shall receive such salary as may be established by the commissioner, with the approval of the President of the Civil Service Commission and the Director of the Division of Budget and Accounting, subject to the availability of funds.

(e) The powers of the agency shall be vested in the members thereof and three members of the agency or their designees shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the agency at any meeting thereof by the affirmative vote of at least three members or their designees. No vacancy in the membership of the agency shall impair the right of a quorum to exercise all the rights and perform all the duties of the agency.

(f) A true copy of the minutes of every meeting of the agency shall be delivered forthwith by and under the certification of the secretary thereof, to the Governor. No action taken at such meeting by the agency shall have force or effect until 10 days, exclusive of Saturdays, Sundays and legal holidays, after such copy of the minutes shall have been delivered. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the agency or any member thereof at such meeting, such action shall be null and of no effect. The Governor may approve all or part of the action taken at such meeting prior to the expiration of the said 10-day period.

2. (New section) Any actions taken by the Commuter Operating Agency prior to the effective date of this act are hereby validated, ratified and confirmed from the date of the approval of the minutes by the Governor, notwithstanding such approval of the minutes occurred prior to the expiration of the 10-day period provided for in section 16(f) of P. L. 1966, c. 301.

3. This act shall take effect immediately.

Approved January 24, 1978.

CHAPTER 338

AN ACT appropriating $30,000,000.00 from the State Recreation and Conservation Land Acquisition and Development Fund for State programs to acquire and develop lands for recreation and conservation purposes.

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

1. There is hereby appropriated to the State Department of Environmental Protection from the State Recreation and Conservation Land Acquisition and Development Fund from funds made available pursuant to the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974" (P. L. 1974, c. 102) the sum of $30,000,000.00 for the purpose of acquisition and development of lands by the State for recreation and conservation purposes, to be allocated as follows:

a. $10 million for acquisition of lands by the State, which shall include administrative costs;

b. $20 million for the development of lands owned by the State, which shall include administrative costs.

2. Such sums shall be made available by the sale of bonds authorized by the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974" (P. L. 1974, c. 102).

3. The expenditure of the sums appropriated by this act are subject to the provisions and conditions of P. L. 1974, c. 102 and P. L. 1975, c. 155.

4. This act shall take effect immediately.

Approved January 24, 1978.

CHAPTER 339

AN ACT to amend "An act concerning the deposit of public moneys by the State Treasurer in certain cases and publication of notice thereof, supplementing chapter 18 of Title 52 of the Revised Statutes, repealing sections 52:18–17 and 52:18–18 of the Revised Statutes, and amending section 52:18–21 of the Revised Statutes," approved December 20, 1956 (P. L. 1956, c. 174).

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

1. Section 1 of P. L. 1956, c. 174 (C. 52:18–16.1) is amended to read as follows:

C. 52:18-16.1 State Treasurer to deposit moneys; interest credited; deposit of security by institution; exception.

1. The State Treasurer shall, except as otherwise provided, deposit to his credit as treasurer all public moneys coming into his hands, within 3 days after receiving the same, in such of the national banks located in this State, in institutions authorized by this State to carry on a banking or savings and loan business, and in the State of New Jersey Cash Management Fund established pursuant to section 1 of this amendatory and supplementary act as he may select, that will allow interest on all balances. In so doing, the treasurer shall from time to time, by public notice, offer at auction State deposits and invite tenders therefor subject to such terms and conditions as he may prescribe. All interest earned on deposits shall be credited to the State. When in the judgment of the State Treasurer it is not compatible with the working capital requirements of the State or with public safety to deposit public moneys or portion thereof, upon interest-bearing terms, as heretofore provided in this section, the State Treasurer may deposit the same without interest or open-time accounts with interest subject to withdrawal upon notice, conforming with Federal laws and regulations governing the same, in such of the national banks located in this State and institutions authorized by this State to carry on a banking or savings and loan business as he may select, until such a condition has, in his judgment, ceased to exist.

In all cases where a deposit is made in a national bank located in this State or institution authorized by this State to carry on a banking or savings and loan business, pursuant to this section, the State Treasurer shall require from any such institution a

deposit of bonds, notes, certificates of indebtedness or bills or other obligations of or guaranteed by the United States; or bonds or other obligations of or guaranteed by the State of New Jersey; or any other obligations now or hereafter authorized by law as security for public deposits; designed to secure any deposit made pursuant to this section; provided, that such requirement shall be deemed to be met if the Federal Reserve Bank of New York or the Federal Reserve Bank of Philadelphia or any other banking institution with total assets in excess of $300,000,000.00 located within the Second or Third Federal Reserve Districts and approved for such purpose by the State Treasurer certifies to the State Treasurer that, pursuant to authority given by the depository, it holds obligations, owned by the depository, of the kind and in the amount required by the State Treasurer to secure any such deposit. No bank shall be permitted to hold securities, of the kind hereinbefore described, as security for public moneys on deposit in the same bank.

No State or national bank or savings and loan association in which the State Treasurer makes deposits of public moneys as above provided shall be required to secure such deposits as required by this section, to the extent that such deposits are insured by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation or by any other Federal agency which insures deposits made in state or national banks or savings and loan associations.

2. This act shall take effect immediately.

Approved January 26, 1978.

CHAPTER 340

AN ACT to amend "An act concerning the practice of professional engineering and land surveying (Revision of 1938), and repealing chapter 8, Title 45, of the Revised Statutes," approved June 14, 1938 (P. L. 1938, c. 342) and repealing section 20 (C. 45:8–46) thereof.

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

1. Section 2 of P. L. 1938, c. 342 (C. 45:8–28) is amended to read as follows:

C. 45:8-28 Definitions.

2. Definitions. (a) The term "professional engineer" within the meaning and intent of this chapter shall mean a person who by reason of his special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as hereinafter defined as attested by his license as a professional engineer.

(b) The terms "practice of engineering" or "professional engineering" within the meaning and intent of this chapter shall mean any professional service or creative work requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design or general supervision of construction or operation for the purpose of assuring compliance with plans, specification and design in connection with any public or private engineering or industrial project. The practice of professional engineering shall not include the work ordinarily performed by persons who operate or maintain machinery or equipment. The provisions of this chapter shall not be construed to prevent or affect the employment of architects in connection with engineering projects within the scope of the act to regulate the practice of architecture and all the amendments and supplements thereto.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this chapter, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer, or through the use of some other title implies that he is a professional engineer; or who represents himself as able to perform, or who does perform any engineering service or work or any other professional service recognized by the professional engineer or by educational authorities as professional engineering.

(c) The term "engineer-in-training" as used in this chapter shall mean a person who is a potential candidate for license as a professional engineer who is a graduate in an approved engineering curriculum of 4 years or more from a school or college accredited by the board as of satisfactory standing, and who, in addi-

tion, has successfully passed an examination in the fundamental engineering subjects, as defined elsewhere herein.

(d) The term "land surveyor" as used in this chapter shall mean a person who engages in the practice of land surveying as hereinafter defined.

(e) The practice of land surveying within the meaning and intent of this chapter includes surveying of areas for their correct determination and description and for conveyancing, and for the establishment or reestablishment of land boundaries and the plotting of lands and subdivisions thereof, and such topographical survey and land development as is incidental to the land survey.

(f) The term "board" as used in this chapter shall mean the State Board of Professional Engineers and Land Surveyors.

(g) The term "responsible charge" as used in this chapter shall mean a degree of competence and accountability acquired by technical education, engineering practice and experience of a professional character sufficient to qualify an individual to engage personally and independently in the control and direction of investigation, design, construction or operation of engineering works requiring professional skill, initiative and independent judgment.

2. Section 9 of P. L. 1938, c. 342 (C. 45:8–35) is amended to read as follows:

C. 45:8-35 Applications for license; qualifications; examination.

9. Applications for license as professional engineers shall be on forms prescribed and furnished by the board, shall contain statements under oath, showing the applicant's education and detailed statement of his engineering experience, and shall contain not less than five references, of whom three or more shall be licensed professional engineers having personal knowledge of the applicant's engineering experience.

The application fee for professional engineers shall be $40.00 or when the applicant applies for license to practice both professional engineering and land surveying, the fee shall be $50.00, and in either case shall accompany the application.

Applications for license as land surveyors shall be on forms prescribed and furnished by the board, shall contain statements under oath, showing the applicant's education and detailed statement of his land surveying experience, and shall contain not less than five references, of whom three or more shall be licensed professional engineers or land surveyors having personal knowledge of the applicant's land surveying experience.

The application fee for land surveyors shall be $40.00 and shall accompany the application.

Applications for a certificate of registration as "engineer-in-training" shall be on forms prescribed and furnished by the board, shall be accompanied by a fee of $10.00 and shall contain the names of three references of whom at least one shall be a licensed professional engineer having personal knowledge of the applicant's engineering experience or training.

All application fees shall be retained by the board.

The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for a license as a professional engineer, or as a land surveyor, or for certificate of registration as engineer-in-training, to wit:

(1) As a professional engineer:

a. Graduation from an approved curriculum in engineering of 4 years or more in a school or college approved by the board as of satisfactory standing; a specific record of an additional 4 years or more of experience in engineering work of a character satisfactory to the board, and indicating that the applicant is competent to be placed in responsible charge of such work; and successfully passing a written, or written and oral examination; or

b. Graduation from an approved science curriculum, related to engineering, of 4 years or more in a school or college approved by the board as of satisfactory standing; a specific record of an additional 6 years or more of experience in engineering work of a character satisfactory to the board, and indicating that the applicant is competent to be placed in responsible charge of such work; and successfully passing all parts of the written, or written and oral, examination; or

c. Graduation from an approved curriculum in engineering or related science of 4 years or more in a school or college approved by the board as of satisfactory standing; a specific record of an additional 15 years or more of experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work; and successfully passing the specialized portion of the written, or written and oral, examinations; or

d. A certificate of qualification or registration issued to him by proper authority of the National Council of Engineering Examiners may, in the discretion of the board, be accepted as minimum evidence satisfactory to the board that the applicant is qualified for license as a professional engineer; or

e. A certificate of qualification of registration, issued by any State or territory or possession of the United States, or of any country, may, in the discretion of the board, be accepted as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer; provided, requirements for license by issuing agency are at least comparable to those of the board.

(2) As a land surveyor:

a. Successful completion of an approved program in surveying in a school or college approved by the board as of satisfactory standing; an additional 3 years or more of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work, and successfully passing a written examination; or

b. Successfully passing a written examination in surveying prescribed by the board; and a specific record of 6 years or more of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work.

d. A certificate of qualification of registration, issued by any State or territory or possession of the United States, or of any country, may, in the discretion of the board, be accepted as minimum evidence satisfactory to the board that the applicant is qualified for registration as a land surveyor; provided, requirements for license by the issuing agency are at least comparable to those of the board.

(3) As an engineer-in-training:

a. Graduation from an approved curriculum in engineering of 4 years or more in a school or college approved by the board; and successfully passing the fundamentals portion of the written examinations; or

b. Graduation from an approved science curriculum, related to engineering, of 4 years or more in a school or college approved by the board; a specific record of an additional 2 years or more of engineering work of a character satisfactory to the board; and successfully passing the fundamentals portion of the written examinations.

Qualifications.

An applicant for license as a professional engineer or land surveyor shall be able to speak and write the English language. All applicants shall be of good character and reputation.

Completion of a master's degree in enginering or a related science shall be considered as equivalent to 1 year of experience and completion of a doctor's degree in engineering or related science shall be considered as equivalent to 1 additional year of experience.

In considering the qualifications of applicants, engineering teaching may be construed as engineering experience.

The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of construction of such work as a foreman or superintendent shall not be deemed to be experience in engineering work.

Any person having the necessary qualifications prescribed in this chapter to entitle him to license shall be eligible for such license though he may not be practicing his profession at the time of making the application.

A quorum of the examining board for the purpose of passing upon the issuance of a license to any applicant shall consist of three members; provided, that no action on any application shall be taken without at least three votes in accord.

The scope of the examination for professional engineering and methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise engineering projects and works so as to insure the safety of life, health and property. Examinations shall be given for the purpose of determining the qualifications of applicants for license separately in professional engineering and in land surveying. A candidate failing an examination may apply for reexamination. Subsequent examinations will be granted upon the payment of a fee of $15.00. The board will schedule two examinations per year, dates and places to be determined by the board.

Examinations of applicants for license as professional engineer will be divided into two parts, as follows:

Part I—Fundamentals of Engineering—This examination is intended to assess the applicant's competency in the fundamental engineering subjects and basic engineering sciences, such as mathematics, chemistry, physics, statics, dynamics, materials science, mechanics of materials, structures, fluid mechanics, hydraulics, thermodynamics, electrical theory, and economics. A knowledge of P. L. 1938, c. 342 (C. 45:8–27 et seq.) is also required.

Part II—Specialized Training—This examination is intended to assess the extent of the applicant's more advanced and specialized

professional training and experience especially in his chosen field of engineering.

Applicants for certificate of registration as engineer-in-training shall qualify by satisfactorily passing the fundamentals portion of the written examinations.

The scope, time and place of the examinations for applicants for certificates of registration as "engineer-in-training" shall be prescribed by the board. A candidate failing on first examination may apply for reexamination. Subsequent examinations will be granted upon the payment of a fee of $10.00.

3. Section 10 of P. L. 1938, c. 342 (C. 45:8–36) is amended to read as follows:

C. 45:8-36 Certificates.

10. Certificates. The board shall issue a license certificate upon payment of the application fee as provided in this chapter, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter, and who has paid the license fee of $5.00 to cover licensure for the year or fraction thereof in which such license is issued. In the case of a licensed professional engineer the certificate shall authorize the practice of the applicant as a "professional engineer" and in the case of a licensed land surveyor as a "land surveyor," or as "professional engineer and land surveyor" when the applicant qualifies in both classifications. Certificates of license shall show the full name of the licensee, shall have a license number and shall be signed by the president and the secretary-director of the board under the seal of the board. The issuance of a license certificate by this board shall be evidence that the person named therein is entitled to all the rights and privileges of a licensed professional engineer or a licensed land surveyor, or as both as the case may be, while said certificate remains unrevoked or unexpired.

Each professional engineer or land surveyor shall upon receipt of license certificate, obtain a seal of a design authorized by the board, bearing his name, license number and the legend "Licensed Professional Engineer," "Licensed Land Surveyor," or "Licensed Professional Engineer and Land Surveyor," as the case may be. Plans, specification, plats, and reports issued by persons authorized under this chapter shall be sealed with said seal, during the life of the licensee's certificate, but it shall be unlawful for anyone to stamp or seal any documents with said seal after the certificate of the licensee named thereon has expired or has been revoked, unless

said certificate shall have been renewed or reissued. The exact method of fulfilling the requirement as to the sealing of documents shall be regulated by the board.

All professional engineers licensed by this board prior to the passage of this chapter, shall continue to practice under the various classifications heretofore granted and within the branches of engineering indicated or may, upon application therefor, and the payment of a fee of $5.00 receive a new certificate under the title "professional engineer"; provided, said professional engineer presents evidence satisfactory to the board of his qualifications to practice in the field of general engineering comprehended in the title "professional engineer."

All license certificates shall be recorded by the board in the office of the Secretary of State, in a book kept for that purpose and any recording fee as may be provided by law shall be paid by the applicant before the license certificate is delivered.

The examining board shall be empowered to issue a certificate of registration as "Engineer-in-Training" to an applicant who meets the qualifications outlined elsewhere herein.

An applicant who meets the requirements of this act shall receive a certificate of registration as "Engineer-in-Training," which certificate may remain in effect for a period of 10 years from the date of issuance.

4. Section 12 of P. L. 1938, c. 342 (C. 45:8–38) is amended to read as follows:

C. 45:8-38 Revocation of license; grounds; written and sworn charges; hearing; time and place; reissuance of certificate.

12. The examining board shall have the power to revoke the certificate of license of any professional engineer or land surveyor licensed hereunder who is found by said board, after a hearing, to have:

(a) committed fraud in obtaining an original or renewal State license, including material misstatements on any application therefor; or

(b) been convicted of any criminal offense or entered a plea of nolo contendere to a charge thereof; or

(c) committed gross negligence, incompetence, or misconduct in the practice of professional engineering and land surveying; or

(d) violated any State or local code applicable to engineering and land surveying; or

(e) violated any provision of this act or any rule or regulation promulgated by the board.

Any person may prefer charges of such fraud, deceit, negligence, incompetency or misconduct against any professional engineer or land surveyor hereunder.

Such charges shall be in writing and sworn to by the complainant and submitted to the board. Such charges unless dismissed without hearing by the board as unfounded or trivial, shall be heard and determined by the board within 3 months after the date on which they are preferred.

The time and place for such hearing shall be fixed by the board. A copy of the charges, together with a notice of the time and place of hearing shall be personally served on the accused by the board at least 30 days before the day fixed for the hearing, and in the event that such service cannot be effected 30 days before such hearing, then the date of hearing and determination shall be postponed as may be necessary to permit the carrying out of this execution. At said hearing the accused shall have the right to appear personally and by counsel and to cross-examine witnesses against him and to produce evidence and witnesses in his defense. If after said hearing three or more members of the board vote in favor of finding the accused guilty of any one or more of subsections (a) through (e) of this section the board may revoke, suspend or annul the certificate of license of the accused. The board may under circumstances which to it may seem proper, reissue a certificate of license to any person whose certificate has been so revoked.

A new certificate of license to replace any certificate lost, destroyed or mutilated, may be issued subject to the rules and regulations of the board. A charge of $3.00 shall be made for such reissuance.

5. Section 14 of P. L. 1938, c. 342 (C. 45:8–40) is amended to read as follows:

C. 45:8-40 Exemptions.

14. The following shall be exempted from the provisions of this chapter:

(1) A person not a resident of and having no established place of business in this State, practicing or offering to practice herein professional engineering or land surveying within the meaning and intent of this chapter, when such practice does not exceed in the aggregate 30 consecutive days in any calendar year; provided, such person is legally qualified by license to practice said professional engineering or land surveying in any State or country in

which the requirements and qualifications for a certificate of license are at least comparable to those specified in this chapter.

However, no final plans or reports may be submitted under this provision.

(2) A person not a resident of and having no established place of business in this State, or who has recently become a resident thereof, practicing or offering to practice herein for more than 30 days in any calendar year professional engineering or land surveying, if he shall have filed with the board an application for a certificate of license and shall have paid the fee required by this chapter; provided, that such a person is legally qualified to practice said professional engineering or land surveying in any State or country in which the requirements and qualifications for obtaining a license are at least comparable to those specified in this chapter. Such exemption shall continue only for such time as the board requires for the consideration of the application for license certificate.

(3) An employee or a subordinate of a person holding a license under this chapter or an employee of a person exempted from license by subsections (1) and (2) of this section; provided, this practice does not include responsible charge of design or supervision.

(4) Officers and employees of the Government of the United States while engaged within this State in the practice of professional engineering or land surveying, for said government.

(5) The practice of engineering or land surveying solely as an officer or employee of a corporation engaged in interstate commerce as defined in an act of Congress entitled "Act to regulate commerce," approved February 4, 1887, and as amended, unless the same affects public safety or health.

6. Section 20 of P. L. 1938, c. 342 (C. 45:8–46) is hereby repealed.

Repealer.

7. This act shall take effect immediately.

Approved January 26, 1978.

CHAPTER 341

AN ACT to amend the "Carnival-Amusement Rides Safety Act," approved May 29, 1975 (P. L. 1975, c. 105).

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

1. Section 11 of P. L. 1975, c. 105 (C. 5:3–41) is amended to read as follows:

C. 5:3-41 Issuance of permit; inspections.

11. No carnival-amusement ride may be operated without a permit issued by the department. Before commencing operations and in each calendar year thereafter, an owner shall apply for a permit to the department on a form furnished by the department and containing such information as the department may require. All carnival-amusement rides shall be inspected before they are originally put into operation for the public's use and thereafter at least once every year, unless authorized to operate on a temporary permit. Annual permits shall be issued for a period commencing January 1 and expiring the following December 31. Carnival-amusement rides may also be required to be inspected by the owner, in accordance with standards promulgated by the department, each time they are disassembled and reassembled.

2. This act shall take effect immediately.

Approved January 26, 1978.

CHAPTER 342

AN ACT to validate certain proceedings for the issuance of bonds of school districts and any bonds or other obligations issued or to be issued in pursuance of such proceedings.

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

Validating act.

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization or issuance

of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of a proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that notices relating to such election were not published as required by the "Absentee Voting Law (1953)" (P. L. 1953, c. 211; C. 19:57–1 et seq.) as amended and supplemented; provided, however, that no action, suit or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved January 26, 1978.

CHAPTER 343

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

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

Validating act.

1. All proceedings heretofore had or taken by any county or by any officials thereof for or in connection with the authorization or issuance of bonds or notes of the county pursuant to the Local Bond Law (N. J. S. 40A:2–1 to 40A:2–64, inclusive) and any ordinance with respect to such bonds or notes heretofore adopted and any bonds or notes of the county issued or to be issued in pursuance of such proceedings or ordinance, are hereby ratified, validated and confirmed notwithstanding that a supplemental debt statement was not prepared and filed as required by the provisions of N. J. S. 40A:2–10; provided, however, that no action, suit or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or

rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved January 26, 1978.

CHAPTER 344

AN ACT to amend and supplement the "New Jersey Higher Education Tuition Aid Act" approved February 11, 1969 (P. L. 1968, c. 429).

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

1. Section 3 of P. L. 1968, c. 429 (C. 18A:71–43) is amended as follows:

C. 18A:71-43 Administration of act.

3. It shall be the duty of the Student Assistance Board in the State Department of Higher Education to administer the provisions of this act.

2. Section 4 of P. L. 1968, c. 429 (C. 18A:71–44) is amended as follows:

C. 18A:71-44 Number of grants; insufficient amount; equitable reduction; criteria and guidelines; approval or disapproval.

4. State tuition aid grants shall be awarded by the Student Assistance Board to all eligible applicants without any limitation on the number to be awarded in any year other than the amount of appropriations available therefor. In the event that the amount appropriated is insufficient for full awards to all eligible applicants, the Student Assistance Board shall reduce awards equitably among eligible students according to such procedures and guidelines as it may find appropriate which procedures and guidelines shall be approved by the State Board of Higher Education and by the subcommittee on transfers of the Joint Appropriations Committee. Annually, on or before March 1 of the pre-budget year, the criteria and guidelines which shall be used to distribute available funds should the amount appropriated be insufficient for full awards to all eligible applicants shall be submitted by the Chan-

cellor of Higher Education to the Joint Appropriations Committee of the Legislature, together with appropriate supporting information. Such criteria and guidelines may be approved or disapproved by the subcommittee on transfers of said committee at any time; provided however that if at the end of 60 calendar days after the date on which they are transmitted to the committee the subcommittee on transfers has taken no action, the proposed criteria and guidelines shall be deemed to be approved by said subcommittee.

3. Section 6 of P. L. 1968, c. 429 (C. 18A:71–46) is amended as follows:

C. 18A:71-46 Award of grant; required considerations.

6. No person shall be awarded a State tuition aid grant unless:

(a) He has been a resident of New Jersey for a period of not less than 12 months immediately prior to receiving the grant.

(b) He has demonstrated financial need for such tuition aid as determined by paragraph 7b of this act and in accordance with standards to be established by the Student Assistance Board.

(c) He has demonstrated high moral character, good citizenship, and dedication to American ideals.

(d) He has applied for State tuition aid and has been determined to be eligible for such tuition aid.

(e) He has complied with all the rules and regulations adopted pursuant to this act by the Student Assistance Board for the award, regulation and administration of tuition aid.

4. Section 7 of P. L. 1968, c. 429 (C. 18A:71–47) is amended as follows:

C. 18A:71-47 Award of grant; eligibility; amount of grant; standards and procedures.

7. A college tuition aid grant shall be awarded annually to each eligible, qualified full-time undergraduate student enrolled in a curriculum leading to a degree or certificate in an institution of collegiate grade in New Jersey approved or licensed by the State Board of Higher Education, or in an institution of collegiate grade in another state, provided that such state permits its residents to utilize its state student financial assistance grants in New Jersey institutions of higher education through reciprocity agreements approved by the Student Assistance Board and the Board of Higher Education. In no event shall a New Jersey tuition aid grant be utilized at an out of state institution which is not licensed

by that state and accredited by a regional accrediting association recognized by the Council on Postsecondary Accreditation.

(a) Eligibility. To each New Jersey resident enrolled as a full-time student after July 1, 1978 for the academic year beginning in September of 1978 the State shall grant an amount as provided in paragraph (b) of this section 7. No student shall be eligible for a grant unless he has certified in a form satisfactory to the Student Assistance Board that the grant is essential to his carrying out his plans for attending college. No student shall be eligible for grants in more than 4 academic years, unless the recipient is enrolled in an undergraduate program regularly requiring 5 academic years for completion, in which case the Student Assistance Board shall permit a fifth year of eligibility. Notwithstanding the foregoing provisions, a student receiving aid under the provisions of P. L. 1968, c. 142 shall be entitled to a sixth year of eligibility. Eligibility for tuition aid grants may be extended to part-time students through regulations developed by the Student Assistance Board and approved by the Board of Higher Education if the level of appropriated funds allows such an extension, subject to prior approval by the Director of the Division of Budget and Accounting and Joint Appropriation Committee's subcommittee on transfers or its successor. No student shall be eligible for grants unless he maintains such minimum standards of academic performance as are required by the institution in which he is enrolled. No student shall be eligible for a tuition aid grant who is enrolled in a course leading to a degree in theology or divinity.

In the event a student for any reason ceases to continue to be enrolled or otherwise becomes ineligible during the course of an academic year, he shall cease to be eligible for tuition aid. Both the student and the institution shall have the responsibility to notify the Student Assistance Board when a student ceases to be eligible to receive student assistance because of withdrawal for any reason or a change in status from a full to part-time student.

(b) Amount of grant. The amount of a tuition aid grant under this act to any student attending an institution of higher education in New Jersey shall be a minimum of $100.00 and a maximum not to exceed the amount of tuition normally charged a student at the institution of attendance or $1,000.00, whichever is less. The amount of a New Jersey Tuition Assistance grant under this act to any student attending an institution of higher education in any state other than New Jersey pursuant to section 7 of P. L. 1968, c. 429 shall not exceed $500.00 in an academic year. The amount of grant

to be paid for each semester or equivalent shall be based on the financial need for such a grant as determined by standards and procedures established by the Student Assistance Board and approved by the State Board of Higher Education. The standards and procedures which shall be established by the Student Assistance Board for the fiscal year 1978-79 shall be submitted to the Legislature, together with appropriate supporting information, and such standards and procedures shall be deemed approved by the Legislature at the end of 30 calendar days after the date on which they are transmitted to the Legislature, or if the Legislature is not in session on the thirtieth day, then on the next succeeding day on which it shall be meeting, unless between the date of transmittal and the end of the 30-day period the Legislature passes a concurrent resolution rejecting the standards and procedures in which case the standards and procedures then in effect shall continue in effect.

Any subsequent revisions of said standards and procedures shall be submitted to the Legislature, together with appropriate supporting information, and such standards and procedures shall be deemed approved by the Legislature at the end of 60 calendar days after the date on which they are transmitted to the Legislature, or if the Legislature is not in session on the sixtieth day, then on the next succeeding day on which it shall be meeting, unless between the date of transmittal and the end of the 60-day period the Legislature passes a concurrent resolution rejecting the standards and procedures in which case the standards and procedures then in effect shall continue in effect.

(c) Appropriations for each program category of tuition aid grants shall be separately made by line item.

5. Section 8 of P. L. 1968, c. 429 (C. 18A:71–48) is amended as follows:

C. 18A:71-48 Rules and regulations.

8. The Student Assistance Board shall adopt rules and regulations, prescribe and provide appropriate forms for application, and employ such persons, contract for services and make such additional expenditures as may be necessary or appropriate for effectuating the provisions of this act.

6. Section 2 of P. L. 1968, c. 429 (C. 18A:71–42) is amended to read as follows:

C. 18A:71-42 State tuition aid grants created.

2. There are hereby created State tuition aid grants which shall be maintained by the State, awarded and administered pursuant to this act, and used by the holders thereof for undergraduate study in accredited institutions of higher education.

7. (New section) Any tuition assistance grant awarded prior to the effective date of this act to any student at a public institution of higher education in New Jersey pursuant to P. L. 1977, c. 137, and any tuition aid grant awarded to any student at an independent institution of higher education in New Jersey pursuant to P. L. 1968, c. 429, shall be continued or renewed on the basis of eligibility criteria in effect on September 1, 1977, unless said student is eligible to receive an equivalent tuition aid grant pursuant to this act.

C. 18A:71-47.1 "Academic year" defined.

8. (New section) (a) An academic year for the purpose of the act which this act amends and supplements means the period between the time the institution which the student is attending opens after the general summer vacation until the beginning of the next succeeding summer vacation.

(b) In case a college operates on a full calendar-year program, the academic year shall be determined in accordance with rules adopted by the Student Assistance Board, but in no case shall be less than one-fifth of the time required for the completion of a 5-year program, or one-fourth of the time required for the 4-year program in an institution operating on an academic year as defined in subsection (a) above.

9. This act shall take effect June 30, 1978.

Approved January 26, 1978.

CHAPTER 345

AN ACT providing for the awarding of Garden State Scholarships and supplementing Title 18A of the New Jersey Statutes, and repealing sections 18A:71–1, 18A:71–2, 18A:71–4 through 18A:71–26 of the New Jersey Statutes, and P. L. 1969, c. 190 (C. 18A:71–50, et seq.).

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

C. 18A:71-26.1 Short title.

1. This act shall be known and may be cited as the "Garden State Scholarship Act of 1977".

C. 18A:71-26.2 Garden State Scholarships; creation; award and administration.

2. There are hereby created Garden State Scholarships which shall be maintained by the State and awarded and administered pursuant to this act, and used by holders thereof for undergraduate and graduate study in institutions of higher education in New Jersey.

C. 18A:71-26.3 Administration of provisions.

3. It shall be the duty of the Student Assistance Board in the State Department of Higher Education to administer the provisions of this act.

C. 18A:71-26.4 Awarding of scholarships; criteria and guidelines; approval or rejection by Legislature.

4. Garden State Scholarships shall be awarded by institutions of higher education in New Jersey pursuant to criteria and guidelines established by the Student Assistance Board and approved by the Board of Higher Education. The criteria and guidelines established for the fiscal year 1978-79 shall be submitted to the Legislature, together with appropriate supporting information, and such criteria and guidelines shall be deemed approved by the Legislature at the end of 30 calendar days after the date on which they are transmitted to the Legislature, or if the Legislature is not in session on the thirtieth day, then on the next succeeding day on which it shall be meeting, unless between the date of transmittal and the end of the 30-day period the Legislature passes a concurrent resolution rejecting the criteria and guidelines in which case the criteria and guidelines then in effect shall continue in effect.

Any subsequent revisions of said criteria and guidelines shall be submitted to the Legislature, together with appropriate supporting information, and such criteria and guidelines shall be deemed approved by the Legislature at the end of 60 calendar days after the date on which they are transmitted to the Legislature, or if the Legislature is not in session on the sixtieth day, then on the next succeeding day on which it shall be meeting, unless between the date of transmittal and the end of the 60-day period the Legislature passes a concurrent resolution rejecting the criteria and guidelines in which case the criteria and guidelines then in effect shall continue in effect.

C. 18A:71-26.5 Annual award of scholarship.

5. A Garden State Scholarship shall be awarded annually to each eligible New Jersey resident enrolled as a full-time undergraduate or graduate student in a curriculum leading to a degree or certificate in an institution of collegiate grade in New Jersey, approved or licensed by the State Board of Higher Education and accredited by a regional accrediting association recognized by the Council on Postsecondary Accreditation.

C. 18A:71-26.6 Renewal of scholarship; conditions.

6. Each Garden State scholarship awarded shall be renewable annually for up to 4 years except that, in the case of a scholarship holder who is enrolled in a course of study required by the institution to cover 5 years, the period of the scholarship shall be the length of time regularly required for the completion of the course of study, but each scholarship shall remain in effect only during such period as the undergraduate holder thereof continues to have financial need, and the undergraduate or graduate holder thereof achieves satisfactory academic progress as defined by the institution, continues to meet the eligibility criteria and guidelines established pursuant to section 4 of this act, and is regularly enrolled as a full-time student in an institution of collegiate grade as described in section 5 of this act.

C. 18A:71-26.7 Awarding without discrimination.

7. Garden State Scholarships shall be awarded without regard to race, religion, creed, age, or sex.

C. 18A:71-26.8 Rules and regulations; application forms; employees; expenditures.

8. The Student Assistance Board shall adopt rules and regulations subject to the approval of the Board of Higher Education and prescribe and provide appropriate forms for application as necessary to implement this act. The Department of Higher Education shall on behalf of the Student Assistance Board employ such persons, contract for services, and make such additional expenditures as may be necessary or appropriate for effectuating the provisions of this act.

C. 18A:71-26.9 Qualification for award.

9. No person shall be awarded a Garden State Scholarship unless that person has demonstrated academic merit for such scholarship as determined by the criteria and guidelines developed by the Student Assistance Board.

C. 18A:71-26.10 Amount and payments.

10. Each Garden State Scholarship shall entitle the eligible undergraduate recipient thereof to an award of up to $500.00 per year and entitle the eligible graduate recipient thereof to an award up to $4,000.00 per year. Payments under this act shall be made by the State Treasurer on the order of the chairman of the Student Assistance Board in accordance with the rules regulating the same adopted by the board.

C. 18A:71-26.11 Limitation on scholarship amount.

11. No Garden State Scholarship shall, when combined with a Tuition Aid Grant or any other State Grant, exceed the approved student budget as defined by the Student Assistance Board, at the institution where the grants are used.

12. Any individual State competitive scholarship or State Educational Incentive Grant awarded prior to the effective date of this act shall be continued or renewed on the basis of eligibility criteria in effect on July 1, 1977 so long as the holder thereof achieves satisfactory academic progress, continues to have financial need and is regularly enrolled as a full-time student in and in-State or out-of-State institution of collegiate grade licensed or approved by the Board of Higher Education.

Repealer.

13. The following acts or parts of acts are repealed:

N. J. S. 18A:71–1, N. J. S. 18A:71–2, N. J. S. 18A:71–4 through N. J. S. 18A:71–26, and P. L. 1969, c. 190 (C. 18A:71–50, et seq.).

14. This act shall take effect on June 30, 1978.

Approved January 26, 1978.

CHAPTER 346

AN ACT concerning disclosure to parents of pupils' records and amending N. J. S. 18A:36–19.

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

1. N. J. S. 18A:36–19 is amended to read as follows:

Creation, maintenance and retention of pupil records; security; access; liability.

18A:36–19. The State Board of Education shall provide by regulation for the creation, maintenance and retention of pupil records

and for the security thereof and access thereto, to provide general protection for the right of the pupil to be supplied with necessary information about herself or himself, the right of the parent or guardian and the adult pupil to be supplied with full information about the pupil, except as may be inconsistent with reasonable protection of the persons involved, the right of both pupil and parent or guardian to reasonable privacy as against other persons and the opportunity for the public schools to have the data necessary to provide a thorough and efficient educational system for all pupils.

No liability shall attach to any member, officer, or employee of any board of education for the furnishing of any pupil records consistent with this act and the regulations adopted hereunder.

2. This act shall take effect 90 days after enactment.

Approved January 30, 1978.

CHAPTER 347

AN ACT concerning leaves of absence of certain public employees to attend State or National conventions and supplementing Title 40A of the New Jersey Statutes.

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

C. 40A:14-177 Leave of absence to attend certain conventions; certificate of attendance; period.

1. The heads of the county offices of the several counties and the head of every department, bureau and office in the government of the various municipalities, shall give a leave of absence with pay to every person in the service of the county or municipality who is a duly authorized representative of the New Jersey State Patrolmen's Benevolent Association, Inc., Fraternal Order of Police, Firemen's Mutual Benevolent Association, Inc., the Uniformed Firemen's Association, or the New Jersey State Association of Chiefs of Police, to attend any State or National convention of such organization.

A certificate of attendance to the State convention shall, upon request, be submitted by the representative so attending.

Leave of absence shall be for a period inclusive of the duration of the convention with a reasonable time allowed for time to travel to and from the convention.

2. This act shall take effect immediately.

Approved January 30, 1978.

CHAPTER 348

A SUPPLEMENT to the "Department of Environmental Protection Act of 1970," approved April 22, 1970 (P. L. 1970, c. 33).

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

C. 13:8A-55 Master plan.

1. The Commissioner of the Department of Environmental Protection is hereby authorized and directed to develop and maintain a Comprehensive Master Plan for the acquisition, development and use of open lands in the State in conjunction with the provisions of the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974" (P. L. 1974, c. 102) or any other Green Acres Bond Act adopted subsequent to the effective date of this act. This plan shall be long range in nature and be regularly revised and updated. On February 1 of each year the commissioner shall report to the Legislature on the status of the Comprehensive Master Plan.

2. This act shall take effect immediately.

Approved January 30, 1978.

CHAPTER 349

AN ACT requiring certain tax collectors of certain local taxing districts to notify property owners of record under certain circumstances.

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

C. 54:4-64.1 Notice to property owners concerning flood insurance eligibility and Federal disaster assistance.

1. The tax collector of each local taxing district which has become eligible for flood insurance under the "National Flood Insurance Act of 1968," 42 U. S. C. 4001 et seq., shall, at the time of the mailing of the tax bill or duplicate prior to the date that the third installment falls due, send to each owner of record of property within the district a written notice advising that the district is eligible for Federal Flood Insurance and that no Federal Disaster Assistance will be available to reimburse owners for losses that occur to property in the district to the extent that the owner of record could have obtained Federal Flood Insurance and failed to do so.

2. This act shall take effect immediately.

Approved January 30, 1978.

CHAPTER 350

AN ACT to amend "An act concerning mobile homes and the rights and obligations of mobile home park owners and operators and mobile home dwellers," approved May 31, 1973 (P. L. 1973, c. 153).

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

1. Section 2 of P. L. 1973, c. 153 (C. 46:8C–2) is amended to read as follows:

C. 46:8C-2 Prohibited purchases, charges or bonuses; disclosure of charges; penalty.

2. a. No mobile home park owner or operator shall require a resident therein to purchase from said owner or operator underskirting, equipment for tying down mobile homes, or any other equipment required by law, local ordinance or regulations of the mobile home park. However, the park operator may determine by rule or regulation the style or quality of such equipment to be purchased by the tenant from a vendor of the tenant's choosing.

b. (1) No mobile home park owner or operator shall charge any resident who chooses to install an electric or gas appliance in

his mobile home an additional fee unless that fee reflects the cost to the mobile home park of such installation or its use, or to restrict the installation, service or maintenance of any such appliance, or to restrict the making of any interior improvement in such mobile home, so long as such an installation or improvement is in compliance with applicable building codes and other provisions of law.

(2) No mobile home park owner or operator shall require a resident therein to purchase from him, or from any vendor or supplier he designates or selects, any natural product, by-product or synthetic of petroleum gas; except when said owner or operator owns or has a possessory interest in the lines or equipment transmitting or consuming a specific fuel and when said system is properly operating under state and local laws and when said fuel is competitively priced. If the park owner or operator does not own or have a possessory interest in said lines or equipment park owner or operator may, by rule or regulation, designate a specific grade or quality of petroleum or gas to be used. Specification of grade or quality is also permitted whenever reasonably necessary to maintain safety standards prescribed by State law or regulation or by local ordinance.

(3) No mobile home park owner or operator shall move, or require to be moved or relocated within the park, any mobile home owned by any person other than the park owner or operator, unless reasonably necessary and unless written notice is served personally on the mobile home dweller 30 days prior to such proposed move, except in case of an emergency requiring a temporary move or relocation. All costs and fees related, directly or indirectly, to any such move or relocation shall be borne by the owner or operator. In addition, the dweller of the mobile home shall have a right to reimbursement for any loss or damage caused by any such move or relocation, and this right shall not be waived; and any instrument containing a waiver thereof shall be null and void.

c. A mobile home park owner or operator shall be required to fully disclose in writing all fees, charges, assessments, rules and regulations prior to a mobile home dweller assuming occupancy in the park. No fees, charges or assessments so disclosed may be increased or rules and regulations changed by the park owner or operator without specifying the date of implementation of said fees, charges, assessments or rules and regulations, which date shall be no less than 30 days after written notice to all tenants.

In addition, all fees, charges or assessments, including but not limited to entrance, membership or association fees, however denominated, disclosed by said mobile home park owner or operator, must be specifically related to and identifiable with actual costs incurred by the mobile home park owner or operator. All disclosures made in accordance with this section shall be completed prior to the execution of any leasing agreement as required by section four of this act, or the entering into of any other contractual relationship.

d. Failure on the part of the mobile home park owner or operator to fully disclose all fees, charges or assessments shall prevent the park owner or operator from collecting said fees, charges or assessments, and refusal by the dweller to pay any undisclosed charges shall not be used by the owner or operator as a cause for eviction in any court of law.

e. Any mobile home park owner or operator who, directly or indirectly, receives, collects or accepts from another any donation, gratuity, bonus or gift, in addition to lawful charges, upon the representation, understanding or statement that compliance with the request or demand therefor will facilitate, influence or procure an advantage over others in entering into an agreement, either oral or written, for the lease or rental of real property for any term or for the use or occupation thereof, or any such owner or operator who refuses to enter into such agreement unless he receives, directly, or indirectly, any such donation, gratuity, bonus or gift, or any such owner or operator, who, directly or indirectly, aids, abets, requests or authorizes any other person to violate any of the provisions of this section, is a disorderly person.

f. In any action by any person to recover any donation, gratuity, bonus or gift acquired by another in violation of the provisions of this act, the court, upon finding for such person, shall award recovery of double the value of such donation, gratuity, bonus or gift, together with costs of the action.

2. Section 3 of P. L. 1973, c. 153 (C. 46:8C–3) is amended to read as follows:

C. 46:8C-3 Sale of mobile home; notice to park owner; approval.

3. a. No mobile home park shall deny any resident of such mobile home park the right to sell said resident's mobile home within the park or require the resident to remove the mobile home from the park solely on the basis of the sale thereof. The park may reserve the right to approve the purchaser of said mobile home as

a tenant, but such permission may not be unreasonably withheld and the park shall not exact a commission or fee with respect to the price realized by the seller unless the park owner or operator has acted as agent for the mobile home owner in the sale pursuant to a written contract.

When a resident of the park plans to sell his home, he shall give written notice to the park owner or operator. Before a home in the park may be sold, the seller shall provide the buyer with an application for park tenancy, which shall be returned to the park owner or operator by the prospective buyer in person. On the private sale of a mobile home, failure to comply with the application procedure as described, before any sales agreement is entered into, shall absolve the park owner or operator from the requirements of Sec. 2e and 2d, and Sec. 4 of this act. The preceding is not applicable if a buyer plans to immediately remove a home from the park. Either a mobile home owner, mobile home purchaser or park owner or operator aggrieved by the failure of any person to comply with the provisions of this section may seek damages and reasonable costs and attorneys fees in a complaint, cross-claim, or third party complaint in a court of competent jurisdiction.

b. No contract for the sale of a mobile home, where the buyer and the seller intend the mobile home remain in the park, shall be valid unless the seller has advised the purchaser, in writing, of the park owner or operator's right to approve the purchaser as provided for in this section.

c. If the mobile home park owner or operator shall unreasonably withhold approval of a purchaser of a mobile home as a tenant, either the mobile home owner who is selling or the intended purchaser of the mobile home may institute an action in the Superior Court. A plaintiff who shall recover a judgment in any such action shall be awarded all damages proximately caused by the unreasonable refusal of the mobile home park owner or operator to approve the sale together with the costs of the action and reasonable attorneys' fees. In any such action the court shall also be empowered to order the admission of the purchaser of the mobile home to the mobile home park.

3. Section 4 of P. L. 1973, c. 153 (C. 46:8C–4) is amended to read as follows:

C. 46:8C-4 Lease or rental agreement; delivery of rules and regulations; posting.

4. A mobile home park owner or operator shall be required:

a. Within 30 days of the effective date of this enactment to offer

a written lease or written rental agreement for a period not less than 12 months, to mobile home dwellers within the park;

b. Within 30 days of a mobile home dweller lawfully assuming occupancy in the park, a mobile home park owner or operator shall offer a written lease or written rental agreement for a period of not less than 12 months.

c. (Deleted by amendment.)

d. To deliver a copy of all rules and regulations established by the park owner or operator to the mobile home owner prior to his signing a lease or entering into a rental agreement.

e. To post a copy of the rules and regulations established by the park owner or operator in the recreation hall, if any, or some other conspicuous place within the park.

4. This act shall take effect immediately.

Approved January 30, 1978.

CHAPTER 351

AN ACT concerning investments by insurance companies and amending R. S. 17:24–12.

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

1. R. S. 17:24–12 is amended to read as follows:

Securities to be kept within State; exceptions.

17:24–12. All securities acquired pursuant to the provisions of this chapter by any insurance company, except those securities which are issued or guaranteed by the United States, or by any department or instrumentality thereof, shall be held for safekeeping within the geographical limits of the State of New Jersey; provided, that any insurance company may make and maintain such deposits of securities with public officials of other states, the United States government, and foreign countries to such extent as may be required by the laws of such jurisdictions as a condition for authority to transact business therein. This section shall not prohibit the deposit of such securities under agreements as provided in section 17:24–3 of this Title, or the transmission of such securities outside the state for the purpose of securing or recording

title to such securities or to property, or for the purpose of the sale, exchange or alteration of the provisions of such securities, or for the collection of any payment due thereon, nor shall this section prohibit the deposit of such securities as collateral for loans or as security for the performance of contracts.

2. This act shall take effect immediately.

Approved January 30, 1978.

CHAPTER 352

AN ACT concerning cable television and amending section 52 of P. L. 1972, c. 186.

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

1. Section 52 of P. L. 1972, c. 186 (C. 48:5A–52) is amended to read as follows:

C. 48:5A-52 Definitions; willful or malicious damage; tapping or tampering with system; penalty.

52. a. As used in this section:

(1) "Cable television" shall include cable television reception service as defined in subsection e of section 3 of this act, as well as the provision of any other impulse or signal by a cable television company or other service lawfully provided utilizing the facilities of the system;

(2) "Cable television company" shall include the definition as defined in subsection g of section 3 of this act, as well as any other person or entity lawfully providing any services whatsoever utilizing the facilities of a cable television system.

b. Any person who willfully or maliciously damages or causes to be damaged any wire, cable, conduit, apparatus or equipment of a cable television company operating a cable television system, or commits any act with intent to cause such damage, or who taps, tampers with or connects any wire or device to any wire, cable, conduit, apparatus or equipment of a cable television company operating a CATV system, with intent to obtain cable television service without authorization or compensation or to otherwise defraud, is a disorderly person.

c. The existence of any of the conditions with reference to wires, cables, conduits, apparatus or equipment described in subsection b., is presumptive evidence that the person to whom cable television service is at the time being furnished has, with intent to obtain cable television service without authorization or compensation or to otherwise defraud, created or caused to be created the condition so existing.

2. This act shall take effect immediately.

Approved January 30, 1978.

CHAPTER 353

AN ACT concerning mortgage escrow payments and supplementing Title 17 of the Revised Statutes.

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

C. 17:9A-65.2 Increase in mortgage escrow tax account.

1. Notwithstanding any other law, no banking institution, savings and loan association, or mortgage company shall require a mortgagor to increase payments to a mortgage escrow tax account until such institution, association or company has received official notification of an increase in taxes from the taxing district in which the property is located. The amount of any such increase shall not exceed the amount required to meet the actual increase in taxes.

2. This act shall take effect immediately.

Approved January 31, 1978.

CHAPTER 354

AN ACT to amend the "Health Care Facilities Planning Act," approved May 10, 1971 (P. L. 1971, c. 136).

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

1. Section 2 of P. L. 1971, c. 136 (C. 26:2H-2) is amended to read as follows:

C. 26:2H-2 Definitions.

2. The following words or phrases, as used in this act, shall have the following meanings, unless the context otherwise requires:

a. "Health care facility" means the facility or institution whether public or private, engaged principally in providing services for health maintenance organizations, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, home health care agency, boarding home or other home for the sheltered care of adult persons and bio-analytical laboratory (except as specifically excluded hereunder) or central services facility serving one or more such institutions but excluding institutions that provide healing solely by prayer and excluding such bio-analytical laboratories as are independently owned and operated, and are not owned, operated, managed or controlled, in whole or in part, directly or indirectly by any one or more health care facilities, and the predominant source of business of which is not by contract with health care facilities within the State of New Jersey and which solicit or accept specimens and operate predominantly in interstate commerce.

b. "Health care service" means the preadmission, out-patient, in-patient and post-discharge care provided in or by a health care facility, and such other items or services as are necessary for such care, which are provided by or under the supervision of a physician for the purpose of health maintenance organizations, diagnosis or treatment of human disease, pain, injury, disability, deformity or physical condition, including, but not limited to, nursing service home care nursing and other paramedical service, ambulance service, service provided by an intern, resident in training or physician whose compensation is provided through agreement with a health care facility, laboratory service, medical social service, drugs, biologicals, supplies, appliances, equipment, bed and board, but excluding services provided by a physician in his private practice or by practitioners of healing solely by prayer, and services provided by volunteer first aid, rescue and ambulance squads as defined in the "New Jersey Highway Safety Act of 1971," P. L. 1971, c. 351.

c. "Construction" means the erection, building, or substantial acquisition, alteration, reconstruction, improvement, renovation,

extension or modification of a health care facility, including its equipment, the inspection and supervision thereof; and the studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto.

d. "Board" means the Health Care Administration Board established pursuant to this act.

e. "Government agency" means a department, board, bureau, division office, agency, public benefit or other corporation, or any other unit, however described, of the State or political subdivision thereof.

f. "State Health Planning Council" means the existing State Health Planning Council formed under the provisions of Federal Law 89-749, as amended and supplemented.

g. "Comprehensive area-wide health planning agency" means an officially recognized health planning agency formed under the provisions of Federal Law 89-749, as amended and supplemented.

h. "Area planning council" means a voluntary, nonprofit organization composed of persons representative of hospitals, nursing homes, and consumers of medical care services, formed for the purpose of planning the health facilities in a definite geographical area which is recognized by the commissioner through referral of applications for certificate of need as provided by this act.

i. "Department" means the State Department of Health.

j. "Commissioner" means the State Commissioner of Health.

k. "Private long-term health care facility" means a nursing home, skilled nursing home or intermediate care facility presently in operation and licensed as such prior to the adoption of the 1967 Life Safety Code by the State Department of Health in 1972 and which has a maximum 50-bed capacity and which does not accommodate Medicare or Medicaid patients.

2. This act shall take effect immediately.

Approved January 31, 1978.

CHAPTER 355

AN ACT to clarify the meaning of certain words referring to the age of majority contained in certain legal instruments, and supplementing P. L. 1972, c. 81.

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

C. 9:17B-4 Certain words clarified.

1. Any testamentary disposition, will, codicil, deed, conveyance, sale, trust or similar instrument executed prior to January 1, 1973 in which the words "minor," "minority" or "majority" are employed, shall, unless a contrary intention effectively appears, be construed to refer to the age of 18 years as delineating the period of minority and the age of majority.

2. This act shall take effect 6 months after enactment.

Approved January 31, 1978.

CHAPTER 356

AN ACT to amend "An act concerning rebates from taxation, providing homestead rebates for citizens and residents of this State, and supplementing chapter 4 of Title 54 of the Revised Statutes," approved August 30, 1976 (P. L. 1976, c. 72) as said title was amended by P. L. 1977, c. 17.

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

1. Section 13 of P. L. 1976, c. 72 (C. 54:4–3.92) is amended to read as follows:

C. 54:4-3.92 List of persons entitled to rebate; delinquencies; withholding of rebates; notification to taxpayers; credit; payment.

13. a. After review, the director may prepare a list of persons entitled to the rebate, together with the respective amounts due. Such lists may be forwarded to the State Treasurer, the Director of the Division of Budget and Accounting and to such other officials as he may deem appropriate. The director may inspect all

records in the office of the collector and the assessor with respect to claims and allowances for homestead rebates.

b. Each tax collector shall, on or before March 31, 1978 and March 31 of each year thereafter, furnish the director with a list of delinquent property tax owners in his district for taxes due and payable for the year immediately preceding and the amounts of such delinquencies. No homestead payment under this act shall be made to any property owner while such delinquency remains, provided however that for the purposes of this act, property which is on appeal and for which the statutory percentage of the tax has been paid shall not be regarded as delinquent.

c. Where delinquencies remain on March 31, the director shall ascertain the amounts of homestead rebates withheld because of such delinquencies in each municipality in the State, and shall certify such amounts to the State Treasurer as soon thereafter as may be practicable.

On or before August 1, the director shall notify each taxpayer whose homestead rebate has been withheld because of delinquency that the amount of such rebate to which he otherwise would have been entitled will be sent to the tax collector in his municipality to be credited against his delinquency.

d. The State Treasurer annually on or before July 15 commencing in the year 1978, upon the certification of the Director of the Division of Taxation and upon the warrant of the State Comptroller, shall pay and distribute the amount of the homestead rebate to each qualified property owner as certified by the director.

e. Upon certification by the director as to the amount of rebates withheld because of delinquency in the several municipalities, the State Treasurer upon the warrant of the State Comptroller, shall pay such amount on or before September 1 commencing in the tax year 1978 to the tax collector in each municipality.

f. The tax collector in each municipality shall credit the tax delinquency of each property owner who appears on the delinquency list set forth in subsection b. above in the amount that otherwise would have been returned to him as a rebate. In the event that the amount so credited exceeds the amount of delinquency, the tax collector may return the difference to the taxpayer or credit such amount to the subsequent tax bill.

2. This act shall take effect immediately.

Approved January 31, 1978.

CHAPTER 357

AN ACT concerning tax appeals, amending R. S. 54:3–27 and R. S. 54:2–39, amending and supplementing P. L. 1975, c. 361.

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

1. R. S. 54:3–27 is amended to read as follows:

Payment of tax to collector of district pending appeal.

54:3–27. A taxpayer who shall file an appeal from an assessment against him shall pay to the collector of the taxing district no less than the first three quarters of the taxes assessed against him for the current tax year in the manner prescribed in R. S. 54:4–66 even though his petition to the county board of taxation might request a reduction in excess of one quarter of the taxes assessed for the full year. The collector shall accept such amount, when tendered, give a receipt therefor and credit the taxpayer therewith, and the taxpayer shall have the benefit of the same rate of discount on the amount paid as he would have on the whole amount.

The payment of part or all of the taxes upon any property, due for the year for which an appeal from an assessment upon such property has been or shall hereafter be taken, or of taxes for subsequent years, shall in nowise prejudice the status of the appeal or the rights of the appellant to prosecute such appeal, before the county board of taxation, the State Board of Tax Appeals, or in any court to which the judgment arising out of such appeal shall be taken, except as may be provided for in section 2 of this act.

2. R. S. 54:2–39 is amended to read as follows:

Appeal to division.

54:2–39. Any appellant who is dissatisfied with the judgment of the county board of taxation upon his appeal may appeal from that judgment to the Division of Tax Appeals in the Department of the Treasury by filing a petition of appeal to the division, in manner and form to be by said division prescribed, on or before December 15 following the date fixed for final decisions by the county boards, and the division shall proceed summarily to hear and determine all such appeals and render its judgment thereon as soon as may be.

At the time that a petition of appeal has been filed with the Division of Tax Appeals, all taxes for the current tax year must have been paid and the appellant at such time shall present evidence of such payment. No interest shall be due and payable by the appellant for the period from November 1 of the current tax year to the date of filing the petition of appeal.

Each petition of appeal shall be verified and shall contain full and complete information as to the land, including the size of the lot, a description of the buildings and structures thereon, if any, and the use thereof and further shall detail the income and expense of operation in cases of income-producing property. Where the petition of appeal is from a judgment as to the assessed valuation of the appellant's property, there shall be annexed to the petition evidence of payment of taxes due and payable as hereinabove prescribed.

No appeal, however, shall lie to the Division of Tax Appeals in the Department of the Treasury where the appeal to the county board of taxation has been (a) withdrawn at the hearing, or previously thereto in writing by the appellant or his agent; (b) dismissed because of appellant's failure to prosecute the appeal at a hearing called by the county tax board; (c) settled by mutual consent of the taxpayer and assessor of the taxing district. This provision shall not preclude an appeal to the Division of Tax Appeals in the Department of the Treasury in the event that the appeal was "dismissed without prejudice" by the county board of taxation.

3. Section 2 of P. L. 1975, c. 361 (C. 54:3–27.2) is amended to read as follows:

C. 54:3-27.2 Refund of excess taxes with interest.

2. In the event that a taxpayer is successful in an appeal from an assessment on real property, the respective taxing district shall refund any excess taxes paid, together with interest thereon from the date of payment at a rate of 5% per annum, within 60 days of the date of final judgment.

C. 54:3-27.3 Exemptions.

4. (New section) Class 3B (Farm Qualified) and Class 15D, E and F (Exempt Property) in appeal where a statutory qualification is the subject of the appeal are exempt from those provisions contained in R. S. 54:3–27 and R. S. 54:2–39.

5. This act shall take effect immediately.

Approved January 31, 1978.

CHAPTER 358

AN ACT appropriating certain funds from the State Facilities for Handicapped Fund for the installation of a fire alarm system equipped with flashing light warning devices at the Marie H. Katzenbach School for the Deaf.

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

1. There is hereby appropriated to the State Department of Education from the State Facilities for Handicapped Fund established pursuant to the provisions of P. L. 1973, c. 149 the additional sum of $366,000.00 or so much thereof as may be necessary, for the installation of a fire alarm system equipped with flashing light warning devices at the Marie H. Katzenbach School for the Deaf.

2. This act shall take effect immediately.

Approved January 31, 1978.

CHAPTER 359

AN ACT concerning motor vehicle registration and amending R. S. 39:3–27.

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

1. R. S. 39:3–27 is amended to read as follows:

Free registration of certain vehicles; expiration of special registration; transfer.

39:3–27. No fee shall be charged for the registration of motor vehicles not used for pleasure or hire, owned by the United States, the State of New Jersey, a municipality, county, Regional Air Pollution Control Agency, Passaic Valley Sewerage Commissioners, North Jersey District Water Supply Commission, a county improvement authority created under the "county improvement authorities law" (P. L. 1960, c. 183), a local school district, a regional school district, a county vocational or technical school, a duly authorized volunteer fire department, a duly authorized

volunteer first aid, rescue or emergency squad, any duly recognized auxiliary or reserve police organization of any municipality, hospital, humane society, and anticruelty society in this State, New Jersey wing of the Civil Air Patrol incorporated by the Act of July 1946 (Public Law 476—79th Congress), the American Red Cross, chartered local councils in New Jersey of the Boy Scouts of America or the Girl Scouts of the United States of America or ambulances owned by nationally organized recognized veterans' organizations. These vehicles shall be registered and display number plates as provided in this subtitle or the director may, in his discretion, issue special registration certificates and special number plates for any of these motor vehicles which shall be valid for such motor vehicle until the transfer of ownership or the destruction of such motor vehicles at which time the special registration shall expire. Upon the expiration of any special registration the registration certificate and special number marker shall be returned to the director; provided, however, upon proper application to the director the special registration and special number marker may be transferred to another motor vehicle acquired by the owner to whom the special registration and marker were issued.

2. This act shall take effect immediately.

Approved January 31, 1978.

CHAPTER 360

A SUPPLEMENT to "The New Jersey Expressway Authority Act," approved February 19, 1962 (P. L. 1962, c. 10, C. 27:12C–1 et seq.).

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

C. 27:12C-26.1 Public hearing prior to toll increase.

1. The authority shall, whenever it desires to increase any existing toll or establish any new toll for the use of any project and the different parts or sections thereof, hold a public hearing on such proposed toll at least 45 days prior to the date on which such toll is proposed to become effective.

C. 27:12C-26.2 Notice of hearing.

2. The authority shall cause to be published notice of such hearing at least 10 days prior to such hearing in at least 10 newspapers with a daily circulation in this State.

3. This act shall take effect immediately.

Approved February 1, 1978.

CHAPTER 361

A SUPPLEMENT to "The New Jersey Highway Authority Act," approved April 14, 1952 (P. L. 1952, c. 16, C. 27:12B–1 et seq.).

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

C. 27:12B-14.1 Public hearing prior to toll increase.

1. The authority shall, whenever it desires to increase any existing toll or establish any new toll for the use of any project and the different parts or sections thereof, hold a public hearing on such proposed toll at least 45 days prior to the date on which such toll is proposed to become effective.

C. 27:12B-14.2 Notice of hearing.

2. The authority shall cause to be published notice of such hearing at least 10 days prior to such hearing in at least 10 newspapers with a daily circulation in this State.

3. This act shall take effect immediately.

Approved February 1, 1978.

CHAPTER 362

AN ACT appropriating funds from the State Facilities for the Handicapped Fund for life and fire safety improvements and other renovations at the Marie H. Katzenbach School for the Deaf.

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

1. There is hereby appropriated to the State Department of Education from the State Facilities for Handicapped Fund pursuant to the provisions of P. L. 1973, c. 149 the sum of $839,770.00 for life and fire safety improvements and other renovations at the Marie H. Katzenbach School for the Deaf.

2. Said sum shall be appropriated from the interest earned on investment of proceeds of the State Facilities for Handicapped Fund pursuant to the provisions of P. L. 1973, c. 149.

3. This act shall take effect immediately.

Approved February 1, 1978.

CHAPTER 363

AN ACT concerning the employment relations panel of the Port Authority of New York and New Jersey and supplementing subtitle 1 of Title 32 of the Revised Statutes.

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

C. 32:1-175 Orders of employment relations panel; enforcement and review.

1. Orders of the employment relations panel established by resolution of the Port Authority of New York and New Jersey adopted September 29, 1976 made pursuant to the provisions of such resolution shall be (a) enforceable either in a special proceeding upon petition of such panel by the Supreme Court in the State of New York or upon application by the panel for an appropriate enforcement order by the Appellate Division of the Superior Court in the State of New Jersey and (b) reviewable either under article seventy-eight of the civil practice law and rules in the State of New York or by action in lieu of prerogative writ in the State of New Jersey, upon petition filed by an aggrieved party, including the Port Authority of New York and New Jersey acting in its capacity as employer, within 30 days after service by registered or certified mail of a copy of such order upon such party. In any such proceeding to enforce or review an order of such panel, the court shall, notwithstanding sections five and nine of chapter three hundred one of the laws of New York, nineteen hundred fifty and P. L. 1951, c. 204 (C. 32:1–157 et seq.), have

power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter a judgment or decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of such panel.

C. 32:1-176 Effective date.

2. This act shall take effect upon the enactment into law by the state of New York of legislation having an identical effect with the provisions of this act; but if the state of New York shall have already enacted such legislation, then this act shall take effect immediately.

Approved February 1, 1978.

CHAPTER 364

AN ACT concerning jurisdiction for certain crimes committed by juveniles over the age of 14 years, and amending N. J. S. 2A:85–4 and P. L. 1973, c. 306.

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

1. N. J. S. 2A:85–4 is amended to read as follows:

Person incapable of committing crime.

2A:85–4. A person under the age of 14 years is deemed incapable of committing a crime.

2. Section 7 of P. L. 1973, c. 306 (C. 2A:4–48) is amended to read as follows:

C. 2A:4-48 Referral to other court without juvenile's consent.

7. Referral to other court without juvenile's consent. The juvenile and domestic relations court may, without the consent of the juvenile, waive jurisdiction over a case and refer that case to the appropriate court and prosecuting authority having jurisdiction if it finds, after hearing, that:

a. The juvenile was 14 years of age or older at the time of the charged delinquent act;

b. There is probable cause to believe that the juvenile committed a delinquent act which would constitute homicide, treason if committed by an adult or committed an offense against the person in an aggressive, violent and willful manner or committed a

delinquent act which would have been a violation of section 19 of the Controlled Dangerous Substances Act (P. L. 1970, c. 226; C. 24:21–19) if committed by an adult and the juvenile, at the time he committed the act, was not addicted to a narcotic drug as that term is defined in section 2 of the Controlled Dangerous Substances Act (P. L. 1970, c. 226; C. 24:21–2); and

c. The court is satisfied that adequate protection of the public requires waiver and is satisfied there are no reasonable prospects for rehabilitation of the juvenile prior to his attaining the age of majority by use of the procedures, services and facilities available to the court.

3. Section 8 of P. L. 1973, c. 306 (C. 2A:4–49) is amended to read as follows:

C. 2A:4-49 Referral to other court at election of juvenile.

8. Referral to other court at election of juvenile. Any juvenile 14 years of age or older, charged with delinquency may elect to have the case transferred to the appropriate court having jurisdiction.

4. This act shall take effect immediately.

Approved February 1, 1978.

CHAPTER 365

AN ACT authorizing the Port Authority of New York and New Jersey to participate in effectuating certain access improvement projects in connection with its air and marine terminal facilities, amending "An act to facilitate the financing and effectuation of air terminals by the Port of New York Authority and agreeing with the State of New York with respect thereto," approved April 2, 1947 (P. L. 1947, c. 43), amending "An act to facilitate the development by the Port of New York Authority of marine terminals, and agreeing with the State of New York with respect thereto," approved April 2, 1947 (P. L. 1947, c. 44).

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

C. 32:1-35.25 Findings and determinations.

1. The states of New York and New Jersey hereby find and determine that:

(i) Each air and marine terminal facility operated by the Port Authority of New York and New Jersey within the Port of New York District serves the entire district, and the problem of furnishing proper and adequate air and marine terminal facilities is a regional and interstate problem;

(ii) Improved highway access to certain of such air and marine terminal facilities is necessary for their continued development, which development is vital and essential to the preservation of the economic well-being of the Northern New Jersey-New York metropolitan area;

(iii) It is the purpose of this act to authorize the Port Authority of New York and New Jersey to participate in the development of improved highway access projects specifically with respect to Newark International Airport, Port Newark and the Elizabeth-Port Authority Marine Terminal as part of a unified plan and with the single object of preserving and developing the economic well-being of the Northern New Jersey-New York metropolitan area, and such undertaking is found to be in the public interest.

2. P. L. 1947, c. 43, s. 3 (C. 32:1–35.3) is amended to read as follows:

C. 32:1-35.3 Definitions.

3. The following terms as used herein shall mean:

"Air terminals" shall mean developments consisting of runways, hangars, control towers, ramps, wharves, bulkheads, buildings, structures, parking areas, improvements, facilities or other real property necessary, convenient or desirable for the landing, taking off, accommodation and servicing of aircraft of all types, including but not limited to airplanes, airships, dirigibles, helicopters, gliders, amphibians, seaplanes, or any other contrivance now or hereafter used for the navigation of or flight in air or space, operated by carriers engaged in the transportation of passengers or cargo, or for the loading, unloading, interchange or transfer of such passengers or their baggage, or such cargo, or otherwise for the accommodation, use or convenience of such passengers, or such carriers or their employees (facilities and accommodations at sites removed from landing fields and other landing areas, however except as otherwise provided in this section, to be limited to ticket stations and passenger stations for air passengers, to ex-

press and freight stations for air express and air freight, and to beacons and other aids to air navigation), or for the landing, taking off, accommodation and servicing of aircraft owned or operated by persons other than carriers. It shall also mean facilities providing access to an air terminal, consisting of rail, rapid transit or other forms of mass transportation which furnish a connection between the air terminal and other points in the port district, including appropriate mass transportation terminal facilities at and within the air terminal itself and suitable offsite facilities for the accommodation of air passengers, baggage, mail, express, freight and other users of the connecting facility. It shall also mean such highway project or projects in the vicinity of an air terminal providing improved access to such air terminal as shall be designated in legislation adopted by the two states.

"Air terminal bonds" shall mean bonds issued by the Port Authority for air terminal purposes.

"Air terminal purposes" shall mean the effectuation, establishment, acquisition, construction, rehabilitation, improvement, maintenance or operation of air terminals owned, leased or operated by the Port Authority of New York and New Jersey (including airports operated under revocable permits) or operated by others pursuant to agreements with the Port Authority.

"Bonds" shall mean bonds, notes, securities or other obligations or evidences of indebtedness.

"General Reserve Fund" shall mean the General Reserve Fund of the Port Authority authorized by chapter 48 of the laws of New York of 1931 as amended, and chapter 5 of the laws of New Jersey of 1931, as amended.

"General Reserve Fund statutes" shall mean chapter 48 of the laws of New York of 1931 as amended, and chapter 5 of the laws of New Jersey of 1931, as amended.

"Municipality" shall mean a county, city, borough, village, township, town, public agency, public authority or political subdivision.

"Real property" shall mean lands, structures, franchises and interests in land, including air space and air rights, waters, lands under water and riparian rights, and any and all things and rights included within the said term, and includes not only fees simple absolute but also any and all lesser interests, including but not limited to easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right,

legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

3. P. L. 1947, c. 44, s. 3 (C. 32:1–35.30) is amended to read as follows:

C. 32:1-35.30 Definitions.

3. The following terms as used herein shall mean:

"Marine terminals" shall mean developments, consisting of one or more piers, wharves, docks, bulkheads, slips, basins, vehicular roadways, railroad connections, side tracks, sidings or other buildings, structures, facilities or improvements, necessary or convenient to the accommodation of steamships or other vessels and their cargoes or passengers. It shall also include such highway projects in the vicinity of a marine terminal providing improved access to such marine terminal as shall be designated in legislation adopted by the two states.

"Marine terminal purposes" shall mean the effectuation, establishment, acquisition, construction, rehabilitation, improvement, maintenance or operation of marine terminals.

"Municipality" shall mean a county, city, borough, village, township, town, public agency, public authority or political subdivision.

"Real property" shall mean lands, structures, franchises and interests in land, including waters, lands under water and riparian rights, and any and all things and rights usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, including but not limited to easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

C. 32:1-35.26 Participation by two states in effectuating access improvement projects.

4. In furtherance of the aforesaid findings and determinations and in partial effectuation of the Comprehensive Plan heretofore adopted by the two states for the development of terminal and transportation facilities in the Port of New York District, it is the intent of the two states to authorize the Port Authority of New York and New Jersey to participate as limited in section 5 of this act in the effectuation of one or more separate access improvement projects as hereniafter defined pursuant to chapter 43 of the laws of New Jersey of 1947 as amended, and chapter 802

of the laws of New York, 1947, as amended, and chapter 44 of the laws of New Jersey 1947, as amended, and chapter 631 of the laws of New York, 1947, as amended or any of the foregoing.

Highway access improvement project relating to Newark International Airport and the Elizabeth-Port Authority Marine Terminal.

Construction of that portion of New Jersey Route 81 in the city of Elizabeth, State of New Jersey, extending generally northwestward from and including a new interchange with the New Jersey Turnpike, across and connecting with North Avenue, to and including a new interchange with U.S. Route 1.

C. 32:1-35.27 Authorization to enter into agreements to effectuate access improvement projects.

5. The Port Authority of New York and New Jersey is hereby authorized and empowered in its discretion to enter into an agreement or agreements upon such terms or conditions as it may deem in the public interest with the United States, the State of New Jersey, or any agency, department, commission, public authority, board or division of any of the foregoing, or any municipality or other public corporation in the State of New Jersey, or any person, firm, association, company or corporation, or any two or more of the foregoing, to effectuate any of the access improvement project set forth in section 4 of this act.

Any such agreement or agreements relating to the highway access improvement project described in section 4 of this act may provide for the construction, reconstruction, ownership, improvement, maintenance or operation of any portion or portions of such project by the State of New Jersey, or by any agency, department, commission, public agency, board or division of such State, or by any one or more of the foregoing. The State of New Jersey or any agency, department, commission, public authority, board or division thereof, or any municipality or other public corporation in the State of New Jersey, or any two or more of the foregoing, are hereby authorized and empowered to enter into an agreement or agreements with the Port Authority, the United States or any department, agency or instrumentality thereof, or any person, firm, association, company or corporation, or any two or more of the foregoing, to effectuate the access improvement project set forth in section 4 of this act.

C. 32:1-35-27a Effective date.

6. This act shall take effect upon the enactment into law by the state of New York of legislation having an identical effect with this act, but if the state of New York has already enacted such legislation, this act shall take effect immediately.

Approved February 1, 1978.

CHAPTER 366

AN ACT to amend "An act creating a State Mosquito Control Commission and prescribing its authorities and duties," approved July 19, 1956 (P. L. 1956, c. 135) and R. S. 26:9–23.

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

1. Section 1 of P. L. 1956, c. 135 (C. 26:9–12.3) is amended to read as follows:

C. 26:9-12.3 State mosquito control commission; creation; membership; appointment.

1. There is hereby created in the Department of Environmental Protection a permanent commission to be known as the State Mosquito Control Commission, which shall consist of 10 members, six of whom shall be appointed by the Governor with the advice and consent of the Senate and four of whom shall be the Commissioner of the Department of Environmental Protection, the Commissioner of the Department of Health, the Secretary of Agriculture, or their designated representatives, and the Director of the New Jersey State Agricultural Experiment Station, exofficio.

2. R. S. 26:9–23 is amended to read as follows:

Tax levy; amounts.

26:9–23. The board of freeholders of the county or other body having control of the finances thereof, shall include annually in the tax levy the amount of money needed for mosquito control; but in no year shall the amount so raised exceed the following amounts:

a. In counties where the assessed valuations are not more than $25,000,000.00, a sum not greater than one mill on every dollar of assessed valuations.

b. In counties where the assessed valuations are not more than $50,000,000.00, a sum not more than one-half of one mill on every dollar of assessed valuations.

c. In counties in which the assessed valuations are in excess of $50,000,000.00, a sum of not more than one-quarter of one mill on every dollar of assessed valuations.

3. This act shall take effect immediately.

Approved February 6, 1978.

CHAPTER 367

AN ACT concerning the adoption of children and revising and repealing various parts of the law relating to adoption.

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

C. 9:3-37 Construction of act.

1. This act shall be liberally construed to the end that the best interests of children be promoted. Due regard shall be given to the rights of all persons affected by an adoption.

C. 9:3-38 Definitions.

2. For the purposes of this act:

a. "Approved agency" shall mean a nonprofit corporation, association or agency, including any public agency, approved by the Department of Human Services for the purpose of placing children for adoption in New Jersey;

b. "Child" shall mean a person under 18 years of age;

c. "Custody" shall mean the general right to exercise continuing control over the person of a child derived from court order or otherwise;

d. "Guardianship" shall mean the right to exercise continuing control over the person or property or both of a child which includes any specific right of control over an aspect of the child's upbringing derived from court order;

e. "Guardian ad litem" shall mean a qualified person, not necessarily an attorney, appointed by the court under the provisions of this act or at the discretion of the court to represent the interests of the child whether or not the child is a named party in the action;

f. "Parent" shall mean a natural parent or natural parents, including the natural father of the child born out of wedlock who has acknowledged the child or to whom the court has ordered notice to be given, or a parent or parents by adoption;

g. "Placement for adoption" shall mean the transfer of custody of a child to a person for the purpose of adoption by such person; and

h. "Plaintiff" shall mean a prospective parent or parents who have filed a complaint for adoption.

C. 9:3-39 Persons or agencies authorized to place children for adoption.

3. a. No person, firm, partnership, corporation, association or agency shall place, offer to place or materially assist in the placement of any child for adoption in New Jersey unless such person shall be the parent or guardian of the child, or such firm, partnership, corporation, association or agency shall be an approved agency; provided, however, that this prohibition shall not apply to the placement for adoption of a child with a brother, sister, aunt, uncle, grandparent, natural father or stepparent of such child. For the purposes of this section, material assistance in the placement for adoption of any child shall include but shall not be limited to acting as an agent, finder or intermediary for or between any parent and any prospective parent or a person acting on behalf of either in connection with a placement for adoption of such parent's child. The Superior Court, in an action by the Commissioner of the Department of Human Services, may enjoin any party found by the court to have violated this section from any further violation of this section.

b. Any person, firm, partnership, corporation, association or agency violating this section shall be guilty of a misdemeanor.

C. 9:3-40 Rules and regulations; discrimination with regard to selection of adoptive parents; prohibition; consideration of certain factors.

4. The Commissioner of the Department of Human Services shall promulgate rules and regulations relating to the qualification of agencies for approval to make placements for adoption in New Jersey. Such rules and regulations shall include, but shall not be limited to standards of professional training and experience of staff and requirements relating to responsibilities of trustees, officers or other persons supervising or conducting the placement for adoption program, adequacy of facilities, maintenance and confidentiality of casework records and furnishing of reports. No approved agency shall discriminate with regard to the selection of adoptive parents for any child on the basis of age, sex, race,

national origin, religion or marital status provided, however, that these factors may be considered in determining whether the best interests of a child would be served by a particular placement for adoption or adoption.

C. 9:3-41 Surrender of child to agency; acknowledgment; relinquishment of rights and consent to adoption; validity of surrender; custody of child.

5. a. Surrender of a child to an approved agency for the purpose of adoption shall be by a signed instrument acknowledged by the person executing the same before an officer authorized to take acknowledgments or proofs in the State in which the instrument is executed, such officer first having made known the contents of the instrument to the person making the acknowledgment and having been satisfied as to the identity of the person executing the surrender, which the officer shall certify on the instrument of surrender or on a paper attached thereto. Such surrender shall constitute relinquishment of such person's parental rights in or guardianship or custody of the child named therein and consent by such person to adoption of the child. Such surrender shall be valid and binding without regard to the age of the person executing the surrender.

b. Any approved agency may accept custody of a child by a duly executed instrument of surrender from a parent or guardian of the child or from another approved agency or any agency for the care and protection of children approved by any other state, by the United States or by any foreign country, which has duly obtained the authority to place such child for adoption.

C. 9:3-42 Venue.

6. An action for adoption shall be instituted in either the Superior Court or the County Court of the county in which the prospective parent resides; provided, however, that:

a. Whenever the child to be adopted has been received into the home of the prospective parent from an approved agency, the action may be instituted in the County Court of any county in which such approved agency has an office; and provided further that

b. Whenever a parent of the child to be adopted has been granted a divorce from the other parent by the Superior Court, the action shall be instituted in the Superior Court unless such court previously has awarded custody of the child to an approved agency or has consented to the institution of the action in a County Court.

C. 9:3-43 Action for adoption; requirements.

7. a. Any person may institute an action for adoption, provided, however, that a married person may do so only with the written

consent of his spouse or jointly with his spouse in the same action or after having lived separate and apart from his spouse for a continuous period of at least 18 months.

b. Each plaintiff, at the time of the institution of the action, shall have attained the age of 18 years and shall be at least 10 years older than the child to be adopted, provided, however, that the court for good cause may waive either requirement, such waiver to be recited in any judgment of adoption thereafter entered.

C. 9:3-44 Action to be instituted promptly after child received in home; failure.

8. Whenever any person shall receive a child into his home for the purpose of adoption other than from an approved agency, an action for adoption shall be instituted with reasonable promptness. Whenever any person shall receive a child into his home for purposes other than adoption and it is later determined that an adoption shall be sought, an action for adoption shall be instituted with reasonable promptness following such determination. Failure to so act shall not be a sole basis for refusal of the adoption.

C. 9:3-45 Notice of complaint; waiver; exception; "parent" defined.

9. In any adoption proceeding pursuant to this act, notice of the complaint may not be waived and shall be served in accordance with the Rules of Court on each parent of the child to be adopted, except that notice shall not be served on any parent who has executed a valid surrender to an approved agency pursuant to section 5 or whose parental rights have been terminated in a separate judicial proceeding by court order. If at any time during the proceedings it appears from the report of the agency or in any other way that the putative father has maintained a relationship with the child, financial or otherwise, the court shall order that notice be given to such putative father personally and that the hearing will not be held until 20 days after notice is given in the case of a resident and 35 days in the case of a nonresident. Such notice shall inform the parent or putative father of the purpose, date, place of hearing, of such person's right to appear and object to the adoption, of his right to counsel and of his right to have counsel appointed to represent him if he cannot afford to retain counsel. For the purposes of this section the defined term "parent" shall include the husband of the mother of a child born or conceived during the marriage.

C. 9:3-46 Right to object by parent; judgment of adoption; prohibition; exception; notice and standing to object to adoption.

10. a. Any parent who has not executed a surrender pursuant to section 5 and whose parental rights have not been terminated by court order shall have the right to object to the adoption of his child. No judgment of adoption shall be entered over an objection of such parent communicated to the court by personal appearance or by letter unless the court finds that such parent has substantially failed to perform the regular and expected parental functions of care and support of the child, which shall include maintenance of an emotional relationship with the child.

b. Any guardian of a child to be adopted who has not executed a surrender pursuant to section 5 and any other person standing in loco parentis of such child shall be given notice of the action and in accordance with the Rules of Court shall have standing to object to the adoption, which objection shall be given due consideration by the court in determining whether the best interests of the child would be promoted by the adoption.

C. 9:3-47 Complaint for adoption; filing; procedure when child received from approved agency.

11. a. When the child to be adopted has been received from an approved agency, the prospective parent shall file with the court a complaint for adoption after the child has been in the home of such prospective parent for at least 6 months. The complaint shall be accompanied by a consent to the plaintiff's adoption of the child signed and acknowledged by an authorized officer or representative of the approved agency; provided, however, that failure or refusal on the part of such approved agency to give such consent, or withdrawal of consent on the part of such approved agency, shall not preclude an action for adoption.

b. Upon the filing of the complaint, the court shall set a date for the adoption hearing not less than 10 nor more than 30 days from the date of institution of the action unless a longer period shall be required in order to obtain service of notice upon one or more of the parents and shall order the approved agency concerned to file at least 5 days prior to the hearing a two-part written report, part one of which shall describe the circumstances surrounding the surrender of the child to the agency and part two of which shall set forth the results of the agency's evaluation of the child and of the plaintiff and his spouse, if any, and the agency's assessment of the care being received by the child and the adjustment of the child and the plaintiff as members of a family. If the agency's

report contains any material findings or recommendations adverse to the plaintiff the agency shall serve a copy of part two of its report upon the plaintiff at least 5 days prior to the hearing and the court shall appoint a guardian ad litem for the child in the adoption proceeding if the court determines that such guardian is necessary to represent the best interest of the child. If the approved agency that placed the child with the plaintiff has not consented to the adoption, the court may appoint another approved agency to conduct an investigation and make recommendations in the matter. Such appointment shall not deprive the placing agency of standing to appear at the hearing and contest the adoption. Personal appearance at the hearing by a representative of the approved agency conducting the investigation may be dispensed with by the court if the agency's report favors the adoption. If such 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. The appearance of the child to be adopted shall not be required unless ordered by the court or unless the inquiry pursuant to section 13 indicates that the child is opposed to the adoption.

c. The adoption hearing shall be held in camera. If a parent of the child has made an objection to the adoption, the court shall take evidence relating to such objection. If the court finds against the objecting parent in accordance with subsection (a) of section 10, it shall make an order terminating the parental rights of such parent and proceed with the hearing.

d. If, based upon the approved agency's report and the evidence presented at the hearing, 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 approved agency's report and the evidence presented at the hearing, 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.

C. 9:3-48 Complaint for adoption; filing; procedure when 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 such 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 concerning 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 and an evaluation of the child and of the plaintiff and the spouse of the plaintiff if not the child's parent and if not a party to the action, provided, however, that whenever the plaintiff is a stepparent of the child, the court may dispense with the agency investigation and report and take direct evidence at the preliminary hearing of the facts and circumstances surrounding the adoption;

(3) Direct the plaintiff to cooperate with the approved agency making such investigation and report; and

(4) Fix a day for preliminary hearing not less than 2 or more than 3 months from the date of the institution of the action; provided, however, that such hearing may be accelerated upon the application of the approved agency and upon notice to the plaintiff where 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 a plaintiff is a brother, sister, grandparent, aunt, uncle, natural father or stepparent 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 thereof on the plaintiff.

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. contains any 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 shall determine that there is lack of jurisdiction or that there is lack of qualification on the part of the plaintiff, the action shall be dismissed forthwith. If in the course of the preliminary hearing the court shall determine 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, their failure to make timely objection to the adoption pursuant to section 10 or intentional abandonment or very substantial neglect of parental duties without a reasonable expectation of a reversal of that conduct in the future;

(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, it shall issue an order stating its findings, declaring that no parent or guardian of the child has any right to custody or guardianship of the child, terminating the parental rights of such person, fixing a date for final hearing not less than 6 nor more than 9 months from the date of the preliminary hearing and appointing an approved agency to evaluate the placement in accordance with subsection d. If the plaintiff is a brother, sister, grandparent, aunt, uncle, natural father, stepparent or foster parent of the child, or if the child has been in the home of the plaintiff for at least 2 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 such 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. 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 such 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 such approved agency shall conclude 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 such 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; provided, however, that if the approved agency in its report pursuant to subsection d. has recommended that the adoption be granted, the final hearing may be dispensed 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 forthwith.

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 such 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 such 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.

C. 9:3-49 Adoption of child over 10.

13. If the child sought to be adopted is of the age of 10 years or over, the appearance of such child shall be required at the adoption hearing, and the child's wishes concerning the adoption shall be solicited by the court and given consideration if the child is of sufficient capacity to form an intelligent preference regarding the adoption.

C. 9:3-50 Relationships between child and parents after adoption.

14. a. The entry of a judgment of adoption shall terminate all relationships between the adopted child and his parents and all rights, duties and obligations of any person that are founded upon such relationships, including rights of inheritance under the

intestate laws of this State, except such rights as may have vested prior to entry of the judgment of adoption; provided, however, that when the plaintiff is a stepfather or stepmother of the adopted child and the adoption is consummated with the consent and approval of the mother or father, respectively, such adoption shall not affect or terminate any relationship between the child and such mother or father or any rights, duties or obligations based thereupon. For good cause, the court may in the judgment provide that the rights of inheritance from or through a deceased parent will not be affected or terminated by the adoption.

b. The entry of a judgment of adoption shall establish the same relationships, rights, duties and obligations between the child and the adopting parent as if such child were born to such adopting parent in lawful wedlock. For good cause, the court may direct the entry of judgment nunc pro tunc as of the date the action was instituted. In applying the intestate laws of this State, an adopted child shall have the same rights of inheritance as if born to the adopting parent in lawful wedlock. In the construction of any testamentary or other document executed subsequent to the effective date of this act, an adopted child shall be deemed lawful issue of the adopting parents unless such document shall otherwise provide.

C. 9:3-51 Judgment of adoption; filing with court; records; accessibility.

15. The clerk of each County Court shall file promptly with the Superior Court a copy of each judgment of adoption entered pursuant to this act. The clerk of the Superior Court shall docket the copies of such judgments and shall maintain an alphabetical index of all judgments of adoption entered each year pursuant to this act in the County Courts and the Superior Court of the State, all of which records shall be sealed and thereafter shall be made accessible only by court order.

C. 9:3-52 Records of proceedings; filing; index; certification of child's birth record.

16. a. All records of proceedings relating to adoption, including the complaint; judgment and all petitions, affidavits, testimony, reports, briefs, orders and other relevant documents, shall be filed under seal by the clerk of the court and shall at no time be open to inspection or copying unless the court, upon good cause shown, shall otherwise order. An index to all adoption proceedings shall be maintained by the clerk of the court, but no index of adoption proceedings shall be open to inspection or copying or be made public except upon order of the court.

b. Upon entry of a judgment of adoption, the clerk of the court shall certify to the State Bureau of Vital Statistics, any successor agency or any similar agency in the State or country of the child's birth, the date of entry of the judgment, the names of the adopting parent or parents, the name of the child, the date and place of birth of the child and the new name of the child if changed by the judgment of adoption.

C. 9:3-53 Costs of proceedings; payment.

17. The costs of all proceedings pursuant to this act shall be borne by the plaintiff, including the costs incurred by an approved agency acting pursuant to an order of the court; provided, however, that such approved agency may waive part of or all such costs. Payment of costs hereunder shall not be a condition precedent to entry of judgment. Such costs shall not include the provision of counsel for any person, other than the plaintiff, entitled to the appointment of counsel hereunder.

C. 9:3-54 Placement for adoption for consideration; exception; violation.

18. a. No person, firm, partnership, corporation, association or agency shall make, offer to make or assist or participate in any placement for adoption and in connection therewith

(1) Pay, give or agree to give any money or any valuable consideration, or assume or discharge any financial obligation; or

(2) Take, receive, accept or agree to accept any money or any valuable consideration.

b. The prohibition of subsection a. shall not apply to the fees or services of any approved agency in connection with a placement for adoption, nor shall such prohibition apply to the payment or reimbursement of medical, hospital or other similar expenses incurred in connection with the birth or any illness of the child, or to the acceptance of such reimbursement by a parent of the child.

c. Any person, firm, partnership, corporation, association or agency violating this section shall be guilty of a high misdemeanor.

C. 9:3-55 Prospective parent to file report; contents; violation of act; referral to county prosecutor.

19. a. Any prospective parent who is not a brother, sister, aunt, uncle, grandparent, foster parent, natural 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 such 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 such person, firm, partnership, corporation, association or agency to whom such consideration was given or promised. The report, a copy of which shall be provided to the approved agency appointed pursuant to section 12 and the Division of Youth and Family Services, shall include but shall not be limited to any expenses incurred or to be incurred by or on behalf of such 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 shall appear to the court or to the Division of Youth and Family Services that any person may have violated sections 3 or 18 hereof, the court or the division may refer the matter to the appropriate county prosecutor.

Repealer.

20. P. L. 1953, c. 264 (C. 9:3–17 to 9:3–36), P. L. 1953, c. 265 (C. 2A:96–6 to 2A:96–8), P. L. 1954, c. 112 (C. 9:3–19.1), and P. L. 1955, c. 140 (C. 9:3–22.1) are hereby repealed subject to section 22.

C. 9:3-56 Severability.

21. If any provision of this act, or any application of any provision, is held invalid, the invalidity shall not affect other applications of the provision, or other provisions of the act, which reasonably can be given effect despite the invalidity. To this end, the provisions of this act are declared severable.

22. This act shall take effect 30 days after enactment but it shall not apply to any action for adoption commenced prior to such effective date, for purposes of which P. L. 1953, c. 264 (C. 9:3–17 to C. 9:3–36) as amended, shall remain in effect until final disposition.

Approved February 6, 1978.

CHAPTER 368

AN ACT to amend "An act to provide adequate protection to, and additional and supplemental remedies for, mortgage loans on projects for redevelopment, renewal or rehabilitation and to encourage private financing of such projects," approved February 15, 1968 (P. L. 1967, c. 304).

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

1. Section 9 of P. L. 1967, c. 304 (C. 55:17–9) is amended to read as follows:

C. 55:17-9 Definitions.

9. For the purposes of this act, the following terms shall have the designated meanings:

(a) "Lease or financial agreement" means any contractual arrangement between a governmental body or agency and some other person, pursuant to applicable statute, which is calculated to render financially feasible the undertaking of any project for redevelopment, renewal or rehabilitation, and shall include without limitation the granting of exemption from taxes, the payment of moneys for charges in lieu of taxes, and any other arrangement to assist in the realization of a project.

(b) "Governmental body or agency" means any governmental body or agency of the United States, of this State or of any subdivision thereof, which may be a party to or participant in any project.

(c) "Project" means any undertaking, whether of one or more units, which is the subject of any lease or financial arrangement for redevelopment, renewal or rehabilitation.

(d) "Holder of a mortgage loan" means any person, association or corporation advancing funds, either for construction loans or for temporary or permanent financing, in respect to lands, improvements or both which constitute a project or part of a project.

(e) "Mortgagor" means any person, association or corporation having an interest in a project which is subject to a mortgage loan, whether or not the original mortgagor or a successor or assignee subject to the mortgage.

(f) "Default or foreclosure" means any event entitling the holder of the mortgage loan to pursue any one or more remedies available under this act or by other law or by contract, without regard to whether a traditional foreclosure or strict foreclosure occurs in fact.

2. This act shall take effect immediately.

Approved February 6, 1978.

CHAPTER 369

AN ACT concerning motor vehicles and supplementing chapter 3 of Title 39 of the Revised Statutes.

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

C. 39:3-27.8 Special license plate for members of fire departments.

1. Upon the application of any person who is a compensated, partially compensated or volunteer member of any fire department in this State, the director may issue for a motor vehicle owned by such person a license plate bearing a Maltese Cross and the letters "F.D." The design for such plate shall be approved by the director.

C. 39:3-27.9 Issuance of plate; proof of membership; fee.

2. The special plate authorized by this act may be issued upon proof, satisfactory to the director, that the applicant is presently a bona fide member of a firefighting department in this State. The fee for such plate shall be $15.00 in addition to the fees otherwise prescribed by law for the registration of such motor vehicle.

C. 39:3-27.10 Return of plate upon termination from association.

3. Any person lawfully in possession of such special plate who resigns, is removed or otherwise terminates or is terminated from his association with such fire department, shall return such special plate to the division within 15 days.

C. 39:3-27.11 Unauthorized uses of plates.

4. No person shall lend the special plate for use on a motor vehicle other than the vehicle for which issued, or use the same for a motor vehicle other than the vehicle for which issued.

C. 39:3-27.12 Violation of act; fine.

5. Any person violating any of the provisions of this act shall be fined not less than $25.00 nor more than $50.00.

6. This act shall take effect on the ninetieth day following enactment.

Approved February 6, 1978.

CHAPTER 370

AN ACT concerning exemption of property from taxation and amending R. S. 54:4–3.6.

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

1. R. S. 54:4–3.6 is amended to read as follows:

Exemption of property of nonprofit organizations.

54:4–3.6. The following property shall be exempt from taxation under this chapter: All buildings actually used for colleges, schools, academies or seminaries, provided that if any portion of such buildings are leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, said portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings actually used for historical societies, associations or exhibitions, when owned by the State, county or any political subdivision thereof or when located on land owned by an educational institution which derives its primary support from State revenue; all buildings actually and exclusively used for public libraries, religious worship or asylum or schools for feebleminded or idiotic persons and children; all buildings used exclusively by any association or corporation formed for the purpose and actually engaged in the work of preventing cruelty to animals; all buildings actually and exclusively used and owned by volunteer first-aid squads, which squads are or shall be incorporated as associations not for pecuniary profit; all buildings actually and exclusively used in the work of associations and corporations organized exclusively for the moral and mental improvement of men, women and children, or for religious, charitable or hospital purposes, or for one or more such purposes; all buildings

owned or held by an association or corporation created for the purpose of holding the title to such buildings as are actually and exclusively used in the work of two or more associations or corporations organized exclusively for the moral and mental improvement of men, women and children; all buildings owned by a corporation created under or otherwise subject to the provisions of Title 15 of the Revised Statutes and actually and exclusively used in the work of one or more associations or corporations organized exclusively for charitable or religious purposes, which associations or corporations may or may not pay rent for the use of the premises or the portions of the premises used by them; the buildings, not exceeding two, actually occupied as a parsonage by the officiating clergymen of any religious corporation of this State, together with the accessory buildings located on the same premises; the land whereon any of the buildings hereinbefore mentioned are erected, and which may be necessary for the fair enjoyment thereof, and which is devoted to the purposes above mentioned and to no other purpose and does not exceed 5 acres in extent; the furniture and personal property in said buildings if used in and devoted to the purposes above mentioned; all property owned and used by any nonprofit corporation in connection with its curriculum, work, care, treatment and study of feebleminded, mentally retarded, or idiotic men, women, or children shall also be exempt from taxation, provided that such corporation conducts and maintains research or professional training facilities for the care and training of feebleminded, mentally retarded, or idiotic men, women, or children; provided, in case of all the foregoing, the buildings, or the lands on which they stand, or the associations, corporations or institutions using and occupying them as aforesaid, are not conducted for profit, except that the exemption of the buildings and lands used for charitable, benevolent or religious purposes shall extend to cases where the charitable, benevolent or religious work therein carried on is supported partly by fees and charges received from or on behalf of beneficiaries using or occupying the buildings; provided, the building is wholly controlled by and the entire income therefrom is used for said charitable, benevolent or religious purposes. The foregoing exemption shall apply only where the association, corporation or institution claiming the exemption owns the property in question and is incorporated or organized under the laws of this State and authorized to carry out the purposes on account of which the exemption is claimed or where an educational institution, as provided herein, has leased said property to a historical society, or

association or to a corporation organized for such purposes and created under or otherwise subject to the provisions of Title 15 of the Revised Statutes.

2. This act shall take effect immediately and shall be applicable to real property taxes levied or payable for the calendar year 1978 and thereafter.

Approved February 6, 1978.

CHAPTER 371

AN ACT to amend the "Depressed Rural Centers Aid Act," approved , 1977 (P. L. 1977, c.) (now awaiting action by the Governor as Assembly Bill No. 1281 [Second Official Copy Reprint]).

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

1. Section 4 of P. L. 1977, c. is amended to read as follows:

C. 52:27D-165 Distribution of sums; qualifications.

4. Such sums as are appropriated for distribution under this act shall be distributed annually, in the manner prescribed in sections 5 and 6 of this act, as State aid to each municipality which:

a. Has a population not exceeding 5,000;

b. Has a population density which is:

(1) Not less than 1,000 per square mile; and

(2) Not less than four times the population density of its neighboring municipalities, unless within such neighboring municipality is a national cemetery, or housing built in accordance with or pursuant to Section 607 of the Lanham Act (National Defense Housing) P. L. 849, 76th Congress, 54 Stat. 1125, 42 U. S. C. 1521 et seq., as amended;

c. Has ratables per capita not exceeding 4/5 the ratables per capita of the county in which it is situate; and

d. Has either (1) an effective local tax rate above the State's average effective local tax rate, or (2) a per capita personal income that does not exceed 0.8 times the State per capita personal income.

2. This act shall take effect immediately.

Approved February 6, 1978.

CHAPTER 372

AN ACT authorizing the sale of certain surplus real property owned by the Department of Human Services.

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

1. The Department of Human Services is hereby authorized to sell and convey all of the State's interest in certain surplus real property known as the Denville Residential Center in the Township of Denville, Morris county.

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

3. This act shall take effect immediately.

Approved February 6, 1978.

CHAPTER 373

AN ACT concerning free public education and amending N. J. S. 18A:38–1.

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

1. N. J. S. 18A:38–1 is amended to read as follows:

Attendance free of charge.

18A:38–1. Public schools shall be free to the following persons over 5 and under 20 years of age:

(a) Any person who is domiciled within the school district;

(b) Any person who is kept in the home of another person domiciled within the school district and is supported by such other person gratis as if he were such other person's own child, upon filing by such other person with the secretary of the board of education of the district, if so required by the board, a sworn statement that he is domiciled within the district and is supporting the child gratis and will assume all personal obligations for the child relative to school requirements and that he intends so to

keep and support the child gratuitously for a longer time than merely through the school term; provided, however, that the board of education may contest the validity of the sworn statement in proceedings before the commissioner, except that no child shall be denied admission during the pendency of any such proceedings before the commissioner and the board shall have the burden of proving by a preponderance of the evidence before the commissioner that the child is ineligible for a free education under the criteria listed in this subsection;

(c) Any person whose parent or guardian, even though not domiciled within the district, is residing temporarily therein, but any person who has had or shall have his all-year-around dwelling place within the district for 1 year or longer shall be deemed to be domiciled within the district for the purposes of this section;

(d) Any person for whom the bureau of children's services in the department of institutions and agencies is acting as guardian and who is placed in the district by said bureau.

2. This act shall take effect immediately.

Approved February 8, 1978.

CHAPTER 374

AN ACT concerning the powers and duties of domestic insurers, providing for the issuance of investment return assurance and supplementing Title 17B of the New Jersey Statutes.

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

C. 17B:28A-1 Issuance of insurance against risk of loss in value of redeemable securities issued by investment company.

1. A domestic insurer authorized to do the business specified in N. J. S. 17B:17–3 may issue and deliver individual and group policies insuring against the risk of loss in the value of (a) redeemable securities issued by an investment company regulated by the Investment Company Act of 1940 (15 U. S. C. A. § 80a–1 et seq.) and whose redeemable securities are registered under the Securities Act of 1933 (15 U. S. C. A. § 77a et seq.) or (b) redeemable securities issued by an investment company which shall include an investment fund, trust, or other similar investment entity, existing under

the laws of a foreign country and not so regulated if such company or its securities are determined by the commissioner to be subject to regulation reasonably designed to provide adequate protection to investors in the redeemable securities issued by such company. Such insurance is herein termed investment return assurance. Investment return assurance does not include guarantees of benefits provided by separate account contracts issued by the insurer, which guarantees shall be subject to the provisions of chapter 28 of Title 17B of the New Jersey Statutes.

C. 17B:28A-2 Benefit and protection; limitation.

2. Except with the approval of the commissioner and under such conditions as he may prescribe, the benefit provided by such insurance may not exceed the difference between the amount paid for such redeemable securities and the value of such redeemable securities at or after the end of a specified or determinable period of not less than 5 years from the date of the issuance of the policy or the certificate under a group policy, or at the date of death of the insured, if earlier. The protection provided by investment return assurance shall not extend beyond the coverage of shares of an investment company which are acquired or held during such time as the insurer, or a subsidiary or affiliate of the insurer, shall be the investment manager or investment adviser of such investment company; such a policy or certificate under a group policy shall not be extended or renewed beyond the end of the specified or determinable period if the insurer, or a subsidiary or affiliate of the insurer, ceases to be the investment manager or investment adviser.

C. 17B:28A-3 Undertaking or continuing issuance of insurance; rules and regulations.

3. No domestic insurer shall undertake or continue the issuance of any such insurance unless the commissioner is satisfied that the condition or methods of operation of such domestic insurer in connection with the issuance of policies of such insurance is not such as to render its operation hazardous to the public or its policyholders. The commissioner may adopt rules and regulations as may be reasonable and appropriate to carry out the purposes hereof, including the establishment of limitations on the amount of liabilities under such policies that might be assumed by the domestic insurer.

C. 17B:28A-4 Copy of form submitted to commissioner.

4. No policy providing investment return assurance shall be issued or delivered in this State until a copy of the form thereof

is submitted to the commissioner. The provisions of N. J. S. 17B:25–18, relating to the filing of forms of life insurance policies other than group, and N. J. S. 17B:27–25, relating to the filing of group life insurance forms, shall apply, respectively, to individual policies of investment return assurance and group policies of investment return assurance.

C. 17B:28A-5 Foreign or alien companies; issuance of policies.

5. No foreign or alien company shall deliver or issue for delivery within this State any policy of investment return assurance unless it is licensed to do life insurance business within this State, and the commissioner is satisfied that the applicable law and regulation of the company's state or country of domicile with respect to the issuance by it of policies of investment return assurance and its condition and methods of operation with respect to the issuance of such policies will not render its operation hazardous to the public or its policyholders in this State. The commissioner may adopt rules and regulations concerning limitations on foreign or alien companies similar to those applied to domestic insurers.

C. 17B:28A-6 Rules and regulations.

6. The commissioner shall make appropriate further rules and regulations for the protection of policyholders and the public, including requirements for nonforfeiture benefits where appropriate, and regulations for valuation methods and minimum requirements for life insurance reserves which are set aside to mature or liquidate, as the case may be, future unaccrued claims under policies of investment return assurance, including specification of maximum assumed rates of interest and recognized minimum assumed mortality tables.

7. This act shall take effect immediately.

Approved February 8, 1978.

CHAPTER 375

AN ACT to amend the title of "An act authorizing the State to lease riparian lands to municipalities in certain cases," approved March 3, 1976 (P. L. 1975, c. 354), so that the same shall read, "An act authorizing the State to lease riparian lands to municipalities and counties and other instrumentalities of the State in certain cases," and to amend the body of said act.

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

Title amended.

1. The title of P. L. 1975, c. 354 is amended to read as follows: An act authorizing the State to lease riparian lands to municipalities and counties and other instrumentalities of the State in certain cases.

2. Section 1 of P. L. 1975, c. 354 (C. 12:3–37.1) is amended to read as follows:

C. 12:3-37.1 Authority to lease or permit counties, municipalities or other instrumentalities of State to use riparian lands.

1. The State is authorized to lease or otherwise permit county or municipal or other instrumentality of the State use of riparian lands owned by the State and situate within the county or other instrumentality of the State or within or contiguous to said municipality, when said lease or use is approved by the Department of Environmental Protection, without consideration or at nominal consideration, and to be maintained and used exclusively for park and recreational purposes. Said lease or use agreement shall contain a limitation that if the riparian lands are not maintained and used in accordance with the provisions of this act, such lease or use agreement shall be of no further force and effect.

3. This act shall take effect immediately.

Approved February 8, 1978.

CHAPTER 376

AN ACT to amend the "Public Employees' Retirement System Act," approved June 28, 1954 (P. L. 1954, c. 84) as said short title was amended by P. L. 1971, c. 213.

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

1. Section 41 of P. L. 1954, c. 84 (C. 43:15A–41) is amended to read as follows:

C. 43:15A-41 Withdrawal; resignation after 25 years; nonservice connected death benefit.

41. a. A member who withdraws from service or ceases to be an employee for any cause other than death or retirement shall, upon the filing of an application therefor, receive all of his accumulated deductions standing to the credit of his individual account in the annuity savings fund, plus regular interest, less any outstanding loan, except that for any period after June 30, 1944, the interest payable shall be such proportion of the interest determined at the regular rate of 2% per annum bears to the regular rate of interest, and except that no interest shall be payable in the case of a member who has less than 3 years of membership credit for which he has made contributions. He shall cease to be a member 2 years from the date he discontinued service as an eligible employee, or, if prior thereto, upon payment to him of his accumulated deductions. If any such person or member shall die before withdrawing or before endorsing the check constituting the return of his accumulated deductions, such deductions shall be paid to the member's beneficiary. No member shall be entitled to withdraw the amounts contributed by his employer covering his military leave unless he shall have returned to the payroll and contributed to the retirement system for a period of 90 days.

b. Should a member resign after having established 25 years of creditable service before reaching age 60, he may elect "early retirement," provided, that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive, in lieu of the payment provided in subsection a. of this section, an annuity which is the actuarial equivalent of his accumulated deductions

together with regular interest, and a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of one-seventieth of his final compensation for each year of service credited as Class A service and one-sixtieth of his final compensation for each year of service credited as Class B service, calculated in accordance with section 48 (C. 43:15A–48) of this act, reduced by ¼ of 1% for each month that the member lacks of being age 55; provided, however, that upon the receipt of proper proofs of the death of such a member there shall be paid to his beneficiary an amount equal to three-sixteenths of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

The board of trustees shall retire him at the time specified or at such other time within 1 month after the date so specified as the board finds advisable.

c. Upon the receipt of proper proofs of the death of a member in service on account of which no accidental death benefit is payable under section 49 there shall be paid to such member's beneficiary:

(1) The member's accumulated deductions at the time of death together with regular interest; and

(2) An amount equal to one and one-half times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained age 70, the amount payable shall equal three-sixteenths of such compensation instead of one and one-half times such compensation. In the case of a member who is elected to a term of office before attaining age 70 and who shall die during said term but after having attained age 70, or a member who, after attaining age 70, is reelected to, and renders continuous service in, an elected office which he held upon attaining age 70 and who shall die during such term as reelected, the beneficiary shall receive an amount equal to one and one-half times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service. In all other instances where a member dies while serving in elected office after attaining age 70, the amount payable shall equal three-sixteenths of such compensation instead of one and one-half times such compensation.

2. Section 49 of P. L. 1954, c. 84 (C. 43:15A–49) is amended to read as follows:

C. 43:15A-49 Accidental death; allowance to dependents.

49. a. Upon the death of a member in active service as a result of an accident met in the actual performance of duty at some definite time and place and not as the result of his willful negligence, an accidental death benefit shall be payable, if a report of the accident is filed in the office of the retirement system within 60 days next following the accident, but the board of trustees may waive such time limit, for a reasonable period, if in the judgment of the board the circumstances warrant such action.

No such application shall be valid or acted upon unless it is filed in the office of the retirement system within 5 years of the date of such death.

b. Upon the receipt of proper proofs of the death of a member on account of which an accidental death benefit is payable, there shall be paid to his widow or widower a pension of 50% of the compensation, upon which contributions by the member to the annuity savings fund were based in the last year of creditable service, for the use of herself or himself and the children of the deceased member, to continue during her or his widowhood; if there is no surviving widow or widower or in case the widow or widower dies or remarries, 20% of such compensation will be payable to one surviving child, 35% of such compensation to two surviving children in equal shares and if there be three or more children, 50% of such compensation will be payable to such children in equal shares. If there is no surviving widow, widower or child, 25% of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service, will be payable to one surviving parent or 40% of such compensation will be payable to two surviving parents in equal shares. In the event of accidental death occurring in the first year of creditable service, the benefits, payable pursuant to this subsection, shall be computed at the annual rate of compensation.

c. If there is no surviving widow, widower, child or parent, there shall be paid to any other beneficiary of the deceased member his accumulated deductions at the time of death.

d. In no case shall the death benefit provided in subsection b. be less than that provided under subsection c.

e. In addition to the foregoing benefits payable under subsection b. or c., there shall also be paid in one sum to such member's beneficiary an amount equal to one and one-half times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service;

provided, however, that if such death shall occur after the member shall have attained age 70, the amount payable shall equal three-sixteenths of such compensation instead of one and one-half times such compensation. In the case of a member who is elected to a term of office before attaining age 70 and who shall die during said term but after having attained age 70, or a member who, after attaining age 70, is reelected to, and renders continuous service in, an elected office which he held upon attaining age 70 and who shall die during such term as relected, the beneficiary shall receive an amount equal to one and one-half times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service. In all other instances where a member dies while serving in elected office after attaining age 70, the amount payable shall equal three-sixteenths of such compensation instead of one and one-half times such compensation.

3. Section 57 of P. L. 1954, c. 84 (C. 43:15A–57) is amended to read as follows:

C. 43:15A-57 Optional death benefit coverage.

57. a. Each member who is a member on December 1, 1956 and each person who thereafter becomes a member prior to the effective date of this amendatory act, will be eligible to purchase the additional death benefit coverage hereinafter described, provided he selects such coverage within 1 year after December 1, 1956 or after the effective date of membership, whichever date is later, or makes an election pursuant to subsection b. of this section.

b. Each member who, on the effective date of this amendatory act, shall not have elected such additional death benefit coverage or who had elected coverage, but for whom there is not in effect such additional death benefit coverage shall also be eligible to elect such additional death benefit coverage, provided he furnishes satisfactory evidence of insurability and on the date of such election is actively at work and performing all his regular duties at his customary place of employment. Applications under this subsection shall be filed within 1 year following the effective date of this amendatory act.

c. Each person becoming a member on or after the effective date of this amendatory act who on the date he becomes a member is less than 60 years of age shall automatically be covered for such additional death benefit coverage from the first day of his membership on which he is actively at work and performing all his

regular duties at his customary place of employment. Such automatic coverage shall continue during the member's first year of membership and during such year he shall make contributions as fixed by the board of trustees. Additional death benefit coverage for such member shall continue in effect after the first year of membership on the continuance of payment of the required contributions therefor.

d. Each person becoming a member on or after the effective date of this amendatory act who on the date he becomes a member is 60 or more years of age may, within 1 year from the date of membership, elect to purchase such additional death benefit coverage, provided that the member furnishes satisfactory evidence of insurability and on the date of such election is actively at work and performing all his regular duties at his customary place of employment.

e. Notwithstanding other provisions of this section relating to the amount of death benefit any member who has acquired or shall acquire additional death benefit coverage, the death benefit payable in the event of death occurring on or after the effective date of this amendatory act and during the first year of membership shall be based upon the member's annual base salary. The effective date of coverage of any person electing to purchase additional death benefit coverage, pursuant to the provisions of subsections "a.," "b." and "d." of this section shall be the first day of the month immediately following the date of such election unless evidence of insurability is required as a condition of such election in which event the effective date of overage shall be the first day of the month which immediately follows the later of (a) the date of such election and (b) the date such evidence is determined to be satisfactory.

f. The board of trustees shall establish schedules of contributions to be made by the members who elect to purchase the additional death benefit coverage. Such contributions shall be so computed that the contributions made by or on behalf of all covered members in the aggregate shall be sufficient to provide for the cost of the benefits established by this section. Such schedules of contributions shall be subject to adjustment from time to time, by the board of trustees, as the need may appear.

g. Upon the receipt of proper proofs of the death in service of any such member while covered for the additional death benefit coverage there shall be paid to such person, if living, as the member shall have nominated by written designation duly executed

and filed with the board of trustees, otherwise to the executor or administrator of the member's estate, an amount equal to one and one-half times the compensation received by the member in the last year of creditable service or some lesser amount as may be provided by the board of trustees and elected to purchase by the member; provided, however, that if such death in service shall occur on or after July 1, 1956, and after the member has attained age 70, the amount payable shall equal three-sixteenths of the compensation received by the member in the last year of creditable service. In the case of a member covered for the additional death benefit who is elected to a term of office before attaining age 70 and who shall die during said term but after having attained age 70, or a member who, after attaining age 70, is reelected to, and renders continuous service in, an elected office which he held upon attaining age 70 and who shall die during such term as reelected, the beneficiary or executor or administrator of the member's estate, as the case may be, shall receive an amount equal to one and one-half times the compensation received by the member in the last year of creditable service or some lesser amount as may be provided by the board of trustees and elected to be purchased by the member. In all other instances where a member dies while serving in elected office after attaining age 70, the amount payable shall equal three-sixteenths of the compensation received by the member in the last year of creditable service.

h. The contributions of a member for the additional death benefit coverage shall be deducted from his compensation, but if there is no compensation from which such contributions may be deducted it shall be the obligation of the member to make such contributions directly to the board of trustees or as directed by the board; provided, however, that no contributions shall be required after June 30, 1956, while a member remains in service after attaining age 70, but that his employer shall be required to pay into the fund on his behalf in such case an amount equal to the contribution otherwise required by the board of trustees in accordance with this section.

i. Any other provision of this act notwithstanding, the contributions of a member for the additional death benefit coverage under this section shall not be returnable to the member or his beneficiary in any manner, or for any reason whatsoever, nor shall any contributions made for the additional death benefit coverage be included in any annuity payable to any such member or to his beneficiary.

j. A member who has elected to purchase the additional death benefit coverage provided by this section may file with the board of trustees, and alter from time to time during his lifetime, as desired, a duly attested, written, new nomination of the payee of the death benefit provided under this section. Such member may also file and alter from time to time during his lifetime, as desired, a request with the board of trustees directing payment of said benefit in one sum or in equal annual installments over a period of years or as a life annuity. Upon the death of such member, a beneficiary to whom a benefit is payable in one sum may elect to receive the amount payable in equal annual installments over a period of years or as a life annuity.

k. All other provisions of this section notwithstanding, this section and the benefits provided under this section shall not come into effect until a required percentage of the members shall have applied for the additional death benefit coverage under this section. This required percentage shall be fixed by the board of trustees. Any such percentage may be made applicable to male members only or to other groupings as determined by the board of trustees of the Public Employees' Retirement System. Applications for such additional death benefit coverage shall be submitted to the secretary of the board of trustees in such manner and upon such forms as the board of trustees shall provide.

4. This act shall take effect immediately.

Approved February 8, 1978.

CHAPTER 377

AN ACT to amend "An act to provide for exemption from taxation in certain cases, and supplementing chapter 4 of Title 54 of the Revised Statutes," approved July 21, 1948 (P. L. 1948, c. 259).

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

1. Section 1 of P. L. 1948, c. 259 (C. 54:4–3.30) is amended to read as follows:

C. 54:4-3.30 Dwelling house or lot of disabled veterans; tax exemption.

1. a. The dwelling house and the lot or curtilage whereon the same is erected, of any citizen and resident of this State, now or

hereafter honorably discharged or released under honorable circumstances, from active service, in time of war, in any branch of the Armed Forces of the United States who has been or shall be declared by the United States Veterans Administration or its successors to have a service-connected disability from paraplegia, sarcoidosis, osteochondritis resulting in permanent loss of the use of both legs, or permanent paralysis of both legs and lower parts of the body, or from hemiplegia and has permanent paralysis of one leg and one arm or either side of the body, resulting from injury to the spinal cord, skeletal structure, or brain or from disease of the spinal cord not resulting from any form of syphilis; or from total blindness; or from amputation of both arms or both legs, or both hands or both feet, or the combination of a hand and a foot; or from other service-connected disability declared by the United States Veterans Administration or its successor to be a total or 100% permanent disability, and not so evaluated solely because of hospitalization or surgery and recuperation, sustained through enemy action, or accident, or resulting from disease contracted while in such active service shall be exempt from taxation, on proper claim made therefor, and such exemption shall be in addition to any other exemption of such person's real and personal property which now is or hereafter shall be prescribed or allowed by the Constitution or by law but no taxpayer shall be allowed more than one exemption under this act.

b. The widow of any such citizen and resident of this State who at the time of his death was entitled to the exemption provided under this act, shall be entitled, on proper claim made therefor, to the same exemption as her husband so had, during her widowhood and while a resident of this State, for the time that she is the legal owner thereof and actually occupies the said dwelling house or any other dwelling house thereafter acquired.

c. The widow of any citizen and resident of this State who died prior to January 10, 1972, that being the effective date of P. L. 1971, c. 398, and whose circumstances were such that, had said law become effective during the deceased's lifetime, he would have become eligible for the exemption granted under this section as amended by said law, shall be entitled, on proper claim made therefor, to the same exemption as her husband would have become eligible for upon the dwelling house and lot or curtilage occupied by him at the time of his death, during her widowhood and while a resident of this State, for the time that she is the legal owner thereof and

actually occupies the said dwelling house on the premises to be exempted.

d. Nothing in this act shall be intended to include paraplegia or hemiplegia resulting from locomotor ataxia or other forms of syphilis of the central nervous system, or from chronic alcoholism, or to include other forms of disease resulting from the veteran's own misconduct which may produce signs and symptoms similar to those resulting from paraplegia, osteochondritis, or hemiplegia.

2. Section 2 of P. L. 1948, c. 259 (C. 54:4–3.31) is amended to read as follows:

C. 54:4-3.31 Exemptions allowed by assessor.

2. All exemptions from taxation under this act shall be allowed by the assessor upon the filing with him of a claim in writing under oath, made by or on behalf of the person claiming the same, showing the right to the exemption, briefly describing the property for which exemption is claimed and having annexed thereto a certificate of the claimant's honorable discharge or release under honorable circumstances, from active service, in time of war, in any branch of the armed forces and a certificate from the United States Veterans Administration or its successors, certifying to a service-connected disability of such claimant of the character described in section 1 of this act. In the case of a claim by a widow of such veteran, she shall establish in writing under oath that she is the owner of the legal title to the premises on which exemption is claimed; that she occupies the dwelling house on said premises as her legal residence in this State; that her husband shall have been declared by the United States Veterans Administration to have a service-connected disability of a character described in this act; that her husband was entitled to an exemption provided for in this act at the time of his death; and that she is a resident of this State and has not remarried. Such exemptions shall be allowed and prorated by the assessor for the remainder of any taxable year from the date the claimant shall have acquired title to the real property intended to be exempt by this act. Where a portion of a multiple-family building or structure occupied by the claimant is the subject of such exemption, the assessor shall aggregate the assessment on the lot or curtilage and building or structure and allow an exemption of that percentage of the aggregate assessment as the value of the portion of the building or structure occupied by the claimant bears to the value of the entire building or structure.

3. This act shall take effect immediately.

Approved February 8, 1978.

CHAPTER 378

AN ACT to amend "An act relating to the establishment of sewerage districts in counties, the creation of sanitary sewer district authorities by the establishing of such districts, prescribing the powers and duties of any such authority and of other public bodies in connection with the construction of sewers and sewage disposal facilities in any such district, and providing the ways and means for paying the costs of construction and operation thereof," approved April 23, 1946 (P. L. 1946, c. 123), as said title was amended by P. L. 1968, c. 368.

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

1. Section 18 of P. L. 1946, c. 123 (C. 40:36A–18) is amended to read as follows:

C. 40:36A-18 Power to contract for engineering services.

18. An authority shall have power, in its discretion, to engage, or to contract for, the services of competent engineers or engineering firms, and to do all other acts and things as may in the judgment of the authority be necessary or proper to effectuate and carry out the plans and purposes of this act, or amendments or supplements thereto; but such contract and employment shall not be for a longer period of time than 5 years; provided, however, that this provision shall not preclude an authority from extending any such contract and employment for additional periods of not exceeding 5 years each from the date of each such extension.

2. Section 30 of P. L. 1946, c. 123 (C. 40:36A–30) is amended to read as follows:

C. 40:36A-30 Project reports; contents.

30. Any project report, maps, designs and estimates provided for in the preceding section shall also show:

(a) The location and route of the proposed district sewer system, including trunk, intercepting and outlet sewers, treatment plants, pumping stations and other plants and structures.

(b) The location and route of existing sewer systems, treatment plants and like plants and structures, within the said sewer district, and proposed points of connection thereof, with the proposed district sewer system.

(c) Records or estimates of the volume of the amount of sewage which could advantageously be discharged into the proposed district sewer system by each and every existing municipal or private sewer system within the said district.

(d) An estimate of a specified minimum percentage of the volume of sewage estimated pursuant to subdivision (c) of this section, the annual discharge of which into the proposed district sewer system in the judgment of the authority must be assured, in order to make possible and advisable the advantageous and economical construction and operation of the proposed district sewer system and the financing of the same, according to the plan and purpose of this act. Such estimate shall take into consideration the estimated amounts payable in accordance with the terms of the contracts entered into and proposed to be entered into with municipalities, private sewer companies and industries.

(e) Detailed estimates of the cost of the construction of the proposed district sewer system which said cost shall include: (1) All sums estimated by the authority be required for the payment of interest accruing prior to the first fiscal year as hereinafter defined, on indebtedness incurred for or in connection with such construction; (2) The cost of the issuance and sale of bonds authorized to be issued pursuant to this act; (3) All expenses incurred or to be incurred by the authority in preparing such project report; (4) The cost of all construction of the proposed district sewer system, the acquisition of all rights-of-way, all costs and expenses for operating and maintaining the authority and sewer system from the date of its inception to the beginning of its first fiscal year as set forth in section 44 hereof.

(f) Estimates and schedules of the sums of money deemed by the authority to be required in each and every year during the first 40 years from the estimated time for the commencement of operation of the district sewer system, for the payment of principal and interest of the bonds authorized to be issued pursuant to this act, and for the cost and expense of the operation, maintenance, depreciation and repair of the district sewer system.

(g) Estimates and schedules calculated as hereinafter provided, of such rates to be charged in each year and to be paid to the authority as shall be amply sufficient, together with the sums previously so paid to or otherwise received for the same purpose by, and remaining unexpended in the hands of the authority, or estimated to be received by the authority, to raise the sums of money required by the authority for at least the first 10 fiscal years,

as defined herein, as shown by the estimates and schedules prepared in pursuance of subdivision (f) of this section.

(h) Such other information as the authority shall deem necessary.

3. Section 43 of P. L. 1946, c. 123 (C. 40:36A–43) is amended to read as follows:

C. 40:36A-43 Rates.

43. After the commencement of operation of a district sewer system of an authority under this act the authority may prescribe and change from time to time rates, rents, fees or other charges to be charged for the discharge and disposal of sewage through its district sewer system. Said rates shall be prescribed and from time to time revised as hereinafter provided, so that an authority and each district sewer system shall be and always remain self-supporting with earnings sufficient to provide for all expenses of operation, maintenance, depreciation and repair and the payment of the principal and interest of any bonds issued or to be issued pursuant to this act, so as to prevent the accrual of any deficit. Such rates being in the nature of use or service charges, shall be uniform, except as provided in this amendatory act, throughout a district for the same type, class and amount of use or service of a district sewer system and shall be based upon the total annual volume of sewerage from each municipality, private sewer company or institution; but may give weight to the characteristics of the sewage and other wastes and any other special matter affecting the cost of treatment and disposal thereof, including peak flow, chlorine demand, biochemical oxygen demand, concentration of solids and chemical composition. In order to assure the authority that it will be advantageous and economical to construct, finance and operate a district sewer system, any municipality, private sewer company or institution may guarantee that a stated minimum annual volume of sewerage will be deemed to be discharged into the district sewer system by it. For the purpose of establishing rates, the annual volume of sewerage from such municipality, private sewer company or institution shall be the actual volume or the guaranteed minimum volume, whichever is greater.

Notwithstanding anything to the contrary contained in this section, whenever, after the effective date of this amendatory act, such authority shall issue bonds pursuant to the act to which this act is amendatory to pay the cost of the extension of its district sewer system or any part thereof to serve a municipality, portion

of a municipality, private sewer company or industry newly joining the district sewer system, the authority may, by contract entered into with such newly joining participant, for a period of time specified in such contract, vary its rates to be charged for the services of such system, effective upon the issuance of bonds as provided by this act, to pay the cost of the extension of its district sewer system or any part thereof to serve such newly joining participant in the district sewer system in such manner that the rates to be charged for services in the particular area to be served by such extension shall be calculated to produce over the period specified in such contract, an amount, together with that portion of any grants or other funds applicable to such extension, as may be necessary to pay the principal of and interest on the bonds issued to pay the cost of such extension. Such contract may also, with or without specifying any period of time, provide that the rates to be charged to such newly joining participant may be varied in such manner as to produce in each year an amount sufficient to cover the operating costs, specifically attributable to the area of such newly joining participant for each such year.

4. Section 47 of P. L. 1946, c. 123 (C. 40:36A–47) is amended to read as follows:

C. 40:36A-47 Calculation of payments due to authority.

47. On or before January 17 in any year in which any such authority shall calculate any rate, such authority shall calculate and certify to each municipality, private sewer company and industry, which shall have entered into a contract with it pursuant to section 50 of this act, the amount of money which it shall be required to pay to the authority during that year, under the terms and provisions of the contract so entered into by it. Such amount shall be calculated by such authority by applying the rate to the volume of sewage delivered and discharged into its district sewer system by the municipality, private sewer company or industry, during the yearly period ending on the last day of the preceding December, as shown by the records of such authority. If the terms and provisions of a contract so entered into by a municipality, private sewer company or industry require payment of any other or different amount to an authority, then such other or different amount shall be fixed and determined by such authority pursuant to the contract and shall be certified to such municipality, private sewer company or industry as hereinabove provided. If the terms and provisions of a contract so entered into by any industry require payments to an authority of a further amount in addition to the

amount of money calculated as hereinabove provided, then such further and additional amount shall be fixed and determined by such authority and added to the amount calculated by it as hereinabove provided and the sum of such amounts shall be certified to such industry as hereinabove provided. In any year in which any municipality, or portion thereof, private sewer company or industry shall not have used a district sewer system of an authority under this act for a full year prior to such last day of December, the volume of sewage to be used in calculating the amount which such municipality, private sewer company, or industry shall pay to such authority shall be the volume which such authority at such time estimates will be delivered and discharged by such municipality, private sewer company, or industry during the first full year of operation of its district sewer system. In the event that any part or parts of a district sewer system shall be put into operation prior to the beginning of the first fiscal year such authority shall certify from time to time to the municpalities, private sewer companies or industries which may discharge sewage into said part or parts prior to the first fiscal year an amount or amounts which in the case of each such municipality, private sewer company and industry shall be sufficient to pay its share of the cost of operation and maintenance of said part or parts during the period of operation prior to said fiscal year based upon its proportion of the total volume of sewage so discharged into said part or parts of such district sewer system.

5. Section 51 of P. L. 1946, c. 123 (C. 40:36A–51) is amended to read as follows:

C. 40:36A-51 Form of contracts.

51. The contracts of an authority with municipalities, private sewer companies and industries authorized by the next preceding section shall be in form to be prescribed by the contracting authority, shall upon execution be filed with the authority and shall provide in substance that the contracting municipality, private sewer company or industry shall, in the manner and at the time and place within or without the sewer district to be designated by such authority, permit the authority to connect the sewer or drainage system of such municipality, private sewer company or industry or the outfall thereof with, and thereafter deliver and discharge all sewage arising within it or collected by it into, any trunk or other sewer system or treatment plants or other plants or structures that such authority may specify and shall pay quarterly as defined in such contract to such authority, for the services thus

rendered or to be rendered to it in the disposal of such sewage, the sum of money which shall theretofore have been calculated and certified to it by such authority as provided in section 47 of this act and shall contain such other provisions as to the rights and powers of such authority and the duties and liabilities of the contracting municipal, private sewer company or industry in the event that such sums of money are not paid as provided in such contract or in the event of other default such contract on the part of such municipality, private sewer company or industry as may be prescribed by such authority, including without limitation provisions empowering such authority to refuse to permit such contracting municipality, private sewer company or industry to discharge into its district sewer system the sewage arising or collected in or by such contracting municipality, private sewer company or industry.

6. This act shall take effect immediately.

Approved February 8, 1978.

CHAPTER 379

AN ACT concerning recreational services for handicapped persons and supplementing "An act establishing and concerning a Department of Community Affairs as a principal department in the Executive Branch of the State Government, and providing an appropriation therefor," approved November 23, 1966 (P. L. 1966, c. 293, C. 52:27D–1 et seq.), and making an appropriation therefor.

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

C. 52:27D-170 Short title.

1. This act shall be known and may be cited as the "Handicapped Person's Recreational Opportunities Act of 1978."

C. 52:27D-171 Declaration of policy.

2. It is hereby declared to be public policy of the State of New Jersey to encourage and support as hereinafter provided the promotion, planning, development, implementation and maintenance

of comprehensive recreation services, by municipalities, counties and nonprofit agencies for handicapped persons.

C. 52:27D-172 Definitions.

3. For the purposes of this act:

a. "Commissioner" means the Commissioner of the Department of Community Affairs.

b. "Handicapped persons" means persons who are mentally retarded, visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted, multiply handicapped or developmentally disabled.

C. 52:27D-173 Development of comprehensive program; rules and regulations.

4. The commissioner shall, after consultation with experts in the area of recreation, develop a comprehensive program for furnishing recreation for handicapped persons, and shall promulgate rules and regulations for the administration of this program pursuant to the Administrative Procedure Act, P. L. 1968, c. 410 (C. 52:14B–1 et seq.).

C. 52:27D-174 Contract with nonprofit agencies for provision of services; application; payments upon approval.

5. a. Any municipality or county planning to provide or to contract with private nonprofit agencies for the provision of recreation services for handicapped persons under this act, shall apply to the commissioner for approval. Such application shall be in accordance with rules and regulations promulgated by the commissioner herewith.

b. Upon approval of said application by the commissioner, there shall be apportioned and paid annually to each municipality or county a sum not to exceed $5.00 for each $1.00 appropriated by said municipality or county for implementation of the provisions of this act.

C. 52:27D-175 List of special events; application for funds; payments upon approval.

6. a. The commissioner shall prepare a list of special events deemed appropriate for participation by handicapped persons, such as the Special Olympics and the Tournament of Champions, and shall make this list available to municipalities and counties. Municipalities or counties wishing to operate or participate in a special event listed by the commissioner shall apply to the commissioner for funds for such special events. Such application shall

be in accordance with rules and regulations promulgated by the commissioner herewith.

b. Upon the approval of such application for special events, there may be apportioned and paid to municipalities and counties sums sufficient to provide training, transportation and supervision for handicapped persons participating in special recreation events. In no case shall the annual amount appropriated to any one approved municipality exceed $1,000.00 or to any one approved county exceed $2,500.00.

c. No more than a total of $25,000.00 of the funds appropriated for this act shall be apportioned to support such special recreational events in any one year.

C. 52:27D-176 Withholding payments under certain circumstances.

7. The commissioner may authorize or require the State Treasurer to withhold the payment of State aid to any municipality or county in the event that it alters or discontinues an approved recreation service, or fails to make modifications thereof as required under the provisions of this act, or otherwise fails to comply with the rules and regulations promulgated under this act.

C. 52:27D-177 Gift or grant.

8. The commissioner may accept, as agent of the State of New Jersey, any gift or grant for any of the purposes of this act, and any moneys so received may be expended for any purpose authorized by this act.

9. The sum of $150,000.00 is hereby appropriated to carry out the provisions of this act.

10. This act shall take effect 90 days from the date of its enactment.

Approved February 8, 1978.

CHAPTER 380

AN ACT concerning medicine and surgery and amending R. S. 45:9–16.

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

1. R. S. 45:9–16 is amended to read as follows:

Refusal to grant, suspension or revocation of license, or registration of certificates or diploma; grounds; procedure; relicense.

45:9–16. The board may refuse to grant or may suspend or revoke a license or the registration of a certificate or diploma to practice medicine and surgery or chiropractic filed in the office of any county clerk in this State under any act of the Legislature, upon proof to the satisfaction of the board that the holder of such license (a) has been adjudicated insane, or (b) habitually uses intoxicants, or (c) has practiced criminal abortion, or been convicted of the crime of criminal abortion, or has been convicted of crime involving moral turpitude, or has pleaded nolo contendere, non vult contendere or non vult to an indictment, information or complaint alleging the commission of the crime of criminal abortion or of crime involving moral turpitude, or (d) has been determined to be physically or mentally incapacitated, (e) knowingly becomes employed by any physician, surgeon, homeopath, eclectic, osteopath, chiropractor, or doctor who advertises, or (f) shall have presented to the board any diploma, license or certificate that shall have been illegally obtained or shall have been signed or issued unlawfully or under fraudulent representations, or obtains or shall have obtained a license to practice in this State through fraud of any kind, or (g) has been guilty of employing unlicensed persons to perform work which, under this chapter (45:9–1, et seq.) can legally be done only by persons licensed to practice medicine and surgery or chiropractic in this State, or (h) has been guilty of gross malpractice or gross neglect in the practice of medicine which has endangered the health or life of any person, or (i) has been demonstrated professionally incompetent to practice medicine or (j) has advertised in any manner, whether as an individual, through a professional service corporation or through a third party on his behalf, the practice of medicine and surgery or chiropractic; provided, however, that the following shall not be deemed to be advertising prohibited under this chapter:

a. Public information for educational purposes on the practice or professions of medicine and surgery or chiropractic which does not contain the name of any person licensed to practice medicine and surgery or chiropractic in this State or the address of any location where medical or chiropractic examination or treatment may be had or is recommended or suggested;

b. Publication of a brief announcement of the opening of an office or the removal to a new location, containing the name, professional degree, type of practice, address, telephone number, and office hours of the licensee;

c. A listing in an alphabetical telephone directory of the name of a licensee together with his professional degree or the abbreviation therefor;

d. A listing in a classified telephone directory with standard type limited to the name, professional degree, type of practice, office and home addresses and telephone numbers, and office hours of a licensee;

e. The use of small signs on the doors, windows and walls of a licensee's office or on the building in which he maintains an office setting out his name, professional degree, type of practice, address and office hours in lettering no larger than 4 inches in height for street-level offices, and no larger than 6 inches in height for offices above street-level;

f. Communications with or without the name of the licensee distributed or mailed to his patients of record at his discretion;

g. A directory of physicians for consumer use which shall include the educational background, degrees, fellowships, certifications, specialties, experience and any other pertinent information which is related to the practice of medicine and surgery of the physicians. The board shall refuse to grant or shall suspend or revoke any such license or the registration of any such certificate or diploma upon proof to the satisfaction of the board that the applicant for, or holder of, such license habitually uses drugs or has been convicted of a violation of or has pleaded nolo contendere, non vult contendere or non vult to an indictment, information or complaint alleging a violation of any Federal or State law relating to narcotic drugs. Before any license, or registration of a certificate or diploma to practice medicine or surgery or chiropractic filed in the office of any county clerk of this State under any act of the Legislature, shall be suspended or revoked, except in the case of convictions of criminal abortions or convictions of crime involving moral turpitude or plea of nolo contendere, non vult contendere or non vult to indictment, information, or complaint alleging commission of the crime of criminal abortion or crime involving moral turpitude, or convictions of violations of or pleas of nolo contendere, non vult contendere or non vult to an indictment, information or complaint alleging violations of any Federal or State law relating to narcotic drugs, the accused person shall be furnished with a copy of the complaint and be given a hearing before said board in person or by attorney, and any person whose license shall be suspended or revoked in accordance with this section shall be deemed an unlicensed person during the period of such suspension or revocation,

and as such shall be subject to the penalties hereinafter prescribed for persons who practice medicine and surgery or chiropractic, without first having obtained a license so to do. Any person whose license, or registration of a certificate or diploma to practice medicine and surgery or chiropractic filed in the office of any county clerk of this State under any act of the Legislature, shall be suspended or revoked under the authority of this chapter (45:9–1, et seq.) may, in the discretion of the board be relicensed at any time to practice without an examination, or have his registration of a certificate or diploma, as aforesaid, reinstated, on application being made to the board.

The record of conviction or the record of entry of a plea of nolo contendere, non vult contendere or non vult in any of the courts of this State, or any other state of the United States, or any of the courts of the United States, or the court of any foreign nation, shall be sufficient warrant for the board to refuse to grant or to suspend or revoke the license or the registration of a certificate or diploma to practice medicine and surgery or chiropractic filed in the office of any county clerk in this State under any act of the Legislature.

2. This act shall take effect immediately.

Approved February 8, 1978.

CHAPTER 381

AN ACT authorizing counties and municipalities to enter into agreements with employees to provide for currently deferring a portion of the total compensation paid to such employees, supplementing Title 43 of the Revised Statutes.

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

C. 43:15B-1 Deferred compensation plan; employee's deferred salary account.

1. Any municipality or county (hereinafter "employer") may establish a deferred compensation plan (hereinafter "plan") whereby the employer may enter into a written agreement with any of its employees (hereinafter "participants") constituting a contract for a voluntary deferral of salary. Such contracts shall remain in effect until the employee's service is terminated or until a new

contract is executed by the employee and employer. Not more than one contract shall be executed in any one fiscal year of the employer with any one employee. Pursuant to such contract the employer shall credit from time to time a specific amount per pay period, as deferred salary, to a participant's account. This account shall be known as the Employee's Deferred Salary Account, and shall be credited from time to time to reflect gains realized on the investment of the moneys in the deferred salary account. An accounting summary of the individual deferred salary accounts of all employee participants shall be maintained to reflect the employer's total deferred liability under the plan and the individual balances of all participants. Any employer which establishes such a plan shall designate one or a group of its public officials or its governing body, as defined in N. J. S. 40A:4–2 of the Local Budget Law as the named fiduciary responsible for the administration of said plan and investment of and accounting for the funds maintained thereunder.

C. 43:15B-2 Amounts of deferred salary; determination.

2. The amounts of any such deferred salary shall be determined by agreement between the employer and the employee, subject to any limitations which the employer may establish. The total amount of the salary deferred pursuant hereto for any year shall be in addition to any contributions made in such year on behalf of any employee in accordance with section 7 of P. L. 1963, c. 123 (C. 52:18A–113).

C. 43:15B-3 Provisions of plan.

3. a. The plan shall provide that all money not needed for the immediate payment of benefits shall be invested by the employer in interest bearing securities in which savings banks of this State are authorized to invest their funds, or the employer shall make deposits in interest bearing accounts, or in the State of New Jersey Cash Management Fund established pursuant to P. L. 1977, c.... (S3223).

b. Subject to rules and regulations established by a board or any other body created or designated by the State or public official designated by the State (said board, body or official hereinafter "board"), to administer a deferred payment compensation plan established by the State (hereinafter "State plan") and subject to the approval of the board, the plan may provide for the employer for the benefit of its participants to participate in any State plan established by the board for State employees. In the event that such participation is approved by the board, rules, regulations and

conditions established by the board or in the State plan shall apply to such participants, or said rules, regulations and conditions shall so apply as amended or supplemented with regard to said participants.

c. The named fiduciary shall provide in the plan for the distribution of any investment earnings, gains or losses, consistent with the requirements of the U. S. Internal Revenue Service. The distribution shall be allocated to each employee when he or she withdraws from the plan or receives benefits from the plan in accordance with the terms of the plan and the provisions of this act. For those employees participating in the State plan pursuant to subsection 3b herein, the rules and regulations of the State board shall apply.

d. The plan shall provide for a uniform system of accounting for each participant and for the investment of deferred compensation funds with annual or more frequent reports to the participants in the plan.

e. The named fiduciary shall have authority to take any steps reasonably necessary to implement the plan consistent with this act and the requirements of the U. S. Internal Revenue Service.

C. 43:15B-4 Plan additional to certain employee obligations.

4. Any deferred compensation plan shall be in addition to the obligation of the employee under any other retirement system or benefit plan established pursuant to any other law of this State.

C. 43:15B-5 Assets of employer; investment; employer's obligation.

5. All moneys which are deferred and deducted in accordance with the provisions of this act and the plan shall remain assets of the employer and shall be invested in accord with the provisions of this act and the plan. The obligation of the employer to participating employees shall be contractual only and no preferred or special interest in the deferred moneys shall accrue to such employees.

C. 43:15B-6 Payments and rights unassignable.

6. No participating employee or beneficiary thereof shall have the right to commute, sell, assign or otherwise transfer or convey the rights to receive any payments deriving from participation in the plan and such payments and rights are expressly declared to be and shall be unassignable.

C. 43:15B-7 Federal taxes; deferred and deducted amount excluded from computation.

7. Any amount of the employee's salary that is deferred and deducted under this act and the plan shall continue to be included as regular compensation for all purposes, including pension benefits

earned by any such employee, but any salary deferred and deducted shall not be included in the computation of any Federal taxes withheld from the employee's salary on behalf of such employee.

C. 43:15B-8 Transfer of credits.

8. Any employee who made contributions to a similar plan while employed in a state other than New Jersey or by an employer in New Jersey different from the current employer may transfer his credit from the previous plan pursuant to provisions contained in the plan, provided the previous similar plan allows such transfers. Such purchase of credit in a plan authorized by this act shall enable the employee to gain the same benefits of the plan as if he had always been employed by his current employer.

C. 43:15B-9 Change of jobs; transfer of credits.

9. Any participant who changes jobs may transfer his credit from the plan pursuant to authorizing provisions which may be contained in the plan, provided the similar plan of the participant's new employer permits such a transfer.

C. 43:15B-10 Consistency of plan with United States Internal Revenue Service requirements.

10. No agreement may be entered into between the employer and any employee for the deferral and deduction of any portion of current salary, pursuant to this act, until the named fiduciary determines that the plan and any related implementing rules and regulations are consistent with the requirements of the United States Internal Revenue Service.

11. This act shall take effect immediately.

Approved February 8, 1978.

CHAPTER 382

AN ACT to provide that certain funds which escheat to the State shall be credited to the "Poultry Products Promotion Tax Account."

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

1. The provisions of any law to the contrary notwithstanding, any unclaimed funds of the Vineland Egg Auction of 110 North

Sixth Street, Vineland, New Jersey, which escheat to the State pursuant to the provisions of chapter 37 of Title 2A of the New Jersey Statutes shall be credited to the "Poultry Products Promotion Tax Account" established pursuant to section 11 of P. L. 1957, c. 47 (C. 54:47A–11).

2. This act shall take effect immediately.

Approved February 8, 1978

CHAPTER 383

AN ACT to amend and supplement the "Transportation Act of 1966," approved December 12, 1966 (P. L. 1966, c. 301) and making an appropriation.

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

1. Section 25 of P. L. 1966, c. 301 (C. 27:1A–25) is amended to read as follows:

C. 27:1A-25 Powers and duties of agency.

25. In order to carry out the objectives of this act, the agency may:

(a) Make whatever reasonable rules and regulations it may deem necessary which shall have the force and effect of law;

(b) Investigate any matters concerning any carrier under contract to the agency and in aid of such investigation the agency shall have access to and the carrier shall make available its property, books, records, or documents;

(c) Call to its assistance and avail itself of the services of such employees of any Federal or State department or agency as it may require and as may be available to it for said purpose;

(d) Have the power to receive and expend money from any Federal or State agency or instrumentality and from any private sources, in addition to the money appropriated by the Legislature; notwithstanding any other provision of this act, to comply with Federal statutes, rules and regulations, and to qualify for and receive all forms of financial assistance available under Federal law to assure the continuance of, or for the support or improvement of, rail passenger service, rail freight service, motor bus

service or other forms of special transportation service; and as may be necessary for that purpose to enter into agreements with any person whatever, including but not limited to railroads, motor bus companies, governmental agencies or political entities;

(e) Designate assistants to conduct hearings;

(f) Acquire in the name of the State by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the power of eminent domain, any land or interest therein and other property which it may determine is reasonably necessary for any project, including any lands held by any county, municipality or other governmental subdivision of the State; and to hold and use the same and to sell, convey, lease or otherwise dispose of property so acquired, no longer necessary for the agency's purposes;

(g) Acquire, lease as lessee, hold and dispose of real and personal property or any interest therein, in the exercise of its powers and the performance of its duties under this act;

(h) Lease or otherwise permit the use or occupancy of property necessary for the agency's purposes by public bodies and agencies and private parties on terms which the agency may prescribe;

(i) Restrict the rights of persons to enter upon or construct any works in or upon any property owned or leased by the agency, except under such terms as the agency may prescribe;

(j) Perform or contract for the performance of all acts necessary for the management, maintenance and repair of real or personal property leased or otherwise used or occupied pursuant to this act;

(k) Collect rentals, fees, charges or other payments from the lease, use and occupancy or disposition of properties owned or leased by the agency accrued since April 1, 1976 and expend the moneys so collected toward the furtherance of any of the purposes of this act;

(l) 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 agency or to carry out any power expressly given in this act.

2. Section 16 of P. L. 1966, c. 301 (C. 27:1A–16) is amended to read as follows:

C. 27:1A-16 Commuter operating agency; membership; officers and employees; quorum; meetings.

(a) There is hereby established in the Department of Transportation the Commuter Operating Agency which for civil service purposes shall be considered to be a board.

(b) The agency shall consist of four members who shall be the Commissioner of Transportation, the assistant Commissioner for Public Transportation, the State Treasurer and the President of the Board of Public Utility Commissioners, or their respective designees.

(c) The Commissioner and the Assistant Commissioner for Public Transportation shall be the chairman and secretary, respectively, of the agency.

(d) The commissioner shall assign to the agency such employees of the department as may be necessary for the efficient performance of the work of the agency in a division of commuter services under the supervision of the assistant Commissioner for Public Transportation. The agency may delegate to the assistant Commissioner for Public Transportation routine matters and duties from time to time in accordance with regulations promulgated pursuant to subsection (a) of section 25 of this act (C. 27:1A–25). To assist the assistant Commissioner for Public Transportation in the conduct of the work of the agency, the commissioner, acting as chairman of the agency, may also appoint a director of commuter services who shall serve at his pleasure and whose duties he shall determine. The director of commuter services shall be a person qualified by training and experience in public transportation to perform the duties of his office, and shall receive such salary as may be established by the commissioner, with the approval of the President of the Civil Service Commission and the Director of the Division of Budget and Accounting, subject to the availability of funds.

(e) The powers of the agency shall be vested in the members thereof and three members of the agency or their designees shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the agency at any meeting thereof by the affirmative vote of at least three members or their designees. No vacancy in the membership of the agency shall impair the right of a quorum to exercise all the rights and perform all the duties of the agency.

(f) A true copy of the minutes of every meeting of the agency shall be delivered forthwith by and under the certification of the secretary thereof, to the Governor. No action taken at such meeting by the agency shall have force or effect until 10 days, exclusive of Saturdays, Sundays and legal holidays, after such copy of the minutes shall have been delivered. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the agency or any member thereof at such meeting, such

action shall be null and of no effect. The Governor may approve all or part of the action taken at such meeting prior to the expiration of the said 10-day period.

3. (New section) All real and personal property purchases heretofore for public transportation purposes in the name of the Department of Transportation, its predecessors or the commissioner shall be deemed to have been purchased in the name of the State by and through the Commuter Operating Agency.

4. (New section) Notwithstanding any other provision of law, the receipts from the rental, use, occupancy or disposition of properties owned or leased by the Commuter Operating Agency are appropriated to the Commuter Operating Agency for the purposes set forth in P. L. 1966, c. 301 (C. 27:1A–1 et seq.).

Repealer.

5. (New section) Section 23 of P. L. 1975, c. 209 is repealed.

6. This act shall take effect immediately.

Approved February 10, 1978.

CHAPTER 384

AN ACT to amend the title of "An Act relating to the authorization, acquisition, financing and operation of water systems and sewage disposal systems by or on behalf of any county or any one or more municipalities, providing for the creation and the establishment of the powers of authorities as public bodies corporate and politic to undertake the same, for the issuance of bonds and other obligations therefor, and for service charges and other means to meet the expense thereof, and supplementing Title 40 of the Revised Statutes," approved August 22, 1957 (P. L. 1957, c. 183) so that the same shall read "An Act relating to the authorization, acquisition, financing and operation of water systems, solid waste systems and sewage disposal systems by or on behalf of any county or any one or more municipalities, providing for the creation and the establishment of the powers of authorities as public bodies corporate and politic to undertake the same, for the issuance of bonds and other obligations

therefor, and for service charges and other means to meet the expense thereof, and supplementing Title 40 of the Revised Statutes," amending and supplementing said act, and repealing parts of the statutory law.

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

1. The title of P. L. 1957, c. 183 is amended to read as follows:

Title amended.

"An Act relating to the authorization, acquisition, financing and operation of water systems, solid waste systems and sewage disposal systems by or on behalf of any county or any one or more municipalities, providing for the creation and the establishment of the powers of authorities as public bodies corporate and politic to undertake the same, for the issuance of bonds and other obligations therefor, and for service charges and other means to meet the expense thereof, and supplementing Title 40 of the Revised Statutes."

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

C. 40:14B-1 Short title.

1. This act shall be known and may be cited as the "municipal and county utilities authorities law."

3. Section 2 of P. L. 1957, c. 183 (C. 40:14B–2) is amended to read as follows:

C. 40:14B-2 Declaration of policy.

2. It is hereby declared to be in the public interest and to be the policy of the State to foster and promote by all reasonable means the provision and distribution of an adequate supply of water for the public and private uses of counties and municipalities and their inhabitants, the collection, disposal and recycling of solid waste, including sewage sludge, in an environmentally sound manner, and the relief of lands and waters in or bordering the State from pollution, from domestic, industrial and other sources, including pollution derived from chemical and hazardous wastes, and thus the reduction and ultimate abatement of the menace to the public health resulting from such pollution. It is the purpose and object of this act to further and implement such policy by

(1) Authorizing counties, or municipalities either separately or in combination with other municipalities, by means and through

the agency of a municipal authority, to acquire, construct, maintain, operate or improve works for the accumulation, supply or distribution of water, works for the collection, treatment, recycling, and disposal of solid wastes, and works for the collection, treatment, purification or disposal of sewage or other wastes;

(2) Authorizing service charges to occupants or owners of property for direct or indirect connection with and the use, products or services of such works, and providing for the establishment, collection and enforcement of such charges;

(3) Creating as bodies corporate and politic municipal authorities to have full responsibility and powers with respect to such works and the establishment, collection, enforcement, use and disposition of all such service charges;

(4) Providing for the financing of such works, for the issuance of bonds therefor, and for the payment and security of such bonds; and

(5) In general, granting to counties and municipalities and to such municipal authorities discretionary powers to provide for utility services designed to provide or distribute such a supply of water, to recycle or dispose of solid waste, or to relieve pollution of such waters in or bordering the State at the expense of the users of such services or of counties or municipalities or other persons contracting for or with respect to the same.

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

C. 40:14B-3 Definitions.

3. As used in this act, unless a different meaning clearly appears from the context:

(1) "Municipality" shall mean any city of any class, any borough, village, town, township, or any other municipality other than a county or a school district, and except when used in sections 4, 5, 6, 11, 12, 13, 42 or 45 of this act, any agency thereof or any two or more thereof acting jointly or any joint meeting or other agency of any two or more thereof;

(2) "County" shall mean any county of any class;

(3) "Governing body" shall mean, in the case of a county, the board of chosen freeholders, or in the case of those counties organized pursuant to the provisions of the "Optional County Charter Law" (P. L. 1972, c. 154; C. 40:41A–1 et seq.), the board of chosen freeholders and the county executive, the county supervisor or the county manager, as appropriate, and, in the case of a

municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality;

(4) "Person" shall mean any person, association, corporation, nation, State or any agency or subdivision thereof, other than a county or municipality of the State or a municipal authority;

(5) "Municipal authority" shall mean a public body created or organized pursuant to section 4, 5 or 6 of this act and shall include a municipal utilities authority created by one or more municipalities and a county utilities authority created by a county;

(6) Subject to the exceptions provided in section 10, 11 or 12 of this act, "district" shall mean the area within the territorial boundaries of the county, or of the municipality or municipalities, which created or joined in or caused the creation or organization of a municipal authority;

(7) "Local unit" shall mean the county, or any municipality, which created or joined in or caused the creation or organization of a municipal authority;

(8) "Water system" shall mean the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by a municipal authority for the purposes of the municipal authority, including reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, waterworks or sources of water supply, wells, purification or filtration plants or other plants and works, connections, rights of flowage or division, and other plants, structures, boats, conveyances, and other real and personal property, and rights therein, and appurtenances necessary or useful and convenient for the accumulation, supply or distribution of water;

(9) "Sewerage system" shall mean the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by a municipal authority for the purposes of the municipal authority, including sewers, conduits, pipelines, mains, pumping and ventilating stations, sewage treatment or disposal systems, plants and works, connections, outfalls, compensating reservoirs, and other plants, structures, boats, conveyances, and other real and personal property, and rights therein, and appurtenances necessary or useful and convenient for the collection, treatment, purification or disposal in a sanitary manner of any sewage, liquid or solid wastes, night soil or industrial wastes;

(10) "Utility system" shall mean a water system, solid waste system or a sewerage system, or any combination of such systems, acquired, constructed or operated or to be acquired, constructed or operated by a municipal authority;

(11) "Cost" shall mean, in addition to the usual connotations thereof, the cost of acquisition or construction of all or any part of a utility system and of all or any property, rights, easements, privileges, agreements and franchises deemed by the municipal authority to be necessary or useful and convenient therefor or in connection therewith, including interest or discount on bonds, cost of issuance of bonds, engineering and inspection costs and legal expenses, cost of financial, professional and other estimates and advice, organization, administrative, operating and other expenses of the municipal authority prior to and during such acquisition or construction, and all such other expenses as may be necessary or incident to the financing, acquisition, construction and completion of said utility system or part thereof and the placing of the same in operation, and also such provision or reserves for working capital, operating, maintenance or replacement expenses or for payment or security of principal of or interest on bonds during or after such acquisition or construction as the municipal authority may determine, and also reimbursements to the municipal authority or any county, municipality or other person of any moneys theretofore expended for the purposes of the municipal authority or to any county or municipality of any moneys theretofore expended for or in connection with water supply, solid waste, water distribution or sanitation facilities;

(12) "Real property" shall mean lands both within or without the State, and improvements thereof or thereon, or any rights or interests therein;

(13) "Construct" and "construction" shall connote and include acts of construction, reconstruction, replacement, extension, improvement and betterment of a utility system;

(14) "Industrial wastes" shall mean liquid or other wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resource, and shall include any chemical wastes or hazardous wastes;

(15) "Sewage" shall mean the water-carried wastes created in and carried, or to be carried, away from residences, hotels, apartments, schools, hospitals, industrial establishments, or any other public or private building, together with such surface or ground water and industrial wastes and leachate as may be present;

(16) "Pollution" means the condition of water resulting from the introduction therein of substances of a kind and in quantities rendering it detrimental or immediately or potentially dangerous to the public health, or unfit for public or commercial use;

(17) "Bonds" shall mean bonds or other obligations issued pursuant to this act;

(18) "Service charges" shall mean water service charges, solid waste service charges, sewer service charges, or any combination of such charges, as said terms are defined in section 21 or 22 of this act;

(19) "Compensating reservoir" shall mean the structures, facilities and appurtenances for the impounding, transportation and release of water for the replenishment in periods of drought or at other necessary times of all or a part of waters in or bordering the State diverted into a utility system operated by a municipal authority;

(20) "Sewerage authority" shall mean a public body created pursuant to the Sewerage Authorities Law (P. L. 1946, c. 138) or the acts amendatory thereof or supplemental thereto;

(21) "County sewer authority" shall mean a sanitary sewer district authority created pursuant to the act entitled "An act relating to the establishment of sewerage districts in first- and second-class counties, the creation of Sanitary Sewer District Authorities by the establishing of such districts, prescribing the powers and duties of any such authority and of other public bodies in connection with the construction of sewers and sewage disposal facilities in any such district, and providing the ways and means for paying the costs of construction and operation thereof," approved April 23, 1946 (P. L. 1946, c. 123), or the acts amendatory thereof or supplemental thereto;

(22) "Chemical waste" shall mean a material normally generated by or used in chemical, petrochemical, plastic, pharmaceutical, biochemical or microbiological manufacturing processes or petroleum refining processes, which has been selected for waste disposal and which is known to hydrolize, ionize or decompose, which is soluble, burns or oxidizes, or which may react with any of the waste materials which are introduced into the landfill, or which is buoyant on water, or which has a viscosity less than that of water or which produces a foul odor. Chemical waste may be either hazardous or nonhazardous;

(23) "Effluent" shall mean liquids which are treated in and discharged by sewage treatment plants;

(24) "Hazardous wastes" shall mean any waste or combination of waste which poses a present or potential threat to human health, living organisms or the environment. "Hazardous waste" shall include, but not be limited to, waste material that is toxic, corrosive, irritating, sensitizing, radioactive, biologically infectious, explosive or flammable;

(25) "Leachate" shall mean a liquid that has been in contact with solid waste and contains dissolved or suspended materials from that solid waste;

(26) "Recycling" shall mean the separation, collection, processing or recovery of metals, glass, paper and other materials for reuse or for energy production and shall include resource recovery;

(27) "Sludge" shall mean any solid, semisolid, or liquid waste generated from a municipal, industrial or other sewage treatment plant, water supply treatment plant, or air pollution control facility, or any other such waste having similar characteristics and effects; "Sludge" shall not include effluent;

(28) "Solid waste" shall mean garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including sludge, chemical waste, hazardous wastes and liquids, except for liquids which are treated in public sewage treatment plants and except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms;

(29) "Solid waste system" shall mean and include the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by an authority pursuant to the provisions of this act, including transfer stations, incinerators, recycling facilities, sanitary landfill facilities or other property or plants for the collection, recycling or disposal of solid waste and all vehicles, equipment and other real and personal property and rights thereon and appurtenances necessary or useful and convenient for the collection, recycling, or disposal of solid waste in a sanitary manner.

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

C. 40:14B-4 Creation of authority; membership; terms; vacancies.

4. a. Any governing body may, in the case of a county by resolution or ordinance duly adopted, or in the case of a municipality by ordinance duly adopted, create a public body corporate and politic

under the name and style of "the ..... municipal utilities authority," or of "the ..... county utilities authority," with the name of said county or municipality inserted. Said body shall consist of the 5 members thereof, who shall be appointed by the governing body as hereinafter in this section provided, and it shall constitute the municipal authority contemplated and provided for in this act and an agency and instrumentality of said county or municipality. After the taking effect of the resolution or ordinance for the creation of said body and the filing of a certified copy thereof as in section 7 of this act provided, 5 persons shall be appointed as the members of the municipal authority. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in each year after such first appointments, 1 person shall be appointed as a member of the municipal authority to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of a vacancy in the membership of the municipal authority occurring during an unexpired term of office, a person shall be appointed as a member of the municipal authority to serve for such unexpired term.

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

c. Whenever the municipal authority of any county shall certify to the governing body of any county that it has entered into a contract pursuant to section 49 of this act (C. 40:14B–49) with one or more municipalities situate within any other county one additional member of the municipal authority for each such other county shall be appointed by the governing body of such other

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

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

6. Section 6 of P. L. 1957, c. 183 (C. 40:14B–6) is amended to read as follows:

C. 40:14B-6 Reorganization of authority.

6. a. The governing body of any municipality which shall have created a sewerage authority may, by ordinance duly adopted, provide and determine that said sewerage authority shall be reorganized as a municipal authority and thereupon and thereby cause said sewerage authority to be organized as a public body corporate and politic existing under and by virtue of this act.

b. In any county which has created a sewerage authority or a county sewer authority or authorities each such authority shall be

reorganized as a county utilities authority and shall be continued as a public body corporate and politic existing under and by virtue of the municipal authorities law, P. L. 1957, c. 183 (C. 40:14B–1 et seq.). The governing body of any county wherein a sewerage authority or a county sewer authority or authorities was reorganized pursuant to this section shall record such reorganization by resolution and file such resolution with the Secretary of State pursuant to section 7 of this act (C. 40:14B–7).

c. No authority reorganized pursuant to this section shall acquire, construct, maintain, operate or improve a water system or a solid waste system until such time as the governing body authorizes such action by ordinance in the case of a municipality, or by resolution in the case of a county.

d. Said body shall consist of the members of said sewerage authority or of said county sewer authority holding office at the time of such organization together with successors in such membership appointed as if said sewerage authority or county sewer authority had originally been created pursuant to section 4 of this act, and, upon the passage of this amendatory and supplementary act or upon the taking effect of such ordinance and the filing of a certified copy thereof as in section 7 of this act provided, said body shall constitute a municipal authority contemplated and provided for in this act and an agency and instrumentality of said municipality, or county. Said body as such municipal authority shall have all of the rights and powers granted and be subject to all of the duties and obligations imposed by this act and, subject to the rights (if any) of the holders of any bonds or other obligations of said sewerage authority or county sewer authority theretofore issued, said body shall be the successor in all respects to said sewerage authority or county sewer authority and forthwith succeed to all of the rights, property, assets and franchises of said sewerage authority, or county sewer authority and the said bonds or other obligations of said sewerage authority or county sewer authority shall be assumed by and become the obligations of said municipal authority, and the property of said sewerage authority or county sewer authority shall be vested in said municipal authority. Said body may at any time, by resolution duly adopted, change its corporate name and adopt the name and style of "the ..... municipal utilities authority" with the name of said municipality or county inserted.

7. Section 7 of P. L. 1957, c. 183 (C. 40:14B–7) is amended to read as follows:

C. 40:14B-7 Resolution or ordinance for creation; filing with Secretary of State.

7. A copy of each resolution or ordinance for the creation of a municipal authority or resolution or ordinance for the reorganization of a sewerage authority or a county sewer authority as a municipal authority adopted pursuant to this act, duly certified by the appropriate officer of the local unit, shall be filed in the office of the Secretary of State. Upon proof of such filing of a certified copy of the resolution or ordinance or of certified copies of the parallel ordinances for the creation of a municipal authority as aforesaid or of a certified copy of the resolution or ordinance for the reorganization of a sewerage authority or a county sewer authority as a municipal authority as aforesaid, the municipal authority therein referred to shall, in any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract or obligation or act of the municipal authority, be conclusively deemed to have been lawfully and properly created, organized and established and authorized to transact business and exercise its powers under this act. A copy of any such certified resolution or ordinance, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any suit, action or proceeding and shall be conclusive evidence of due and proper filing thereof as aforesaid.

8. Section 9 of P. L. 1957, c. 183 (C. 40:14B–9) is amended to read as follows:

C. 40:14B-9 Single authority.

9. No governing body of any county which may create any municipal authority pursuant to this act or which records the reorganization of any preexisting sewerage authority or county sewer authority as a municipal authority pursuant to this act, shall thereafter create any other municipal authority or a sewerage authority. No governing body (1) of any county which shall have created any sewerage authority or any county sewer authority, or (2) of an municipality constituting the whole or any part of the district of a municipal authority or of the district of a sewerage authority, or (3) of any municipality constituting the whole or any part of the sewerage district of a county sewer authority which shall have entered into a contract or contracts with such municipality, shall create or join in the creation of a municipal authority or a sewerage authority except subject to the rights (if any) of the holders of any bonds or other obligations of such other authority then outstanding and upon the written consent of such other

authority and in accordance with the terms and conditions of such consent, and in the event such consent be given and a municipal authority or sewerage authority be created pursuant thereto, the terms and conditions of such consent shall thereafter be in all respects binding upon the municipal authority or sewerage authority so created and the county or municipality creating or joining in the creation of the same, and any water supply or distribution system, solid waste system or system of sewers or sewage disposal plants constructed or maintained in conformity with the terms and conditions of such consent by the municipal authority or sewerage authority so created shall be deemed not to be competitive with the utility system of the said other authority giving such consent.

9. Section 19 of P. L. 1957, c. 183 (C. 40:14B–19) is amended to read as follows:

C. 40:14B-19 Purposes of authority; authorization to acquire facilities.

19. (a) The purposes of every municipal authority shall be (1) the provision and distribution of an adequate supply of water for the public and private uses of the local units, and their inhabitants, within the district, and (2) the relief of waters in or bordering the State from pollution arising from causes within the district and the relief of waters in, bordering or entering the district from pollution or threatened pollution, and the consequent improvement of conditions affecting the public health, (3) the provision of sewage collection and disposal service within or without the district, and (4) the provision of water supply and distribution service in such areas without the district as are permitted by the provisions of this act, and (5) the provision of solid waste services and facilities within or without the district in a manner consistent with the Solid Waste Management Act, P. L. 1970, c. 39 (C. 13:1E–1 et seq.) and in conformance with the solid waste management plans adopted by the solid waste management districts created therein, and (6) the operation and maintenance of utility systems owned by other governments located within the district through contracts with said governments.

(b) Every municipal authority is hereby authorized, subject to the limitations of this act, to acquire, in its own name but for the local unit or units, by purchase, gift, condemnation or otherwise, lease as lessee, and, notwithstanding the provisions of any charter, ordinance or resolution of any county or municipality to the contrary, to construct, maintain, operate and use such reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines,

mains, pumping and ventilating stations, treatment, purification and filtration plants or works, trunk, intercepting and outlet sewers, water distribution systems, waterworks, sources of water supply and wells at such places within or without the district, such compensating reservoirs within a county in which any part of the district lies, and such other plants, structures, boats and conveyances, as in the judgment of the municipal authority will provide an effective and satisfactory method for promoting purposes of the municipal authority.

(c) Every municipal authority is hereby authorized and directed, when in its judgment its sewerage system or any part thereof will permit, to collect from any and all public systems within the district all sewage and treat and dispose of the same in such manner as to promote purposes of the municipal authority.

10. Section 23 of P. L. 1957, c. 183 (C. 40:14B–23) is amended to read as follows:

C. 40:14B-23 Service charges; schedule; determination; public hearing.

23. Every municipal authority shall prescribe and from time to time when necessary revise a schedule of all its service charges, which may provide a single rent, rate, fee or charge for any of its utility charges and which shall comply with the terms of any contract of the municipal authority and may be such that the revenues of the municipal authority will at all times be adequate to pay the expenses of operation and maintenance of the utility system, including reserves, insurance, extensions, and replacements, and to pay the principal of and interest on any bonds and to maintain such reserves or sinking funds therefor as may be required by the terms of any contract of the municipal authority or as may be deemed necessary or desirable by the municipal authority. Said schedule shall thus be prescribed and from time to time revised by the municipal authority after public hearing thereon which shall be held by the municipal authority at least 7 days after such published notice as the municipal authority may determine to be reasonable. The municipal authority shall likewise fix and determine the time or times when and the place or places where such service charges shall be due and payable and may require that such service charges shall be paid in advance for periods of not more than 1 year. A copy of such schedule of service charges in effect shall at all times be kept on file at the principal office of the municipal authority and shall at all reasonable times be open to public inspection.

11. Section 24 of P. L. 1957, c. 183 (C. 40:14B–24) is amended to read as follows:

C. 40:14B-24 Power of local unit to appropriate moneys, construct and operate facilities.

24. a. Any local unit shall have power, in the discretion of its governing body, to appropriate moneys for the purposes of the municipal authority, and to loan or donate such moneys to the municipal authority in such installments and upon such terms as may be agreed upon between such local unit and the municipal authority.

b. Subject to section 61 of this act (C. 40:14B–60), any local unit shall have the power to authorize as a general improvement or, in the case of a local unit which is a municipality, as a local improvement the construction and financing of any facilities for the collection, treatment and disposal of sewage or for the collection, recycling or disposal of solid waste within the district arising within a district, or any facilities for the distribution of water within a district. Subject to the consent and approval of the municipal authority, such facilities may be operated by the local unit and the local unit may fix rates and charges for the use thereof, in addition to the payment of any special assessments levied by a municipality against lands and real estate specially benefited by such improvements. As provided in section 48 of this act (C. 40:14B–48), such facilities may be acquired and operated by the municipal authority as a part of the utility system, notwithstanding that special assessments may be or may have been levied for such improvements by a municipality.

12. Section 34 of P. L. 1957, c. 183 (C. 40:14B–34) is amended to read as follows:

C. 40:14B-34 Acquisition of real property; power of eminent domain.

34. Every municipal authority is hereby empowered, in its own name but for the local unit or units, to acquire by purchase, gift, grant or devise and to take for public use real property, within or without the district, which may be deemed by the municipal authority necessary for its purposes, including public lands, waters, parks, roads, playgrounds, reservations and public or private rights in waters within or without the district, and any property within or without the district owned by or in which any county, municipality or political subdivision of the State, or public body or agency of such political subdivision, has any right, title or interest. Such municipal authority is hereby empowered to acquire and take such real property, including any such public property or such

public interests therein, by condemnation, in the manner provided in P. L. 1971, c. 361 (C. 20:3–1 et seq.) and, to that end, may invoke and exercise in the manner or mode of procedure prescribed in said chapter, either in its own name or in the name of any local unit or units, all of the powers of such local unit or units to acquire or take property for public use; provided, however, that, notwithstanding the foregoing or any other provision of this act, no municipal authority shall acquire or take, by condemnation, any real property owned by the State or in which the State has any right, title or interest or real property in use as part of any system of water supply or distribution actually serving 50 or more parcels of real property or real property owned by a municipal or county government or any agency thereof which is utilized as part of a utility system thereby; and provided, further, that, notwithstanding the foregoing or any other provision of this act, no municipal authority shall acquire or take, by condemnation, any real property situate without the district owned or occupied by any county, municipality or other political subdivision of the State, except rights-of-way or easements for the location, construction, maintenance, renewal, relocation and removal of collecting, distribution and transmission pipes, mains, conduits, manholes, gatehouses, appurtenances and other like facilities, and for access thereto.

13. Section 49 of P. L. 1957, c. 183 (C. 40:14B–49) is amended to read as follows:

C. 40:14B-49 Contracts for treatment and disposal of sewage or solid waste.

49. Any municipal authority for the carrying out and effectuation of its purposes, and (a) any of the local units (b) any other municipality whether within or without the district and (c) any other municipal authority, any sewerage authority or any other public body of the State empowered to treat or dispose of sewage or solid waste (all such local units, municipalities, other municipal authorities, sewerage authorities and other bodies being hereinafter referred to individually as a "governmental unit") for fostering the relief of waters in, bordering or entering the territorial area of the governmental unit from pollution or threatened pollution or assisting the municipal authority in carrying out and effectuating its purposes, may enter into a contract or contracts providing for or relating to the collection, treatment and disposal of sewage or solid waste originating in the district or received by the municipal authority, or originating in the territorial area of

or collected by the governmental unit, by means of the sewerage or solid waste system or any sewerage or solid waste facilities of the governmental unit or both, and the cost and expense of such collection, treatment and disposal. Any municipal authority for the carrying out and effectuation of its purposes, and (a) any of the local units (b) any other municipality whether within or without the district and (c) any other municipal authority, any sewerage authority or any other public body of the State empowered to sell and supply water (all such local units, municipalities, other municipal authorities, sewerage authorities and other bodies being hereinafter referred to individually as a "governmental unit") for fostering the provision and distribution of an adequate supply of water within the territorial area of the governmental unit or assisting the municipal authority in carrying out and effectuating its purposes may enter into a contract or contracts providing for or relating to the sale or supplying of water to such municipal authority or to the governmental unit or to persons or properties within the district or the governmental unit, and the cost and expense of such sale or supplying of water. Any such contract may provide for the payment to the municipal authority by the governmental unit annually or otherwise of such sum or sums of money, computed at fixed amounts or by a formula based on any factors or other matters described in section 21 or section 22 of this act or in any other manner, as said contract or contracts may provide, and may provide that the sum or sums so payable to the municipal authority shall be in lieu of all or any part of the service charges which would otherwise be charged and collected by the municipal authority with regard to persons or real property within the territorial area of the governmental unit. Such contract or contracts may also contain provisions as to the financing and payment of expenses to be incurred by the municipal authority and determined by it to be necessary for its purposes prior to the placing in operation of a sewerage, solid waste or water supply and distribution system and may provide for the payment by the governmental unit to the municipal authority for application to such expenses or indebtedness therefor such sum or sums of money, computed as said contract or contracts may provide and as the governing body (hereinafter described) of the governmental unit shall, by virtue of its authorization of and entry into said contract or contracts, determine to be necessary for the purposes of the sewerage authority. Every such contract shall be authorized and entered into under and pursuant to a resolution adopted by the authority in the

case of a municipal or other authority, an ordinance of the governing body in the case of a municipality, a resolution or ordinance of the governing body in the case of a county, and, in the case of any other public body, a resolution of the commission, council, board or body by whatever name it may be known (in this section sometimes referred to as "governing body") having charge of the finances of such public body, but the terms or text of said contract need not be set forth in full or stated in any such resolution or ordinance if the form of said contract is on file in the office of the clerk or other recording officer of the governmental unit or its governing body and the place and fact of such filing is described in the resolution or ordinance. Any such contract may be made with or without consideration and for a specified or an unlimited time and on any terms and conditions which may be approved by or on behalf of the governmental unit and which may be agreed to by the municipal authority in conformity with its contracts with the holders of any bonds, and shall be valid whether or not an appropriation with respect thereto is made by the governmental unit prior to authorization or execution thereof. Every such governmental unit is hereby authorized and directed to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform every such contract and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of such governmental unit. Subject to any such contracts with the holders of bonds, the municipal authority is hereby authorized to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform every such contract and, in accordance with any such contract, to waive, modify, suspend or reduce the service charges which would otherwise be charged and collected by the municipal authority with regard to persons or real property within the territorial area of the governmental unit, but nothing in this section or any such contract shall prevent the municipal authority from charging and collecting, as if such contract had not been made, service charges with regard to such persons and real property sufficient to meet any default or deficiency in any payments agreed in such contract to be made by such governmental unit.

14. Section 60 of P. L. 1957, c. 183 (C. 40:14B–60) is amended to read as follows:

C. 40:14B-60 Discharge of sewage into waters of district; discharges into sewage, solid waste or water systems; violations; injunctive relief.

60. (a) No county, municipality or person shall discharge or suffer to be discharged directly or indirectly into any waters in or

bordering a district any sewage which may or will cause or contribute to the pollution of such waters; provided, that this prohibition shall be applicable only to such part or parts of such waters as are in an area of the district bounded and described in a notice, inserted at least once in a newspaper published or circulating in the district, to the effect that the municipal authority has provided facilities reasonably sufficient in its opinion for the treatment and disposal of sewage which by discharge into such waters might cause or contribute to pollution of such waters, and that pollution of such waters is forbidden by law. Such a notice shall constitute prima facie evidence of the existence of facilities sufficient for the treatment and disposal of all such sewage.

(b) No county, municipality or person shall discharge or suffer to be discharged directly or indirectly into the sewage system or the solid waste system of any municipal authority any matter or thing which is or may be injurious or deleterious to such sewerage system or solid waste system or to its efficient operation.

(c) No county, municipality or person shall discharge or suffer to be discharged directly or indirectly into the water system of any municipal authority or on any lands or into any waters tributary to such water system any matter or thing which is or may be injurious or deleterious to such water system or to its efficient operation or may or will cause or contribute to a danger to the health of the public in the district.

(d) Any county, municipality or person may be restrained, enjoined or otherwise prevented from violating or continuing the violation of any provision of this section in a proceeding in lieu of prerogative writ, or other appropriate proceeding, or in an action for injunctive or other relief instituted by a municipal authority or by any county prosecutor.

(e) No violation of any provision of this section shall be deemed to have occurred by reason of the discharge of sewage from any boat or vessel while afloat or on a marine railway in drydock.

C. 40:14B-22.1 Solid waste service charges.

15. (New section) Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "solid waste service charges") for the use or services of the solid waste system. Such solid waste service charges may be charged to and collected from any municipality or any person contracting for such use or services or from the owner or occupant, or both of them, of any real property from or on which originates or has originated any solid waste to be

treated by the solid waste system of the authority, and the owner of any such real property shall be liable for and shall pay such solid waste service charges to the municipal authority at the time when and place where such solid waste service charges are due and payable. Such rents, rates, fees and charges, being in the nature of use or service charges, shall as nearly as the authority shall deem practicable and equitable be uniform throughout the county for the same type, class and amount of use or service of the solid waste system, and may be based or computed on any factors determining the type, class and amount of use or service of the solid waste system, and may give weight to the characteristics of the solid waste and any other special matter affecting the cost of treatment and disposal of the same.

Repealer.

16. The following are repealed:
P. L. 1946, c. 123 (C. 40:36A–1 to 40:36A–63);
P. L. 1953, c. 389 (C. 40:36A–23.1 and 40:36A–23.2);
P. L. 1957, c. 183, ss. 35 to 39 (C. 40:14B–35 to 40:14B–39);
P. L. 1971, c. 442, s. 2 (C. 40:14B–70).

17. This act shall take effect immediately.

Approved February 10, 1978.

CHAPTER 385

AN ACT authorizing the repair of damaged structures located in flood hazard areas.

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

C. 58:16A-55.1 Rebuilding of damaged structures located in flood hazard areas.

1. No rule or regulation adopted pursuant to section 4 or 7 of P. L. 1972, c. 185 (C. 58:16A–55 or 58) shall prevent the repair or rebuilding within a flood hazard area of any lawful preexisting structure which was damaged by a flood or by any other means.

2. This act shall take effect immediately.

Approved February 10, 1978.

CHAPTER 386

AN ACT to validate sales of land by the several municipalities of this State in certain cases.

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

Validating act.

1. All sales heretofore made by any municipality of lands and premises of which it had been the absolute owner in fee simple, whether such sales were made at public auction or at private sale, and all proceedings had in connection therewith, are hereby validated and confirmed notwithstanding that such sales or proceedings were not authorized by resolution of the governing body of such municipality or that the advertisements of such sales or offer to purchase said lands were not made as provided by law, and any conveyance of said lands so, as aforesaid, heretofore sold to the purchaser or purchasers thereof, heretofore or hereafter made in pursuance of any such sale, shall be construed in all courts of this State to convey or to have conveyed all the right, title and interest of any such municipality of, in and to said lands and premises; provided, such sale shall have taken place 5 years or more before the passage of this act, and provided, further, that this act shall not apply to individual sales where the sale price exceeded $1,000.00; and provided, further, that this act shall not be deemed to validate any defective or invalid sale of lands for the nonpayment of taxes, assessments or other municipal liens nor any assignment of any certificate of sale therefor.

2. This act shall take effect immediately.

Approved February 14, 1978.

CHAPTER 387

AN ACT concerning nursing facilities and supplementing chapter 2 of Title 26 of the Revised Statutes.

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

C. 26:2H-47 Assistance to residents in applying for medical assistance.

1. Every skilled or intermediate care nursing facility in this State shall assist its residents in applying to establish eligibility

for medical assistance or other payment mechanisms when their self-pay, private insurance, or medicare capability in respect of payment for nursing home facility care, may become sufficiently depleted to necessitate discharge.

C. 26:2H-48 Assessment of financial capability of each resident.

2. To facilitate the offering of such assistance, each such facility shall make an assessment of the extensiveness of the self-pay, private insurance, or medicare capability of each resident no later than 1 week after admission to the facility and on a periodic basis thereafter, provided, however, that no such assessment is made against a resident's will.

C. 26:2H-49 Assistance to residents in obtaining medically necessary post-discharge care.

3. Each such facility shall also assist its residents in obtaining medically necessary post-discharge care, which shall include, but need not be limited to: home health and health-related services; medical day care services; or residential care services in another nursing facility or other similar licensed facility located in the vicinity of the facility from which discharge is made.

C. 26:2H-50 Health department to monitor implementation of act.

4. The State Department of Health shall monitor the implementation of the provisions of this act and shall, in consultation with the Department of Institutions and Agencies, assist skilled or intermediate care nursing facilities to identify sources of payment and care for residents by maintaining a current inventory of such resources available in the State.

C. 26:2H-51 Act not applicable to certain facilities.

5. Nothing in this act shall be construed to apply to any skilled or intermediate care nursing facility operated by and for those who rely exclusively upon treatment by spiritual means through prayer for healing in accordance with the levels and practices of any well recognized church or religious denomination.

C. 26:2H-52 Rules and regulations.

6. The Commissioner of Health is hereby authorized to adopt reasonable rules and regulations, in accordance with the provisions of the Administrative Procedure Act, P. L. 1968, c. 410 (C. 52:14B–1 et seq.) to carry out its functions and duties under this act and to effectuate its purposes.

7. This act shall take effect 3 months after enactment.

Approved February 23, 1978.

CHAPTER 388

AN ACT to amend "An act concerning traffic regulations, and amending and supplementing chapter 4 of Title 39 of the Revised Statutes and certain other statutes relating thereto," approved April 5, 1951 (P. L. 1951, c. 23).

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

1. Section 17 of P. L. 1951, c. 23 (C. 39:4–14.2) is amended to read as follows:

C. 39:4-14.2 Operation of bicycle upon roadway.

17. Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction; provided, however, that any person may move to the left under any of the following situations:

(a) to make a left turn from a left-turn lane or pocket;

(b) to avoid debris, drains or other hazardous conditions that make it impracticable to ride at the right side of the roadway;

(c) to pass a slower moving vehicle;

(d) to occupy any available lane when traveling at the same speed as other traffic;

(e) to travel no more than two abreast when traffic is not impeded.

Persons riding bicycles upon a roadway may travel no more than two abreast when traffic is not impeded, but otherwise shall ride in single file except on paths or parts of roadways set aside for the exclusive use of bicycles.

Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

2. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 389

AN ACT to amend the "Public Employees' Retirement System Act," approved June 28, 1954 (P. L. 1954, c. 84) as said short title was amended by P. L. 1971, c. 213.

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

1. Section 74 of P. L. 1954, c. 84 (C. 43:15A–74) is amended to read as follows:

C. 43:15A-74 County, board of education and municipal employees; extension of State system; referendum.

74. Except as otherwise provided in the case of public employee veterans or in subsection b. of section 75 of this act, this act shall not become effective in any county, board of education or municipality which has not previously been covered by the former "State Employees' Retirement System" until its governing body shall, by resolution, have directed that the question of adoption by that county, board of education or municipality shall be submitted to the qualified voters thereof at a general election and a majority of the voters voting on the question at such election shall have voted in favor of its adoption. This act shall be effective without referendum in any county, board of education or municipality in which chapter 15 of Title 43 of the Revised Statutes has been adopted. Any employee of any such county, board of education or municipality who prior to July 1, 1955, has filed an application covering service rendered to such county, board of education or municipality prior to the date upon which chapter 15 of Title 43 of the Revised Statutes became effective therein shall be entitled to prior service covering such service.

2. Section 75 of P. L. 1954, c. 84 (C. 43:15A–75) is amended to read as follows:

C. 43:15A-75 Effective date of act; membership; prior service.

75. (a) If this act is so adopted it shall become effective in the county or municipality adopting it on June 30 of the following year. Membership in the Public Employees' Retirement System shall be optional with the employees of the county, board of education or municipality in the service on the day the act so becomes effective or on June 30, 1966, whichever is earlier in such county, board

of education or municipality except in the case of public employee veterans who on such date are members. An employee who elects to become a member within 1 year after this act so takes effect shall be entitled to prior service covering service rendered to the county, board of education or municipality prior to July 1, 1966 or prior to the date this act so becomes effective, whichever is earlier. Membership shall be compulsory for all employees entering the service of the county, board of education or municipality on July 1, 1966 or after the date this act becomes effective, whichever is earlier. Where any such employee entering the service of the county, board of education or municipality after the date this act so becomes effective has had prior service for which evidence satisfactory to the retirement system is presented, as an employee in such county, board of education or municipality before the date upon which this act so becomes effective, or July 1, 1966, whichever is earlier, such employee shall be entitled to prior service covering service rendered to the county, board of education or municipality prior to the date this act so becomes effective, or July 1, 1966, whichever is earlier.

(b) Notwithstanding the provisions of section 74 of this act and subsection (a) of this section, every person, other than a non-veteran elected official, becoming an employee of a county, board of education, municipality or school district after June 30, 1966 who is not eligible to become a member of another retirement system, shall be required to become a member of the Public Employees' Retirement System. Notwithstanding the provisions of section 74 of this act and subsection (a) of this section, membership in the retirement system shall be optional with any elected official who is not a veteran, regardless of the date he assumes office, and with any other person in the employ of any county, board of education, municipality or school district on June 30, 1966, provided such elected official or other person is not then a member and is not required to be a member of the retirement system pursuant to another provision of this act, and provided further that such person is not eligible to be a member of another retirement system. The provisions of this subsection shall not apply to any person whose position is temporary or seasonal, nor to any person in office, position or employment for which the annual salary or remuneration is fixed at less than $500.00, nor to any person whose position is not covered by the old age and survivors' insurance provisions of the Federal Social Security Act. No credit shall be allowed to any person becoming a member of the retirement system

pursuant to this subsection for service rendered to the employer prior to July 1, 1966, until the provisions of section 74 of this act have been complied with, in which event such credit shall be allowed in accordance with the provisions of subsection (a) of this section; except that the governing body of any county, board of education or municipality may, by resolution, consent to the allowance of such credit and file a certified copy of such resolution with the board of trustees of the Public Employees' Retirement System.

3. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 390

AN ACT providing for the establishment of a Graduate Medical Education program.

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

C. 18A:64H-1 Legislature's findings.

1. The Legislature hereby finds and declares that:

a. There is need to establish State support for a system of graduate medical education;

b. There is at present a serious deficiency in the number of practicing primary-care (family practice, general internal medicine, general pediatrics) physicians in certain geographic areas and among certain specialty-care physicians in the State;

c. In recognition of the need to provide educational programs to provide more trained physicians for the State, the State, through the passage of the "Medical and Dental Education Act of 1970," P. L. 1970, c. 102 (C. 18:64G–1 et seq.) has created and supports medical schools under the College of Medicine and Dentistry of New Jersey as a matter of public policy of the State;

d. In recognition of the State's concern with respect to health care needs, the State, through the passage of the "Health Care Facilities Planning Act," P. L. 1971, c. 136 (C. 26:2H–1 et seq.) has mandated health planning, hospital and health related services in all public and private institutions as a matter of public policy;

e. The mechanism to provide programs and facilities for graduate medical education is intimately related to the provision of training programs by private nonprofit and public hospitals throughout the State. Thus, while the methodology for financing undergraduate medical education has been provided, the equally important methodology for financing programs of graduate medical education is lacking;

f. Increasing financial limitations have made it extremely difficult for such private nonprofit and public hospitals to provide educational programs of high quality to attract graduates of the College of Medicine and Dentistry of New Jersey and other American medical schools. New Jersey residents are also forced to seek graduate medical education in out-of-state medical schools, such individuals rarely returning to practice their profession within the State; and

g. Financial aid to private nonprofit and public hospitals providing graduate medical education programs would additionally provide improvement of such institutions as high quality medical education centers and thereby serve to improve the retention rate of physicians within the State, and attract graduate physicians to nationally accredited graduate medical training programs, as well as to the practice of their professions within the communities served by such institutions.

C. 18A:64H-2 Advisory graduate medical education council; establishment; purpose and functions.

2. There is hereby established the Advisory Graduate Medical Education Council of New Jersey, which shall be responsible to the Board of Higher Education. The purpose of this council shall be to make recommendations for the support, through Federal, State and private funds, of graduate medical education programs in private nonprofit and public hospitals in the State, and to make recommendations for the development and implementation of new graduate medical education programs which will meet the needs of the citizens of the State. The functions of the council shall include, but not be limited to:

a. Obtaining and evaluating information concerning the graduate medical manpower needs of the citizens of the State;

b. Recommending standards and criteria for participation by private nonprofit and public hospitals in the State;

c. Reviewing individual institutional applications and recommending awards of support to particular institutions based on

conformance with the identified needs of the citizens of the State and the standards and criteria recommended by the council;

d. Annually reviewing the educational programs provided by participating hospitals;

e. Annually reporting to the Governor and the Education Committees of the New Jersey Legislature on the council's activities pursuant to the provisions of this act.

C. 18A:64H-3 Definitions.

3. As used in this act:

a. "Council" means the Advisory Graduate Medical Education Council of New Jersey.

b. "Chancellor" means the Chancellor of Higher Education.

c. "Graduate medical education" means internship and residency programs fully or provisionally approved by either the Council on Medical Education of the American Medical Association and the appropriate physician specialty board or the Office of Education of the American Osteopathic Association.

d. "Medical" and "physician" refer to doctors of medicine and doctors of osteopathy.

C. 18A:64H-4 Council membership; appointment; terms; vacancies; advisory committees; executive director and employees; compensation.

4. The council shall consist of 14 members, 10 voting members and four nonvoting members; four members of the council shall be appointed by the Governor and 10 shall be ex-officio members. The appointments shall consist of three representatives of the public and one student currently enrolled in a graduate medical training program; the appointed members shall be voting members of the council. The president of the College of Medicine and Dentistry of New Jersey, who shall serve as chairperson; a dean from one of the medical schools of the College of Medicine and Dentistry of New Jersey, to be selected by the president of the College of Medicine and Dentistry of New Jersey; the president of the New Jersey Hospital Association; the president of the Association of Hospital Directors of Medical Education of New Jersey; the president of the New Jersey Association of Osteopathic Physicians and Surgeons; the president of the New Jersey Medical Society or their designated representatives shall be ex officio, voting members of the council. The Chancellor of Higher Education; the State Commissioner of Health; the president of the State Board of Medical Examiners and the Commissioner of the Department of Institutions and Agencies or their designated

representatives shall be ex officio, nonvoting members. The appointed members shall serve for a 3-year term or until a successor is appointed. For those first appointed, two shall be appointed for a 1-year term; one shall be appointed for a 2-year term; and one shall be appointed for a 3-year term. Any vacancies in the voting membership other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. To assist the council in carrying out the intent of this act:

a. The council may appoint advisory committees representative of the medical and health care professions, educators, and students, representatives of medical and health care facilities and consumers. The advisory committees shall provide advice and assistance to the council for the council's performance of its designated functions.

b. The council may employ an executive director and additional staff to provide expertise in the gathering and analysis of data and administration. The executive director shall have the right to speak on all matters at meetings of the council but shall have no vote. The council and the advisory committees shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties.

C. 18A:64H-5 Powers and duties of board of higher education.

5. The board of Higher Education, upon the advice of the Advisory Council, with the concurrence of the Commissioner of Health, shall:

a. Plan for the development and implementation of graduate medical education programs in the State;

b. Set standards for qualification for participation by public and private nonprofit hospitals in the State;

c. Establish standards for the use and expenditures of funds appropriated pursuant to this act;

d. Determine the number and type of graduate medical education programs which should be supported in particular hospitals in relation to total State needs.

C. 18A:64H-6 Standards established for qualification for participation by private nonprofit and public hospitals.

6. The standards established for qualification for participation by private nonprofit and public hospitals in the State under the provisions of the act, shall include, but not be limited to the following:

a. An educational plan and a training schedule by each hospital for each program for which it desires assistance under this act at the time of its application to the council, including definition of its affiliation relationship with a medical school.

b. The educational program of the hospital shall be determined to be one that will provide a high degree of academic excellence. The graduate medical training programs shall be approved fully or provisionally by either the Council on Medical Education of the American Medical Association and the appropriate physician specialty board or the Office of Education of the American Osteopathic Association.

c. The chief executive officer of each hospital or his designee shall be charged with the responsibility for coordinating and implementing the educational programs of the hospital with the council. One person whose qualifications shall be subject to the review of the council, and who must qualify for a medical school faculty appointment, shall be charged with directing each educational program in order for such program to receive funds provided by this act.

C. 18A:64H-7 Standards for expenditure of funds.

7. The standards for the expenditure of funds by private nonprofit and public hospitals pursuant to this act shall include, but shall not be limited to:

a. The relationship of the program to the graduate and undergraduate teaching programs of the College of Medicine and Dentistry of New Jersey and other United States accredited medical and osteopathic schools;

b. The hospital's need for added support for full-time hospital physicians in charge of services or departments maintaining approved graduate medical education programs;

c. The need for support of costs related to the training of graduate medical students;

d. The need for support of costs related to salaries of students enrolled in graduate medical training programs;

e. The need for support of traditional medical and audiovisual libraries necessary for graduate training programs at the hospital;

f. The need to encourage graduate training in those specialties demonstrated to have critical manpower shortages relative to the needs of New Jersey (for example, the current shortage of family physicians).

C. 18A:64H-8 Rules.

8. The Board of Higher Education shall promulgate such rules as are necessary to carry out the purpose of this act.

9. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 391

AN ACT to amend "An act relating to those who act or offer to act for a consideration as intermediaries between debtors and their creditors, and prescribing the consequences for the violation thereof," approved January 11, 1961 (P. L. 1960, c. 177).

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

1. Section 4 of P. L. 1960, c. 177 (C. 2A:99A–4) is amended to read as follows:

C. 2A:99A-4 Persons not deemed debt adjusters.

4. The following persons shall not be deemed debt adjusters for the purposes of this act: any attorney-at-law of this State; any nonprofit social service agency; any person who is a regular, full-time employee of a debtor, and who acts as an adjuster of his employer's debts; any person acting pursuant to any order or judgment of court, or pursuant to authority conferred by any law of this State or of the United States; any person who is a creditor of the debtor, or an agent of one or more creditors of the debtor, and whose services in adjusting the debtor's debts are rendered without cost to the debtor; and any person who, at the request of a debtor, arranges for or makes a loan to the debtor, and who, at the authorization of the debtor, acts as an adjuster of the debtor's debts in the disbursement of the proceeds of the loan, without compensation for the services rendered in adjusting such debts.

2. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 392

AN ACT to amend the "Optional Municipal Charter Law," approved June 8, 1950 (P. L. 1950, c. 210).

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

1. Section 17–58 of P. L. 1950, c. 210 (C. 40:69A–207) is amended to read as follows:

C. 40:69A-207 Existing offices abolished; effect on employees under civil service tenure.

17–58. At 12 o'clock noon on the effective date of an optional plan adopted pursuant to this act, all offices then existing in such municipality shall be abolished and the terms of all elected and appointed officers shall immediately cease and determine; provided, that nothing in this section shall be construed to abolish the office or terminate the term of office of any member of the board of education, board of fire commissioners of a township fire district, trustees of the free public library, commissioners of a local housing authority, members of a municipal shade tree commission, board of managers of a municipal hospital, municipal magistrates or of any official or employee now protected by any tenure of office law, or of any policeman, fireman, teacher, principal or school superintendent whether or not protected by a tenure of office law. If the municipality is operating under the provisions of Title 11 of the Revised Statutes (Civil Service) at the time of the adoption of an optional plan under this act, nothing herein contained shall affect the tenure of office of any person holding any position or office coming within the provisions of said Title 11 as it applies to said officers and employees. If the municipal clerk has, prior to the effective date of the optional plan, acquired a protected tenure of office pursuant to law, he shall become the first municipal clerk under the optional plan.

Provision for officers and for the organization and administration of the municipal government under the optional plan may be made by resolution pending the adoption of ordinances, but any such resolution shall expire not later than 30 days after the effective date of the optional plan.

2. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 393

AN ACT to amend "The New Jersey Economic Development Authority Act," approved August 7, 1974 (P. L. 1974, c. 80).

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

1. Section 2 of P. L. 1974, c. 80 (C. 34:1B–2) is amended to read as follows:

C. 34:1B-2 Legislature's findings.

2. The Legislature hereby finds and determines that:

a. Department of Labor and Industry statistics of recent years indicate a continuing decline in manufacturing employment within the State which is a contributing factor to the drastic unemployment existing within the State, which far exceeds the national average, thus adversely affecting the economy of the State and the prosperity, safety, health and general welfare of its inhabitants and their standard of living; that there is an urgent need to protect and enhance the quality of the natural environment and to reduce, abate and prevent environmental pollution derived from the operation of industry, utilities and commerce within the State; and that the availability of financial assistance and suitable facilities are important inducements to new and varied employment promoting enterprises to locate in the State, to existing enterprises to remain and expand in the State, and to industry, utilities and commerce to reduce, abate and prevent environmental pollution.

b. The provision of buildings, structures and other facilities to increase opportunity for employment in manufacturing, industrial, commercial, recreational, retail and service enterprises in the State is in the public interest and it is a public purpose for the State to induce and to accelerate opportunity for employment in such enterprises.

c. In order to aid in supplying these needs and to assist in the immediate reduction of unemployment and to provide sufficient employment for the citizens of the State in the future, it is necessary and in the public interest to aid and encourage the immediate commencement of new construction projects of all types, to induce and facilitate the acquisition and installation at an accelerated rate of such devices, equipment and facilities as may be required

to reduce, abate and prevent environmental pollution by industry, utilities and commerce.

d. The availability of financial assistance by the State will reduce present unemployment and improve future employment opportunities by encouraging and inducing the undertaking of such construction projects, the location, retaining or expanding of employment promoting enterprises within the State, and the accelerated acquisition and installation of pollution control devices, equipment and facilities.

e. In many municipalities in our State substantial and persistent unemployment exists; and, many existing residential, industrial, commercial and manufacturing facilities within such municipalities are either obsolete, inefficient, dilapidated or are located without regard to the master plans of such municipalities; and, the obsolescence and abandonment of existing facilities will increase with further technological advances, the provision of modern, efficient facilities in other states and the difficulty which many municipalities have in attracting new facilities; and, that many existing and planned employment promoting facilities are far from or not easily accessible to the places of residence of substantial numbers of unemployed and underemployed persons.

f. By virtue of their architectural and cultural heritage, their positions as principal centers of communication and transportation and their concentration of productive and energy efficient facilities, many municipalities are capable of ameliorating the conditions of deterioration which impede sound community growth and development; and, that building a proper balance of housing, industrial and commercial facilities and increasing the attractiveness of such municipalities to persons of all income levels is essential to restoring such municipalities as desirable places to live, work, shop and enjoy life's amenities; that the accomplishment of these objectives is beyond remedy solely by the regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the powers provided herein, and that the exercise of the powers herein provided is critical to continuing the process of revitalizing such municipalities and will serve an urgent public use and purpose.

The Legislature further determines that in order to aid in remedying the aforesaid conditions and to further and implement the purposes of this act, that there shall be created a body politic and corporate having the powers, duties and functions provided in this act and that the authority and powers conferred under this

act and the expenditure of moneys pursuant thereto constitutes a serving of a valid public purpose and that the enactment of the provisions hereinafter set forth is in the public interest and for the public benefit and good and is hereby so declared to be as a matter of express legislative determination.

2. Section 3 of P. L. 1974, c. 80 (C. 34:1B–3) is amended to read as follows:

C. 34:1B-3 Definitions.

3. As used in this act, unless a different meaning clearly appears from the context:

a. "Authority" means the New Jersey Economic Development Authority, created by section 4 of this act.

b. "Bonds" means bonds or other obligations issued by the Authority pursuant to this act.

c. "Cost" means the cost of the acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility including water transmission facilities, or other improvement; the cost of machinery and equipment, the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of pollution control devices, equipment or facilities; the cost of lands, rights-in-lands, easements, privileges, agreements, franchises, utility extensions, disposal facilities, access roads and site development deemed by the authority to be necessary or useful and convenient for any project or in connection therewith, discount on bonds, costs of issuance of bonds, engineering and inspection costs, cost of financial, legal, professional and other estimates and advice, organization, administrative, insurance, operating and other expenses of the authority or any person prior to and during any acquisition or construction, and all such expenses as may be necessary or incident to the financing, acquisition, construction or completion of any project or part thereof, and also such provision for reserves for payment or security of principal of or interest on bonds during or after such acquisition or construction as the authority may determine.

d. "County" means any county of any class.

e. "Development property" means any real or personal property interest therein, improvements thereon, appurtenances thereto and air or other rights in connection therewith, including land, buildings, plants, structures, systems, works, machinery and equipment acquired or to be acquired by purchase, gift or otherwise by the authority within an urban growth zone.

f. "Person" means any person, including individuals, firms, partnerships, associations, societies, trusts, public or private corporations, or other legal entities, including public or governmental bodies as well as natural persons. "Person" shall include the plural as well as the singular.

g. "Pollution control project" means any device, equipment, improvement, structure or facility or any land and any building, structure, facility or other improvement thereon, or any combination thereof, whether or not in existence or under construction, or the refinancing thereof in order to facilitate improvements or additions thereto or upgrading thereof, and all real and personal property deemed necessary thereto, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution, including, but not limited to, any air pollution control facility, noise abatement facility, water management facility, thermal pollution control facility, radiation contamination control facility, waste water collection system, waste water treatment works, sewage treatment works system, sewage treatment system or solid waste disposal facility or site; provided that the authority shall have received from the Commissioner of the State Department of Environmental Protection or his duly authorized representative, a certificate stating the opinion that, based upon information, facts and circumstances available to the State Department of Environmental Protection and any other pertinent data, (1) said pollution control facilities do not conflict with, overlap or duplicate any other planned or existing pollution control facilities undertaken or planned by another public agency or authority within any political subdivision, and (2) that such facilities, as designed, will be a pollution control project as defined in this act and are in furtherance of the purpose of abating or controlling pollution.

h. "Project" means (1) (a) acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility including water transmission facilities or other improvement, whether or not in existence or under construction, (b) purchase and installation of equipment and machinery, (c) acquisition and improvement of real estate and the extension or provision of utilities, access roads and other appurtenant facilities, all of which are to be used or occupied by any person in any enterprise promoting employment, either for the manufacturing, processing or assembly of materials or products, or for research or office purposes, including, but not limited to,

medical and other professional facilities, or for industrial, recreational, hotel or motel facilities, public utility and warehousing, or for commercial and service purposes, including, but not limited to, retail outlets, retail shopping centers, restaurant and retail food outlets, and any and all other employment promoting enterprises, including, but not limited to motion picture and television studios and facilities and (d) acquisition of an equity interest in, including capital stock of, any corporation; or any combination of the above, which the authority determines will (i) tend to maintain or provide gainful employment opportunities within and for the people of the State, or (ii) aid, assist and encourage the economic development or redevelopment of any political subdivision of the State, or (iii) maintain or increase the tax base of the State or of any political subdivision of the State, or (iv) maintain or diversify and expand employment promoting enterprises within the State; and (2) the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of a pollution control project which the authority determines will tend to reduce, abate or prevent environmental pollution within the State. Project may also include (i) reimbursement to any person for costs in connection with any project, or the refinancing of any project or portion thereof, if determined by the authority as necessary and in the public interest to maintain employment and the tax base of any political subdivision and will facilitate improvements thereto or the completion thereof, and (ii) development property and any construction, reconstruction, improvement, alteration, equipment or maintenance or repair, or planning and designing in connection therewith; but shall not include raw materials, work in progress or stock in trade.

i. "Revenues" means receipts, fees, rentals, or other payments to be received on account of lease, mortgage, conditional sale, or sale and payments and any other income derived from the lease, sale or other disposition of a project, moneys in such reserve and insurance funds or accounts or other funds and accounts and income from the investment thereof, established in connection with the issuance of bonds or notes for a project or projects, and fees, charges or other moneys to be received by the authority in respect of projects and contracts with persons.

j. "Resolution" means any resolution adopted or trust agreement executed by the authority pursuant to which bonds of the authority are authorized to be issued.

k. "Urban growth zone" means any area within a municipality receiving State aid pursuant to the provisions of P. L. 1971, c. 64, or a municipality certified by the Commissioner of Community Affairs to qualify under such law in every respect except population, which area has been so designated pursuant to an ordinance of the governing body of such municipality.

3. Section 4 of P. L. 1974, c. 80 (C. 34:1B–4) is amended to read as follows:

C. 34:1B-4 New Jersey economic development authority; establishment; membership; vacancies; removal; compensation; meetings; minutes; annual report; conflict of interest.

4. a. There is hereby established in, but not of, the Department of Labor and Industry a public body corporate and politic, with corporate succession, to be known as the "New Jersey Economic Development Authority." The authority is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

b. The authority shall consist of the Commissioner of Labor and Industry, the Commissioner of Environmental Protection, the Commissioner of Community Affairs, and the State Treasurer, who shall be members ex officio, and three members appointed by the Governor with the advice and consent of the Senate for terms of 3 years, provided that the members of the authority (other than the ex-officio members) first appointed by the Governor shall serve for terms of 1 year, 2 years, and 3 years respectively. Each member shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. In the event the authority shall by resolution determine to accept the declaration of an urban growth zone by any municipality, the mayor or other chief executive officer of such municipality shall ex officio be a member of the authority for the purpose of participating and voting on all matters pertaining to such urban growth zone.

c. Each appointed member may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of such hearing. Each member before entering upon his duties shall take and subscribe

an oath to perform the duties of his office faithfully, impartially and justly to the best of his ability. A record of such oaths shall be filed in the office of the Secretary of State.

d. The Commissioner of Labor and Industry shall be the chairman of the authority. The members of the authority shall elect from their remaining number a vice chairman and a treasurer thereof. The authority shall employ an executive director who shall be its secretary and chief executive officer. The powers of the authority shall be vested in the members thereof in office from time to time and four 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 four members of the authority. No vacancy in the membership of the authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the authority.

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

f. The members of the authority shall serve without compensation, but the authority shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no officer or employee of the State shall be deemed to have forfeited or shall forfeit his office or employment or any benefits or emoluments thereof by reason of his acceptance of the office of ex-officio member of the authority or his services therein.

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

h. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations outstanding or that provision has been made for the payment or retirement

of such debts or obligations. Upon any such dissolution of the authority, all property, funds and assets thereof shall be vested in the State.

i. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after such copy of the minutes shall have been so delivered unless during such 10-day period the Governor shall approve the same in which case such action shall become effective upon such approval. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and void and of no effect. The powers conferred in this paragraph (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 paragraph (i) shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or notes or for the benefit, protection or security of the holders thereof.

j. On or before March 31 in each year, the authority shall make an annual report of its activities for the preceding calendar year to the Governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and cause a copy thereof to be filed with the Secretary of State and the Comptroller of the Treasury.

k. The Comptroller of the Treasury and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts, books and records of the authority, including its receipts, disbursements, contracts, sinking funds, investments and any other matters relating thereto and to its financial standing.

l. No member, officer, employee or agent of the authority shall be interested, either directly or indirectly, in any project or in

any contract, sale, purchase, lease or transfer of real or personal property to which the authority is a party.

4. Section 5 of P. L. 1974, c. 80 (C. 34:1B–5) is amended to read as follows:

C. 34:1B-5 Powers of authority.

5. The authority shall have the following powers:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business;

b. To adopt and have a seal and to alter the same at pleasure;

c. To sue and be sued;

d. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and such manner as it may deem proper, or by the exercise of the power of eminent domain in the manner provided by the Eminent Domain Act of 1971, P. L. 1971, c. 361 (C. 20:3–1 et seq.), any lands or interests therein or other property which it may determine is reasonably necessary for any project; provided, however, that the authority shall not take by exercise of the power of eminent domain any real property except upon consent thereto given by resolution of the governing body of the municipality in which such real property is located; and provided further that the authority shall be limited in its exercise of the power of eminent domain to municipalities receiving State aid under the provisions of P. L. 1971, c. 64, or to municipalities which had a population in 1970 in excess of 10,000;

e. To enter into contracts with a person upon such terms and conditions as the authority shall determine to be reasonable, including but not limited to reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of the project and to pay or compromise any claims arising therefrom;

f. To establish and maintain reserve and insurance funds with respect to the financing of the project;

g. To sell, convey or lease to any person all or any portion of a project, for such consideration and upon such terms as the authority may determine to be reasonable;

h. To mortgage, pledge or assign or otherwise encumber all or any portion of a project or revenues whenever it shall find such action to be in furtherance of the purposes of this act;

i. To grant options to purchase or renew a lease for any of its projects on such terms as the authority may determine to be reasonable;

j. 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;

k. In connection with any application for assistance under this act or commitments therefor, to require and collect such fees and charges as the authority shall determine to be reasonable;

l. To adopt, amend and repeal regulations to carry out the provisions of this act;

m. To acquire, purchase, manage and operate, hold and dispose of real and personal property or interests therein, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties;

n. To purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness;

o. To purchase, acquire, attach, seize, accept or take title to any project by conveyance or, by foreclosure, and sell, lease, manage or operate any project for a use specified in this act;

p. To borrow money and to issue bonds of the authority and to provide for the rights of the holders thereof as provided in this act;

q. To extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of a project which credits or loans may be secured by loan and security agreements, mortgages, leases, and any other instruments, upon such terms and conditions as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, such provisions for the construction, use, operation and maintenance and financing of a project as the authority may deem necessary or desirable;

r. To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority to carry out the purposes of the act, and to fix and pay their compensation from funds available to the authority therefor, all without regard to the provisions of Title 11, Civil Service, of the Revised Statutes;

s. To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contracts with any person;

t. 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;

u. To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in the act;

v. To construct, reconstruct, rehabilitate, improve, alter, equip, maintain or repair or provide for the construction, reconstruction, improvement, alteration, equipment or maintenance or repair of any development property and lot, award and enter into construction contracts, purchase orders and other contracts with respect thereto upon such terms and conditions as the authority shall determine to be reasonable, including but not limited to reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of any such development property and the settlement of any claims arising therefrom and the establishment and maintenance of reserve funds with respect to the financing of such development property; and

w. When authorized by the governing body of a municipality exercising jurisdiction over an urban growth zone, to construct, cause to be constructed or to provide financial assistance to projects in an urban growth zone which shall be exempt from the terms and requirements of the land use ordinances and regulations, including but not limited to the master plan and zoning ordinances, of such municipality.

5. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 394

AN ACT concerning the annual stated meetings of boards of chosen freeholders, and amending R. S. 40:20–75.

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

1. R. S. 40:20–75 is amended to read as follows:

Annual meetings.

40:20–75. The stated annual meeting of the boards of chosen freeholders shall be held at the place of holding the County Court in and for the respective counties at 12 noon on either the first or second day of January or on some other hour on any day during the first week in January, annually, as the board, by resolution passed before said meeting, may determine. If the date so fixed shall fall upon a Sunday the meeting shall be held the following day, unless said resolution authorizes the meeting to be held on a Sunday.

2. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 395

AN ACT concerning enactment of certain municipal ordinances and supplementing chapter 49 of Title 40 of the Revised Statutes.

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

C. 40:49-2.1 Land use ordinances; publication requirements.

1. In the case of any ordinance adopted pursuant to the "Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D–1 et seq.), including any amendments or supplements thereto, or revisions or codifications thereof, which is in length, six or more octavo pages of ordinary print, the governing body of any municipality may, notwithstanding the provisions of R. S. 40:49–2, satisfy the newspaper publication requirements for the introduction and passage of such ordinance in the following manner:

a. The publication of a notice citing such proposed ordinance by title, giving a brief summary of the main objectives or provisions of the ordinance, stating that copies are on file for public examination and acquisition at the office of the municipal clerk, and setting forth the time and place for the further consideration of the proposed ordinance;

b. The placing on file, in the office of the clerk, three copies of the proposed ordinance, which copies shall be available for public inspection until final action is taken on said ordinance; and

c. The publication or arranging for the publication of the proposed ordinance in pamphlet or other similar form, which may be

sold by the municipality at a price not to exceed the cost of publication and distribution.

If any amendment be adopted to any such proposed ordinance substantially altering the substance of the proposed ordinance, there shall be caused to be published a notice of the title of the ordinance, the introduction and time and place that the amended ordinance will be further considered and a summary of the objectives or provisions of the amendment or amendments, which notice shall be published at least 2 days prior to the time so fixed therefor in accordance with subsection c. of R. S. 40:49–2. Copies of the amended ordinance shall be on file and available, for public examination and duplication, in the office of the municipal clerk, until final action is taken on said ordinance. If said ordinance is again amended, the same publication requirements herein set forth for amended ordinances shall be followed.

Upon passage of any such ordinance, notice of passage or approval shall be published in accordance with subsection d. of R. S. 40:49–2.

2. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 396

AN ACT to amend and supplement the "Local Fiscal Affairs Law" being chapter 5 of Title 40A of the New Jersey Statutes, revising parts of the statutory law, and repealing certain sections of Title 40 of the Revised Statutes.

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

1. N. J. S. 40A:5–4 is amended to read as follows:

Annual audit required.

40A:5–4. Annual audit required. The governing body of every local unit shall cause an annual audit of its books, accounts and financial transactions to be made and completed within 5 months after the close of its fiscal year and for that purpose shall employ a registered municipal accountant of New Jersey or may enter into an agreement with the director for an annual audit to be made

by qualified employees of the Bureau of Financial Regulation and Assistance in the Department of the Treasury, and the local unit shall pay to the director, for deposit into the State Treasury, a fee for such audit based on the time spent therefor, which fee shall be at the established rate.

2. N. J. S. 40A:5–12 is amended to read as follows:

Annual financial statement and reports of local unit.

40A:5–12. Annual financial statement and reports of local unit. The chief financial officer of each local unit shall file annually with the director a verified statement of the financial condition of the local unit as of the close of the fiscal year. Such statement shall be filed, upon forms furnished and prescribed by the director, not later than January 26 in the case of a county and not later than February 10 in the case of a municipality after the close of the fiscal year.

If the official charged with the responsibility of filing shall fail to file such statement within 10 days after the time fixed for filing the same, he shall be subject to a penalty of $5.00 for each day of neglect to file the same, to be recovered in a summary proceeding against such official instituted and prosecuted under the Penalty Enforcement Law (N. J. S. 2A:58–1 et seq.).

3. N. J. S. 40A:5–17 is amended to read as follows:

Approval and payment of claims and required general books of account.

40A:5–17. Approval and payment of claims and required general books of account. a. Approval of claims.

The governing body shall approve or disapprove all claims. Claims shall be approved or disapproved in the manner prescribed by rules made and promulgated by the bureau unless the governing body adopts an ordinance or resolution, as may be appropriate, in the case of a county, or an ordinance, in the case of a municipality, including the following provisions:

(1) Designating an approval officer with the title of certifying and approval officer;

(2) Prescribing the duties of the approval officer including the making of certifications required by 40A:5–16b, ascertaining the existence of proper and sufficient appropriations for the payments to be made and determining that there is legal authority for the payments, evidenced by action of a purchasing department or agent or officer in respect to the goods or services ordered and the incurring of the expense therefor;

(3) Prescribing the procedure for approving and certifying to the proper officer claims for payments and drawing checks therefor;

(4) Prescribing the procedure for certifying approved claims to the governing body and regulating its action of approval or disapproval thereon.

b. Payment of claims. A resolution or an ordinance adopted pursuant to this section may also provide a method of disbursing moneys or payment of claims approved but if it does not so provide the method shall be as follows:

(1) In the case of a county organized pursuant to the provisions of the Optional County Charter Law (P. L. 1972, c. 154; C. 40:41A–1 et seq.), by check issued upon the requisition of and signed by the chief executive officer and countersigned by the treasurer, and in all other counties by check issued upon requisition of the clerk of the board of chosen freeholders, signed by the county treasurer and countersigned by such other officer or officers as are designated by ordinance or resolution of the governing body;

(2) In the case of a municipality, by check drawn on the municipality, signed by the mayor or other chief executive officer and the municipal clerk and countersigned by such other officer or officers as are designated by ordinance.

c. Required general books of account. The bureau shall prescribe the kind and manner of keeping of general books of account for the financial officers of the local units and said officers shall be required to keep and maintain said books.

4. N. J. S. 40A:5–36 is amended to read as follows:

Protection to be afforded by bond.

40A:5–36. Protection to be afforded by bond. Every bond given by a municipal court judge or clerk of a municipal court as hereinafter provided shall be for the protection of the State, the county and the municipality or, in the case of an intermunicipal court, the municipalities, and also for the protection of defendants, litigants, bondsmen and all other persons in interest.

5. N. J. S. 40A:5–38 is amended to read as follows:

Rules and regulations.

40A:5–38. Rules and regulations. The Local Finance Board may prescribe rules and regulations pertaining to the bonds of municipal court judges and municipal court clerks consistent with the rules of administration applicable to the municipal courts. Notwithstanding any other provision of law, the Local Finance Board shall,

in accordance with a classification system established by said board, determine and fix the minimum amount of any official bond which may be required of a municipal court judge or clerk of a municipal court.

6. N. J. S. 40A:5–39 is amended to read as follows:

Fixing of bond in excess of minimum amount.

40A:5–39. Fixing of bond in excess of minimum amount. The governing body of any municipality authorized by law to fix the amount of any bond given by a municipal court judge or clerk of a municipal court may fix such amount in excess of the minimum prescribed by the local finance board.

7. N. J. S. 40A:5–42 is amended to read as follows:

Purchase and retirement of outstanding bonds; procedure; duties of Local Finance Board.

40A:5–42. Purchase and retirement of outstanding bonds; procedure; duties of Local Finance Board. Any local unit, by resolution adopted by vote of at least two-thirds of the full membership of the governing body, may at any time appropriate and apply any unappropriated funds to the purchase and retirement of any of its then outstanding bonds, notes or other obligations. The purchase price may be the face value, or may be below or above the face value of such bonds, notes or other obligations. Any such proposed purchase shall be subject to the following provisions:

a. Before adoption of the resolution, the governing body shall cause satisfactory proof to be filed with the bureau that such funds then are, or within a reasonable time will be, available.

b. Before contracting to purchase any bonds, notes or other obligations at a price above their face value, the governing body shall submit such resolution to the said bureau for approval by the Local Finance Board. Before taking definite action, the said Local Finance Board may require the submission of additional information and may require that the governing body of the local unit shall call for public tenders of bonds, notes or other obligations on such notice and subject to such rules as the board may prescribe. On receipt of such tenders, the governing body shall report them to the said Local Finance Board together with a further proposed resolution for approval by that board.

In approving or disapproving any proposed purchase of bonds, notes or other obligations, the said Local Finance Board shall find and determine whether such appropriation of available funds is in the interest of the local unit, having regard for (1) the prospec-

tive need of funds for other purposes, (2) reasonableness of the price proposed to be paid, (3) any saving of interest to result from retirement of the bonds, notes or other obligations at the price proposed to be paid, (4) the equality and reasonableness of the debt service on obligations which will remain outstanding, and (5) fairness to the holders of other obligations.

After purchase of any bonds, notes or other obligations, satisfactory proof of cancellation of the bonds, notes or other obligations and of any coupons thereto annexed shall forthwith be filed with the bureau by the chief financial officer of the local unit.

Any local unit, by resolution adopted by vote of at least two-thirds of the full membership of the governing body may at any time appropriate to and pay into any sinking fund maintained by such local unit any unappropriated funds; provided, a certified copy of such resolution shall be submitted to the Local Finance Board and the Local Finance Board, by resolution, shall determine that it is satisfied by proof submitted to it that such funds then are, or within a reasonable time will be available, and shall consent to such appropriation.

C. 40A:5-15.1 Securities which may be purchased by local units.

8. (New section) Securities which may be purchased by local units. When authorized by resolution adopted by a majority vote of all its members, the governing body of any local unit may use moneys which may be in hand for the purchase of the following types of securities which, if suitable for registry, may be registered in the name of the local unit:

a. Bonds or other obligations of the United States of America or obligations guaranteed by the United States of America;

b. Bonds of any Federal Intermediate Credit Bank, Federal Home Loan Bank, Federal Land Bank, Federal National Mortgage Associates or of any United States Bank for Cooperatives which have a maturity date not greater than 12 months from the date of purchase; or

c. Bonds or other obligations of the local unit or bonds or other obligations of school districts of which the local unit is a part or within which the school district is located;

d. Bonds or other obligations, having a maturity date not more than 12 months from the date of purchase, approved by the Division of Investment of the Department of Treasury for investment by local units.

Source: C. 40:5–7.1 (1953, c. 328, s. 1 amended 1953, c. 452, s. 2; 1959, c. 160, s. 2).

C. 40A:5-15.2 Record and report of securities received.

9. (New section) Record and report of securities received. When said securities are received by the local unit the chief financial officer shall duly record the receiving thereof in an appropriate manner and at the next regular or special meeting after such receipt he shall transmit a written report to the governing body setting forth the amount of securities so received, the series, date, numbers and interest periods, if any, thereof and at the same time, transmit said securities to such depository, person or persons as the governing body shall direct for safekeeping. Such written report shall be recorded in the minutes at such meeting, and a certified copy of such minute record shall forthwith be filed with the bureau.

Source: C. 40:5–7.2 (1953, c. 328, s. 2).

C. 40A:5-15.3 Securities of local unit purchased by it not to be canceled; sale thereafter.

10. (New section) Securities of local unit purchased by it not to be canceled; sale thereafter. Securities of a local unit purchased by it shall not be canceled but may be sold as and when directed by resolution adopted by a majority vote of all the members of the governing body.

Source: C. 40:5–7.3 (1953, c. 328, s. 3).

Repealer.

11. The following acts and parts of acts together with all amendments and supplements thereto are repealed:

Sections 40:4–15, 40:5–6, 40:5–17, 40:48–10 to 40:48–16, inclusive of the Revised Statutes;

N. J. S. 40A:5–40;

P. L. 1953, c. 328 (C. 40:5–7.1 to 40:5–7.3 inclusive);

P. L. 1955, c. 239 (C. 40:5–2.12 to C. 40:5–2.14 inclusive).

12. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 397

AN ACT concerning the taxation of certain public utilities and amending section 2 of P. L. 1940, c. 5.

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

1. Section 2 of P. L. 1940, c. 5 (C. 54:30A–50) is amended to read as follows:

C. 54:30A-50 Definitions.

2. Definitions: As used in this act—unless the context otherwise requires:

(a) "Taxpayer" means any corporation subject to taxation under the provisions of this act.

(b) "Real estate" means lands and buildings, but it does not include railways, tracks, ties, lines, wires, cables, poles, pipes, conduits, bridges, viaducts, dams and reservoirs (except that the lands upon which dams and reservoirs are situated are real estate), machinery, apparatus and equipment, notwithstanding any attachment thereof to lands or buildings.

(c) "Gross receipts" means all receipts from the taxpayer's business over, in, through or from the whole of its lines or mains but does not include any sum or sums of money received by the taxpayer in payment for gas or electrical energy or water sold and furnished to another public utility which is also subject to the payment of a tax based upon its gross receipts, nor in the case of a street railway or traction corporation the receipts from the operation of autobuses or vehicles of the character described in Title 48, chapter 15, section 41 to the end of the chapter, of the Revised Statutes (Revised Statutes, section 48:15–41, et seq.), nor in the case of a sewerage corporation an amount equal to any sum or sums of money payable by such sewerage corporation to any board, commission, department, branch, agency or authority of the State or of any county or municipality, for the treatment, purification or disposal of sewage or other wastes.

(d) "Scheduled property" means only those classes or types of property of a taxpayer set forth in section 10 of this act and which are to be used in computing the apportionment value as herein defined.

(e) "Unit value" means the value set forth in section 10 of this act to be uniformly applied to each of the several classes or types of scheduled property in computing the apportionment value.

(f) "Apportionment value" or "apportionment valuation" means the result obtained by multiplying the quantities of each class or type of scheduled property of a taxpayer by the applicable unit value, and the addition of such results.

(g) "Public street, highway, road or other public place," includes any street, highway, road or other public place which is open and used by the public, even though the same has not been formally accepted as a public street, highway, road, or other public place.

(h) "Service connections" means the wires or pipes connecting the building or place where the service or commodity supplied by the taxpayer is used or delivered, or is made available for use or delivery, with a supply line or supply main in the street, highway, road, or other public place, or with such supply line or supply main on private property.

(i) "State Tax Commissioner" or "director" means the Director of the Division of Taxation in the Department of the Treasury.

2. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 398

AN ACT to amend "An act concerning motor vehicles, and supplementing chapter 3 of Title 39 of the Revised Statutes," passed June 17, 1968 (P. L. 1968, c. 247).

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

1. Section 1 of P. L. 1968, c. 247 (C. 39:3–27.5) is amended to read as follows:

C. 39:3-27.5 Registration plates with amateur radio call letters.

1. The Director of the Division of Motor Vehicles shall cause to be issued to applicants who hold amateur radio licenses issued by the Federal Communications Commission, registration plates for motor vehicles bearing the amateur radio call letters of the respective applicants. Where such call letters consist of less than six

letters, the director, upon request, shall cause to be issued duplicate plates, with such marks as the director may deem appropriate to distinguish them from the original plates, for any additional motor vehicle which an applicant may register.

2. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 399

AN ACT relating to the development of public and nonprofit museums and museum collections 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. 18A:73-44 Short title.

1. This act shall be known as and may be cited as the "New Jersey Educational Research and Museum Development Act."

C. 18A:73-45 Legislature's findings.

2. The Legislature hereby finds and determines that it is in the interest of the citizens of the State of New Jersey to encourage the development of public and nonprofit museums and the loan and contribution of museum collections within the State to help preserve the heritage of the people of this State as well as of this nation and the world and that worthwhile endeavors of such sort, including related activities such as educational and scientific research, library, workshops, museum shops, data collection and museum promotion, should be encouraged. The Legislature further finds and determines that the Department of Education and the Division of the State Museum should be authorized to cooperate and assist, within the limits of available appropriations and resources, public and nonprofit groups in the pursuit of this objective.

C. 18A:73-46 Public and nonprofit museums; encouragement of development.

3. The Department of Education and the commissioner thereof acting through the agencies of said department including the Divisions of the State Museum and Research, Planning and Evaluation are hereby authorized to encourage the development of public and nonprofit museums, including museum buildings, and museum

collections and activities related thereto including, but not limited to, scientific and educational research, library, workshops, museum shops and museum promotion.

C. 18A:73-47 Agreements providing cooperation and assistance.

4. In furtherance of the objectives of this act, the commissioner or, with his approval, the Director of the State Museum may enter into agreements providing for the cooperation and assistance of the department and the division with any public or nonprofit agency, foundation or organization engaging in some or all of the activities set forth in section 3 of this act. Such cooperation and assistance may include financial asistance, provided, however, that any financial assistance shall be only to the extent that appropriations or other available resources will permit.

If the department shall determine that the acquisition of any museum or museum activity is in the public interest it may enter into agreements for such purposes. Any agreements which would obligate the State or any of its agencies to assume financial responsibility for the operation or the acquisition of any museum or museum collection or other activities shall be approved in writing by the commissioner and the Governor.

C. 18A:73-48 State Museum defined.

5. For the purposes of this act and the statutes herein supplemented, the State Museum shall consist of the existing State Museum and such other museums and museum collections as shall be approved and acquired pursuant to the provisions of this act.

6. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 400

AN ACT concerning mutual aid and assistance among municipalities for fire and police protection in certain instances, amending N. J. S. 40A:14–26, N. J. S. 40A:14–156 and P. L. 1976, c. 45, s. 4, and repealing N. J. S. 40A:14–66.

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

1. N. J. S. 40A:14–26 is amended to read as follows:

Emergency assistance from other municipality for police and fire protection; payment for assistance; casualty or death; rights.

40A:14–26. In the event of an emergency the chief or head of any municipal fire department and force, volunteer fire company, municipal police department and force or park police department and force, or first aid or ambulance squad, corps or company, or the mayor or chief executive officer of any municipality may request from the chief or the head of the fire department and force or volunteer fire company of any other municipality assistance to protect life and property outside the normal territorial jurisdiction of the department or company to which such request is directed.

The chief or head of the fire department and force, or volunteer fire company of any contiguous municipality, to whom such a request for assistance is made shall, except as hereinafter otherwise set forth, provide such personnel and equipment as requested to the extent possible without endangering person or property within the municipality rendering such assistance.

The members of any department and force or company providing assistance hereunder shall have, while so acting, the same powers and authority as have the members of the fire department and force or volunteer fire company of the municipality, or other territorial jurisdiction, in which such aid is rendered. Said members shall also have, while so acting, such rights and immunities as they otherwise enjoy in the performance of their normal duties in the municipality, or other territorial jurisdiction, rendering such assistance.

Any municipality receiving assistance hereunder shall pay to the fire department and force, or volunteer fire company, providing the assistance a sum computed at the rate of $3.00 for each member and $35.00 for each equipped fire apparatus for each hour supplied unless terms and conditions for payment are otherwise provided for in an agreement between the several municipalities.

Volunteer fire companies of contiguous municipalities shall be required to respond to such requests for assistance only to the extent they have agreed to do so an agreement with a paid fire department and force or a municipality.

If any member of such other fire department and force, or volunteer fire company shall, in rendering such assistance, suffer any casualty or death he or his designee or legal representative shall be entitled to all salary, pension rights, workmen's compensation and other benefits to which such member would be entitled if such casualty or death occurred in the performance of his duties in the municipality, or other territorial jurisdiction, rendering such assistance.

2. N. J. S. 40A:14–156 is amended to read as follows:

Assistance from other municipal police; payment for assistance; casualty or death; rights.

40A:14–156. In the event of an emergency the chief or other head of any municipal police department and force or any park police department or system, municipal fire department and force, volunteer fire company, or first aid or ambulance squad, corps or company, or the mayor or chief executive officer of the municipality may request, from the chief or other head of the police department and force of any other municipality, assistance outside the territorial jurisdiction of the department to which such request is directed for police aid, in order to protect life and property or to assist in suppressing a riot or disorder and while so acting, the members of the police department and force supplying such aid shall have the same powers and authority as have the members of the police department and force of the municipality in which such aid is being rendered. Said members shall also have, while so acting, such rights and immunities as they may otherwise enjoy in the performance of their normal duties in the municipality, or other territorial jurisdiction, rendering such assistance.

The chief or head of the police department and force to whom such a request for assistance is made shall, in the case of a contiguous municipality, provide such personnel and equipment as requested to the extent possible without endangering person or property within the municipality rendering such assistance.

Any municipality receiving assistance hereunder shall pay to the police department and force providing the assistance a sum computed at the rate of $3.00 for each member and $5.00 for each vehicle for each hour supplied unless terms and conditions for payment are otherwise provided for in an agreement between the several municipalities.

If any member of such other police department and force in rendering such assistance shall suffer a casualty or death, he or his designee or legal representative shall be entitled to all salary, pension rights, workmen's compensation and other benefits to which such member or officer would be entitled if such casualty or death occurred in the performance of his normal duties in the municipality, or other territorial jurisdiction rendering such assistance.

3. Section 4 of P. L. 1976, c. 45 (C. 40A:14–156.4) is amended to read as follows:

C. 40A:14-156.4 Suspension of provisions of acts upon declaration of emergency.

4. The county disaster control coordinator for the county in which emergency assistance is rendered pursuant to this act or N. J. S. 40A:14–26 or N. J. S. 40A:14–156, may by express order suspend operation of the provisions of any of said acts as to any municipality or municipalities in said county, upon declaration of an emergency pursuant to P. L. 1942, c. 251 (C. App. A:9–33 et seq.), as amended and supplemented by P. L. 1953, c. 438, or any regulation promulgated thereunder.

Repealer.

4. N. J. S. 40A:14–66 is hereby repealed.

5. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 401

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, 1978 and regulating the disbursement thereof," approved ....., 1977 (P. L. 1977, c. ....) (now pending before the Legislature as Senate No. 3200).

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

1. The following sum is hereby appropriated out of the General State Fund for the specific purposes herein specified:

DEPARTMENT OF THE TREASURY

79100. Department Management and General Support

79110-210-100-500. The unexpended balance not to exceed $40,000.00 as of June 30, 1977 in this account is hereby appropriated.

2. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 402

AN ACT to relocate, fix and establish a portion of the boundary line between the township of Millburn and the township of Livingston in the county of Essex.

WHEREAS, The governing bodies of the township of Millburn and the township of Livingston in the county of Essex have determined, by resolution adopted by each governing body, that it is advisable and in the best interest of their respective municipalities that a portion of their common boundary line be relocated; and

WHEREAS, Both municipalities have requested the Legislature to enact a statute to relocate a portion of their common boundary line as set forth and described in section 1 of this act; and

WHEREAS, A proper public notice of intention to apply for passage of this act has been given by publication as required by law; now, therefore,

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

1. That a portion of the common boundary line between the township of Livingston and the township of Millburn in the county of Essex be, and the same hereby is, relocated, fixed and established so that the following described line shall constitute such relocated boundary line:

Description of property situated in the Township of Millburn proposed to be annexed by the Township of Livingston, Essex County, New Jersey:

BEGINNING at a point in the present boundary line between the Township of Livingston on the west and the Township of Millburn on the east distant along said line on a bearing of N 33° 47′ 05″ E 149.42′ from the intersection thereof with the northerly line of South Orange Avenue; and running thence,

1. Along said township line and through land belonging to Deerco, Inc. N 33° 47′ 05″ E 143.73′ to an angle; thence,

2. Still along said township line S 80° 17′ 15″ E 340.73′ to the dividing line between land belonging to Deerco, Inc. and land belonging to Temple B'Nai Jeshurun; thence,

3. Along said dividing line S 67° 29′ 30″ W 75.74′ to an angle; thence,

4. Still along the same S 70° 28′ 10″ W 333.30′ to an angle; thence,

5. Still along the same N 21° 59′ 55″ W 84.60′ to the point of beginning.

Containing 40,301 square feet.

Description of property situated in the Township of Livingston proposed to be annexed by the Township of Millburn, Essex County, New Jersey:

BEGINNING at a point in the present boundary line between the Township of Millburn and the Township of Livingston distant the following two courses from the intersection thereof with the northerly line of South Orange Avenue 1. N 33° 47′ 05″ E 293.15′; thence, 2. S 80° 17′ 15″ E 340.73′ to the point of beginning; and running thence,

1. Still along said township boundary S 80° 17′ 15″ E 310.65′ to an angle in the dividing line between land belonging to Temple B'Nai Jeshurun on the south and land belonging to Deerco, Inc. on the north; thence,

2. Along said dividing line N 21° 46′ 30″ W 165.65′ to an angle; thence,

3. Still along said dividing line S 67° 29′ 30″ W 264.96′ to the point of beginning.

Containing 21,942 square feet.

The above description is in accordance with a certain map entitled "Preliminary Plan and Profiles, Old Short Hills North, Section Seven, Township of Livingston and Township of Millburn, Essex County, New Jersey, Scale 1″-100′, James K. Howell, P. E. & L. S. License #0696, 25 Walnut Street, Livingston, New Jersey, December 17, 1976, revised January 12, 1977, revised January 4, 1977", copies of which are on file in the office of the clerk of the township of Livingston and in the office of the clerk of the township of Millburn.

2. That upon the effective date of this act, all lands now within the territorial limits of the township of Millburn lying northerly of the line described in section 1 hereof, shall be and become part of the township of Livingston, and all lands now within the township of Livingston lying southerly of said line shall be and become part of said township of Millburn.

3. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 403

AN ACT authorizing the sale of surplus real property owned by the Department of Human Services.

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

1. The Department of Human Services is hereby authorized to sell and convey all of the State's interest in 28 acres of surplus real property at Greystone Psychiatric Hospital, Morris County. The property is designated as Block 10002, Lot 1, on the Denville tax map.

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

3. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 404

AN ACT making appropriations from the Institutions Construction Fund for the construction of institutions.

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

1. There is hereby appropriated to the Department of Corrections, from the Institutions Construction Fund, the sum of $19,500,000.00 for the following construction projects:

Planning, design and construction of new correctional facility	$19,200,000
Improvements, renovations and repairs to correctional institutions	300,000
Total, Department of Corrections	$19,500,000

2. There is also appropriated from the proceeds of the sale of the bonds hereinafter mentioned, such sums as may be necessary to meet any expense incurred by the issuing officials under the act hereinafter mentioned, for advertising, engraving, printing, clerical,

legal or other services necessary to carry out the duties imposed upon them by the provisions of said act.

3. It is the declared purpose of this act that the funds from which said appropriations shall be met shall be those funds which shall be derived from the sale of the Institutions Construction Bonds, the issuance of which is provided for in P. L. 1976, c. 93, which said act was submitted to the people and approved by the people at the general election held on November 2, 1976.

4. The State Treasurer is hereby authorized, empowered, and directed and it shall be his duty to set up and maintain the aforementioned appropriations in the Institutions Construction Fund established heretofore pursuant to the act hereinabove mentioned. The funds herein appropriated may be requisitioned by the Department of Corrections for the uses and purposes specifically enumerated herein, subject to the same restrictions and control as are exercised over all other appropriated State funds, but not inconsistent with the provisions of said act.

5. The State Treasurer and the State Department of Corrections are hereby empowered to enter into negotiations with the Federal Government for the purpose of securing any available financial grants and to receive any such grants and thereafter the State Treasurer may cause them to be established and maintained in the aforementioned Institutions Construction Fund in separate accounts. Any such funds so established and maintained may be requisitioned for the uses and purposes specifically enumerated herein, subject to the same restrictions and control as are exercised over all other appropriated State funds, but not inconsistent with the provisions of the act hereinabove mentioned.

6. The Director of the Division of Budget and Accounting in the Department of the Treasury is hereby authorized, empowered and directed and it shall be his duty to make such correction of the title or text, or both, of any item in this act contained necessary to make such appropriation available for the purpose or purposes of its intention. Such correction shall be by written ruling reciting any appropriate details, the facts thereof and the reasons therefor, attested by the signature of the director and filed by him in his office as an official record, and any action thereunder, including disbursements, and the audit thereof, shall be legally binding and of full force and effect.

7. In order to provide flexibility in administering the provisions of this act, the Commissioner of Corrections may apply to the Director of the Division of Budget and Accounting for permission

to transfer a part of any item to any other item within the respective department accounts in the Institutions Construction Fund. Upon the approval of such application by said director and by the Executive Director of the Office of Fiscal Affairs, in writing, said director shall make such transfer as provided by law.

8. Except as the context may otherwise require:

a. "Institutions" shall mean (1) buildings, structures and facilities under the supervision and control of the department for mental, charitable, hospital, training and correctional purposes; and (2) buildings, structures, and facilities necessary for the operation of county, municipal, or private nonprofit programs for the mentally retarded, the mentally ill, the developmentally disabled, the aged, and for persons in correctional institutions.

b. "Construction of institutions" means the planning, erection, acquisition, improvement, rehabilitation, reconstruction, development and extension of institutions, including all equipment and facilities necessary to the operation thereof and includes the acquisition of land necessary for said purposes.

9. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 405

AN ACT concerning the State Department of Transportation and adding a new route to the State highway system.

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

1. The Commissioner of Transportation shall, as soon as practicable, and in accordance with the procedures set forth in article 1 of chapter 7, Title 27, of the Revised Statutes, add to the present State highway system the following described route: Extending from Carll's Corner, generally in an easterly direction to State Highway 55 in Vineland, New Jersey, and more particularly known as Landis avenue, partly in Cumberland and partly in Salem county, being designated in Cumberland county as roads No. 22 and No. 23 and in Salem county as road No. 6.

2. When this route is taken into the State highway system, as provided in section 1 of this act, the Commissioner of Transportation shall designate the said route by an appropriate route number as provided by law.

3. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 406

AN ACT concerning commerce and navigation with respect to the use of a State-owned berthing area and pier as a submarine service war memorial.

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

1. The Department of Environmental Protection having granted a revocable license for the use and maintenance of a berthing area and pier in the Hackensack river for the establishment of a submarine service war memorial and the berthing there of a World War II United States Navy submarine to be open to the public, the Commissioner of Environmental Protection is authorized to waive berthing fees due or to become due for such licensed use by the nonprofit association operating said submarine memorial.

2. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 407

AN ACT concerning motor vehicles, and amending R. S. 39:4–129.

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

1. R. S. 39:4–129 is amended to read as follows:

Action in case of accident.

39:4–129. (a) The driver of any vehicle involved in an accident resulting in injury or death to any person shall immediately stop

the vehicle at the scene of the accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene until he has fulfilled the requirements of subsection (c) of this section. Every such stop shall be made without obstructing traffic more than is necessary. Any person who shall violate this subsection shall be fined in the sum of $100.00, or be imprisoned for a period of 30 days, or both, for the first offense, and for a subsequent offense shall be fined in the sum of $500.00, or be imprisoned for a period of 6 months, or both.

(b) The driver of any vehicle involved in an accident resulting only in damage to a vehicle, including his own vehicle, or other property which is attended by any person shall immediately stop his vehicle at the scene of such accident or as close thereto as possible, but shall then forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of subsection (c) of this section. Every such stop shall be made without obstructing traffic more than is necessary. Any person who shall violate this subsection shall be fined not less than $25.00 nor more than $100.00, or be imprisoned for a period of not more than 30 days, or both, for the first offense, and for a subsequent offense, shall be fined not less than $100.00 nor more than $200.00, or be imprisoned for a period of not less than 30 days nor more than 90 days, or both.

(c) The driver of any vehicle involved in an accident resulting in injury or death to any person or damage to any vehicle or property shall give his name and address and exhibit his operator's license, registration certificate of his vehicle and insurance identification card to the person injured or whose vehicle or property was damaged and to any police officer or witness of the accident, and to the driver or occupants of the vehicle collided with and render to a person injured in the accident reasonable assistance, including the carrying of that person to a hospital or a physician for medical or surgical treatment, if it is apparent that the treatment is necessary or is requested by the injured person.

In the event that none of the persons specified are in condition to receive the information to which they otherwise would be entitled under this subsection, and no police officer is present, the driver of any vehicle involved in such accident after fulfilling all other requirements of subsections (a) and (b) of this section, insofar as possible on his part to be performed, shall forthwith report such accident to the nearest office of the local police department or of the

county police of the county or of the State Police and submit thereto the information specified in this subsection.

(d) The driver of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such vehicle or other property shall immediately stop and shall then and there locate and notify the operator or owner of such vehicle or other property of the name and address of the driver and owner of the vehicle striking the unattended vehicle or other property or, in the event an unattended vehicle is struck and the driver or owner thereof cannot be immediately located, shall attach securely in a conspicuous place in or on such vehicle a written notice giving the name and address of the driver and owner of the vehicle doing the striking or, in the event other property is struck and the owner thereof cannot be immediately located, shall notify the nearest office of the local police department or of the county police of the county or of the State Police and in addition shall notify the owner of the property as soon as the owner can be identified and located. Any person who violates this subsection shall be punished as provided in subsection (b) of this section.

2. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 408

AN ACT concerning the administration of public welfare, amending P. L. 1947, c. 156 and P. L. 1950, c. 303, and repealing sections 1 through 47 of P. L. 1941, c. 357.

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

1. Section 14 of P. L. 1947, c. 156 (C. 44:8–120) is amended to read as follows:

C. 44:8-120 Immediate public assistance to needy person.

14. Immediate public assistance shall be rendered promptly to any needy person by the director of welfare of the municipality where the person is found at the time of application. Needy persons residing in public or private facilities providing residential thera-

peutic medical services shall be deemed the responsibility of the municipality of their customary place of abode prior to placement in such facility.

2. Section 15 of P. L. 1947, c. 156 (C. 44:8–121) is amended to read as follows:

C. 44:8-121 Application for public assistance; inquiries by director; written record.

15. When a person shall apply for public assistance for himself or his dependents, the director of welfare shall inquire into the facts, conditions and circumstances of the case, including customary place of abode, family connections, living conditions, resources, income, and causes direct and indirect of the person's need, and such other matters as the commissioner may require, making a written record thereof in such manner as may be prescribed by the commissioner. Upon ascertainment of the foregoing facts, conditions and circumstances, the director of welfare shall render assistance to an eligible applicant or his dependents. The cost of public assistance shall be borne by the municipality which renders such assistance.

3. Section 2 of P. L. 1950, c. 303 (C. 44:8–147) is amended to read as follows:

C. 44:8-147 Admission to hospital; notice to municipal officials; provisions made for relief.

2. In all cases wherein medical or surgical treatment is required by a person entitled to public assistance as such term is defined in the General Public Assistance Law (P. L. 1947, c. 156), such person may be admitted to a public or voluntary hospital in the municipality in which he is found or to any such hospital in an adjoining municipality, or to such other hospital as may be approved by such official or officials as may be charged with the administration of public assistance pursuant to the General Public Assistance Law in the municipality in which such person had his customary place of abode prior to entering such facility; provided, however, that a voluntary hospital in any municipality wherein a hospital is maintained by such municipality may require that such person prior to his or her admission be referred for treatment by the publicly maintained hospital in such municipality. The director or those having charge of the hospital shall, within a reasonable time, ascertain from such person his name and place of residence, and if he is a person entitled to public assistance as such term is defined in the General Public Assistance Law a notice in writing shall immediately be sent to such official or officials as

may be charged with the administration of public assistance pursuant to said General Public Assistance Law in the municipality from which said person was removed or where he resided prior to his removal. Upon receipt of such notice, the said official or officials shall proceed and provide for the relief of said person in the manner provided by said General Public Assistance Law and the cost thereof as defined in section 3 hereof shall be borne by the municipality responsible therefor under the provisions of said law.

4. Section 3 of P. L. 1950, c. 303 (C. 44:8–148) is amended to read as follows:

C. 44:8-148 Hospital costs.

3. The cost of providing for the relief of such sick indigent person by a voluntary hospital or by a public hospital outside of such municipality in which such an indigent person has his customary place of abode shall be the cost to the hospital actually incurred in rendering the treatment or services in each such case which shall be its pro rata portion of the costs incurred by the said hospital in maintaining its services, including, but not being limited to, costs of administration, dietary costs, laundry, housekeeping, utilities, maintenance and repairs, motor service, medical and surgical service, nursing service and nursing education, medical records and library, social service, X-ray services, laboratory services, pharmacy, physicial therapy, and other special services reasonably related to the proper functioning of a hospital; provided, however, that such cost shall be at a rate not in excess of the minimum published rate charged by such hospital for ward accommodations therein.

Repealer.

5. Sections 1 through 47 of P. L. 1941, c. 357 (C. 44:8A–1 to 44:8A–47) are repealed.

6. This act shall take effect 90 days after enactment.

Approved February 23, 1978.

CHAPTER 409

AN ACT concerning municipal police chaplains and amending N. J. S. 40A:14–141.

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

1. N. J. S. 40A:14–141 is amended to read as follows:

Chaplains; appointment; salary.

40A:14–141. The governing body of any municipality, by ordinance, may provide for the appointment of one or more chaplains to the police department or force. Any person appointed as chaplain shall be an ordained clergyman in good standing in the religious body from which he is selected. Said chaplain shall become a member of the municipal police department or force with or without rank and salary as specified in the ordinance. His salary, if any, shall be fixed by the governing body of the municipality and payable in the same manner as in the case of other members of the police department or force.

2. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 410

AN ACT concerning sales of real property to enforce tax liens in certain cases and supplementing chapter 5 of Title 54 of the Revised Statutes.

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

C. 54:5-25.1 Unimproved real property less than minimum lot size; priority of contiguous owners to purchase.

1. When a municipality determines to offer for sale to enforce a tax lien a parcel of unimproved real property which is less than the minimum lot size prescribed by municipal ordinance, the owner or owners of real property contiguous to the parcel being offered for sale shall be accorded a priority right to purchase the parcel in accordance with the provisions of this act.

C. 54:5-25.2 Notice.

2. At least 1 month prior to the date fixed for the sale a notice shall be sent by certified mail, to those entitled thereto under section 1, containing: the date, time and place fixed for the sale, a description or identification of the parcel as shown on the delinquent tax list, the amount due the municipality, and of the procedure to be followed if the owner of adjacent property desires to exercise a priority right to purchase the property at the public sale.

C. 54:5-25.3 Sale of parcel.

3. If at the time of the sale only one adjacent owner has indicated a desire to purchase the parcel and he tenders the amount due the municipality the parcel shall be sold to him. If more than one adjacent property owner has indicated a desire to purchase the parcel, the parcel shall be sold at public auction to the highest bidder among the adjacent owners bidding, in accordance with and subject to the terms and conditions of the Tax Sale Law (R. S. 54:5–1 et seq.).

C. 54:5-25.4 Notices of sale; contents.

4. Notices of the sale of a parcel as described in section 1 shall contain, in addition to the information required under R. S. 54:5–25 a statement to the fact that the sale is subject to the priority right of purchase by adjacent property owners.

5. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 411

AN ACT to amend the title of "An act authorizing counties and municipalities to enter into agreements to provide funds to maintain or increase public transportation service under certain circumstances," approved July 30, 1974 (P. L. 1974, c. 73), so that the same shall read "An act authorizing counties and municipalities to enter into agreements to provide funds to maintain or increase transportation service under certain circumstances," and to amend the body of said act.

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

Title amended.

1. The title of P. L. 1974, c. 73 is amended to read as follows: An act authorizing counties and municipalities to enter into agreements to provide funds to maintain or increase transportation service under certain circumstances.

2. Section 1 of P. L. 1974, c. 73 (C. 40:9C–1) is amended to read as follows:

C. 40:9C-1 Agreement between counties and municipalities in connection with transit or freight line services.

1. The board of chosen freeholders of any county and the governing body of any municipality within the county, may enter into an agreement for the purpose of providing funds to maintain or increase public transportation service for mass transit purposes, or for the purpose of providing funds to maintain railroad freight line services, on established or expanded routes within the county or municipality. No such agreement may be entered into unless the State of New Jersey, acting by and through the Department of Transportation, Commuter Operating Agency, or other appropriate agency, shall have agreed with the transportation company or railroad providing service, or with the county, for payments subsidizing such transportation or railroad freight line service in accordance with the provisions of this act. It shall be lawful for the board of chosen freeholders and for the governing body of a municipality to appropriate and raise funds annually for the aforesaid purposes in the same manner as appropriations are made for other county or municipal purposes.

3. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 412

AN ACT concerning decedents' estates, supplementing Title 3A of the New Jersey Statutes, amending N. J. S. 3A:3–18, 3A:3–27, 3A:3–28, 3A:5–6, 3A:26–1 and 3A:40–1, and repealing 3A:1–1, 3A:3–1 through 3A:3–3, 3A:3–6 through 3A:3–11, 3A:3–13, 3A:3–14, 3A:3–22, 3A:4–1 through 3A:4–7, 3A:4–9 through 3A:4–11, 3A:12–7 through 3A:12–9, 3A:13–1, 3A:24–2, 3A:25–1 and 3A:25–8 and revising parts of the statutory law.

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

A. DEFINITIONS

C. 3A:2A-1 Definitions.

1. As used in this act, unless restricted by the subject or context:

a. "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.

b. "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 foster child, a grandchild or anymore remote descendant.

c. "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.

d. "Cofiduciary" means each of two or more fiduciaries jointly serving in a fiduciary capacity.

e. "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.

f. "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.

g. "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.

h. "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.

i. "Estate" means all of the property of the decedent, trust or other person whose affairs are subject to this act as the property is originally constituted and as it exists from time to time during administration.

j. "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.

k. "Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

l. "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.

m. "Local administration" means administration by a personal representative appointed in this State.

n. "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 act.

o. "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of his death.

p. "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, foster parent or grandparent.

q. "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.

r. "Resident creditor" means a person domiciled in, or doing business in this State, who is, or could be, a claimant against an estate.

s. "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 such a 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.

t. "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

u. "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.

v. "Testamentary trustee" means a trustee designated by will or appointed to exercise a trust created by will.

w. "Will" means the last will and testament of the testator and includes any codicil.

B. Devolution of Estate at Death

C. 3A:2A-2 Devolution of estate at death.

2. Upon the death of a person, 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 estate, 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.

C. Wills

1. Requisites, Execution and Content

C. 3A:2A-3 Making a will; appointment of testamentary guardian.

3. Any person 18 or more years of age who is of sound mind may make a will and may appoint a testamentary guardian.

C. 3A:2A-4 Execution of will.

4. Except as provided in section 5., every will shall be in writing, signed by the testator or in his name by some other person in his presence and at his direction, and shall be signed by at least two persons each of whom witnessed either the signing or the testator's acknowledgment of the signature or of the will.

C. 3A:2A-5 Validity of holographic will.

5. A will which does not comply with section 4. is valid as a holographic will, whether or not witnessed, if the signature and material provisions are in the handwriting of the testator.

C. 3A:2A-6 Self-proved will; form and content.

6. a. An attested will may at the time of its execution be made self-proved, by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before any officer authorized pursuant to R. S. 46:14–6, 46:14–7 or 46:14–8 to take acknowledgments and proofs of instruments entitled to be recorded under the laws of this State, and evidenced by the officer's certificate, under official seal, attached or annexed to the will in form and content substantially as follows:

I, ..., the testator, sign my name to this instrument this ..... day of ....., 19...., and being first 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

....., ...,
the witnesses, being first duly sworn, do each hereby declare to the undersigned authority that the testator signs and executes this instrument as his last will and that he signs it willingly (or willingly directs another to sign for him), and that each of us

states that in the presence and hearing of the testator, he hereby signs this will as witness to the testator's signing, and that to the best of his 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 ....., 19....

(SEAL) (Signed) .....
.....
(Official capacity of officer)

(If a notary public or other officer whose commission has an expiration date, state the date commission expires.)

b. An attested will 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 any officer authorized pursuant to R. S. 46:14–6, 46:14–7 or 40:14–8 to take acknowledgments and proofs of instruments entitled to be recorded under the laws of this State and evidenced by the officer's certificate, under official seal, attached or annexed to the will in form and content substantially as follows:

....., ..., and ....., the testator and the witnesses, respectively, whose names are signed to the attached (or foregoing) instrument, being first duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as his last will and that he had signed willingly (or directed another to sign for him), and that he executed it as his free and voluntary act for the purposes therein expressed; and that each witness states that he signed the will as witness in the presence and hearing of the testator, and that to the best of his knowledge the testator was at that time 18 or more years of age, 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 ....., 19....

(SEAL) (Signed) .....

.....
(Official capacity of officer)

(If a notary public or other officer whose commission has an expiration date, state the date commission expires.)

C. 3A:2A-7 Witnesses.

7. a. Any person generally competent to be a witness may act as a witness to a will and to testify concerning the execution thereof.

b. A will or any provision thereof is not invalid because the will is signed by an interested witness.

C. 3A:2A-8 Execution in compliance with law.

8. A written will is validly executed if executed in compliance with sections 4 or 5 or its execution was in compliance with the law of the place where it was executed, or with the law of the place where at the time of execution or at the time of death the testator was domiciled, had a place of abode or was a national.

C. 3A:2A-9 Incorporation by reference.

9. Any writing in existence when a will is executed may be incorporated by reference if the language of the will manifests this intent and describes the writing sufficiently to permit its identification.

C. 3A:2A-10 References to written statement or list to dispose of tangible property.

10. 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, evidences of indebtedness, documents of title, and securities and property used in trade or business. 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 him and must describe the items and the devisees with reasonable certainty. The writing referred

to may be one in existence at the time of the testator's death, may be prepared before or after the execution of the will, may be altered by the testator after its preparation and may be a writing which has no significance apart from its effect upon the dispositions made by the will.

C. 3A:2A-11 Acts and events of independent significance.

11. 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 person is such an event.

2. Revocation

C. 3A:2A-12 Revocation.

12. A will or any part thereof is revoked:

a. By a subsequent will which revokes the former will or part expressly or by inconsistency; or

b. By being burned, torn, canceled, obliterated, or destroyed with the intent and for the purpose of revoking by the testator or by another person in his presence and by his direction.

C. 3A:2A-13 Divorce or annulment.

13. If after having executed a will the testator is divorced or his marriage annulled, the divorce or annulment revokes any dispositions or appointment of property made by the will to the former spouse, any provision conferring a general or special power of appointment on the former spouse, and any nomination of the former spouse as executor, trustee, or guardian, unless the will expressly provides otherwise. Property prevented from passing to a former spouse because of revocation by divorce or annulment passes as if the former spouse failed to survive the decedent, and other provisions conferring some power or office on the former spouse are interpreted as if the spouse failed to survive the decedent. A judgment from bed and board is a divorce for the purpose of this section. If provisions are revoked solely by this section, they are revived by testator's remarriage to the former spouse or by the revocation or suspension of a judgment of divorce from bed and board. No change of circumstances other than as described in this section revokes a will.

C. 3A:2A-14 Revival of revoked will or codicil.

14. A revoked will or codicil shall not be revived except by re-execution or by a duly executed codicil expressing an intention to revive it.

3. Probate and Record

C. 3A:2A-15 Admission to probate.

15. a. A will executed as provided in section 4 may be admitted to probate in common form upon the proof of one of the attesting witnesses or by some other person having knowledge of the facts relating to the proper execution of the will by the testator and its attestation by one of the witnesses.

b. A will executed and acknowledged in the manner provided in section 6 may be admitted to probate in common form without further affidavit, deposition or proof.

c. A holographic will may be admitted to probate only in solemn form in the manner provided by the Rules Governing the Courts of the State of New Jersey.

C. 3A:2A-16 Admission required.

16. To be effective to prove the transfer of any property or to nominate an executor, a will must be admitted to probate.

17. N. J. S. 3A:3–18 is amended to read as follows:

Admission to probate in court.

3A:3–18. The will of any person 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 person resident within the State at his death is probated without the State, it shall be without effect unless or until probate is granted within the State.

18. N. J. S. 3A:3–27 is amended to read as follows:

Admission to probate the will of person not resident in State.

3A:3–27. When the will of any person 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.

19. N. J. S. 3A:3–28 is amended to read as follows:

Recording nonresident's will probated in another state or country.

3A:3–28. A copy of any will or of the record of any will of a decedent not resident in this State at his death, admitted to probate in any state of the United States or other jurisdiction or country, and of the certificate or judgment for probate, and if title to real estate of the decedent depends on the conveyance by an executor, administrator with the will annexed, substituted administrator with

the will annexed, trustee or substituted trustee, of the record of the grant of letters testamentary thereon, or of administration, or substitutionary administration, with the will annexed, or of a copy of such letters, attested and certified pursuant to the rules of the Supreme Court or, if it be a record of any state of the United States, exemplified and authenticated according to the act of Congress, heretofore or hereafter filed and recorded in the office of the surrogate of any county in this State, shall have the same force and effect in respect to all real estate whereof the testator died seized, as if the will had been admitted to probate and the letters aforesaid had been issued in this State, provided it appears either from the deposition in the record or the attestation clause, or by a deposition taken under a commission or otherwise, that the will is valid under the laws of this State.

All conveyances of such real estate heretofore or hereafter made by any executor, administrator with the will annexed, substituted administrator with the will annexed, trustee, substituted trustee, or the survivor or survivors of them, or by any devisee or persons claiming under such devisee shall be as valid as if such will had been admitted to probate and letters aforesaid had been issued in this State.

Certified copies of such will, deposition, judgment for probate and letters, or of the record thereof, shall be received in evidence in all the courts of this State.

C. 3A:2A-17 Contested probate action as to execution; testimony of attesting witness; other evidence.

20. If an issue as to the execution of a will arises in a contested probate action, the testimony of at least one of the attesting witnesses, if within the State, competent and able to testify, is required. Other evidence is admissible as to the due execution of a will.

C. 3A:2A-18 Final order of court of another state; acceptance by courts of this State.

21. A final order of a court of another state admitting a will to probate or determining the validity or construction of a will made in a proceeding involving notice to and an opportunity for contest by all interested persons must be accepted as determinative by the courts of this State if it includes, or is based upon, a finding that the decedent was domiciled at his death in the state where the order was made.

4. Contractual Arrangements Relating to Death

C. 3A:2A-19 Contractual arrangements relating to death.

22. A contract to make a will or devise, or not to revoke a will or devise, or to die intestate, if executed after the effective date of this act, can be established only by (1) provisions of a will stating material provisions of the contract; (2) an express reference in a will to a contract and extrinsic evidence proving the terms of the contract; or (3) a writing signed by the decedent evidencing the contract. The execution of a joint will or mutual wills does not create a presumption of a contract not to revoke the will or wills.

5. Construction

C. 3A:2A-20 Devisee who does not survive testator by 120 hours.

23. A devisee who does not survive the testator by 120 hours is treated as if he predeceased the testator, unless the will of decedent contains some language dealing explicitly with simultaneous deaths or deaths in a common disaster, or requiring that the devisee survive the testator or survive the testator for a stated period in order to take under the will. To the extent this section is inconsistent with the Uniform Simultaneous Death Law, N. J. S. 3A:5–1 et seq., the provision of this section shall apply.

C. 3A:2A-21 Meaning and effect of wills; determination; intention and rules of construction.

24. The meaning and legal effect of a disposition in a will shall be determined by the local law of a particular state selected by the testator in his instrument unless the application of that law is contrary to the public policy of this State otherwise applicable to the disposition. The intention of a testator as expressed in his will controls the legal effect of his dispositions, and the rules of construction expressed in sections 25 through 35 of this act apply, unless the probable intention of the testator, as indicated by the will and relevant circumstances, is contrary.

C. 3A:2A-22 Will construed to pass all property.

25. A will is construed to pass all property which the testator owns at his death including property acquired after the execution of the will.

C. 3A:2A-23 Deceased devisee; devisee under class gift.

26. If a devisee who is a grandparent or a lineal descendant of a grandparent of the testator is dead at the time of the execution of the will, or fails to survive the testator, or is treated as if he predeceased the testator, the issue of the deceased devisee who

survive the testator by 120 hours take in place of the deceased devisee and if they are all of the same degree of kinship to the devisee they take equally, but if of unequal degree then those of more remote degree take by representation. 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.

C. 3A:2A-24 Failure of devise.

27. Except as provided in section 26 of this act if a devise other than a residuary devise fails for any reason, it becomes a part of the residue.

C. 3A-2A-25 Residuary devise made to two or more persons.

28. When a residuary devise shall be made to two or more persons by the will of any testator, unless a contrary intention shall appear by the will, the share of any such residuary devisees dying before the testator and not saved from the lapse by section 26 of this act, or not capable of taking effect because of any other circumstance or cause, shall go to and be vested in the remaining residuary devisees, if any there be, and if more than one, then to the remaining residuary devisees in proportion to their respective shares in said residue.

C. 3A:2A-26 Change in securities; accession; nonademption.

29. a. If the testator intended a specific devise of certain securities rather than the equivalent value thereof, the specific devisee is entitled only to:

(1) As much of the devised securities as is a part of the estate at time of the testator's death;

(2) Any additional or other securities of the same entity owned by the testator by reason of action initiated by the entity and attributable to the securities devised excluding any acquired by exercise of purchase options;

(3) Securities of another entity owned by the testator as a result of a merger, consolidation, reorganization or other similar action initiated by either entity and attributable to the specific devise; and

(4) Any additional securities of the entity owned by the testator as a result of a plan of reinvestment if it is a regulated investment company and attributable to the specific devise.

b. Distributions prior to death with respect to a specifically devised security not provided for in subsection a. are not part of the specific devise.

C. 3A:2A-27 Specifically devised property; sale by or payment of condemnation award or insurance proceeds to guardian of testator.

30. If specifically devised property is sold by a guardian for a testator, or if a condemnation award or insurance proceeds are paid to a guardian for a testator 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 condemnation award, or the insurance proceeds. This subsection does not apply if subsequent to the sale, condemnation or casualty, the guardianship is terminated and the testator survives by 1 year the judgment terminating the guardianship. The right of the specific devisee under this section is reduced by any right he has under section 31.

C. 3A:2A-28 Right of specific devisee.

31. A specific devisee has the right to the remaining specifically devised property 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 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.

C. 3A:2A-29 Power of appointment.

32. A general residuary clause in a will, or a will making general disposition of all of the testator's property, does not exercise a power of appointment held by the testator unless specific reference is made to the power or there is some other indication of intention to include the property subject to the power.

C. 3A:2A-30 Halfbloods, adopted persons and persons born out of wedlock; relationships as defined for intestate succession.

33. Halfbloods, adopted persons and persons born out of wedlock are included in class gift terminology and terms of relationship in accordance with rules for determining relationships for purposes of intestate succession.

C. 3A:2A-31 Ademption by satisfaction.

34. 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 gift is to be deducted from the devise or is in satisfaction of the devise, or the devisee acknowledges in writing that the gift is in satisfaction. 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 the time of death of the testator, whichever occurs first.

C. 3A:2A-32 Penalty provision in will.

35. A provision in a will purporting to penalize any interested person for contesting the will or instituting other proceedings relating to the estate is unenforceable if probable cause exists for instituting proceedings.

D. Intestacy

1. Succession

C. 3A:2A-33 Intestate estate.

36. Any part of the estate of a decedent not effectively disposed of by his will passes to his heirs as prescribed in sections 37 through 46 of this act.

C. 3A:2A-34 Intestate share of spouse.

37. The intestate share of the surviving spouse is:

a. If there is no surviving issue or parent of the decedent, the entire intestate estate;

b. If there is no surviving issue but the decedent is survived by a parent or parents, the first $50,000.00, plus one-half of the balance of the intestate estate;

c. If there are surviving issue all of whom are issue of the surviving spouse also, the first $50,000.00, plus one-half of the balance of the intestate estate;

d. If there are surviving issue one or more of whom are not issue of the surviving spouse, one-half of the intestate estate.

C. 3A:2A-35 Share of heirs.

38. The part of the intestate estate not passing to the surviving spouse under section 37 of this act, or the entire intestate estate if there is no surviving spouse, passes as follows:

a. To the issue of the decedent; if they are all of the same degree of kinship to the decedent they take equally, but if of unequal degree, then those of more remote degree take by representation;

b. If there is no surviving issue, to his parent or parents equally;

c. If there is no surviving issue or parent, to the issue of the parents or either of them by representation;

d. If there is no surviving issue, parent or issue of a parent, but the decedent is survived by one or more grandparents;

(1) Half of the estate passes to the paternal grandparents equally if both survive, or to the surviving paternal grandparent; or if both are deceased and the decedent is survived by maternal grandparents or grandparent, then to the issue of the paternal grandparents, the issue taking 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;

(2) The other half passes to the maternal grandparents equally if both survive, or to the surviving maternal grandparent; or if both are deceased and the decedent is survived by paternal grandparents or grandparent, then to the issue of the maternal grandparents, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree, those more remote take by representation;

(3) If the decedent is survived by a grandparent or grandparents only on the paternal side or only on the maternal side and by no issue of the grandparents on the other side, the entire estate passes to the surviving grandparent or grandparents equally;

e. If there is no surviving issue, parent, issue of a parent or no surviving grandparent, but the decedent is survived by issue of grandparents, the issue 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.

C. 3A:2A-36 Person who fails to survive decedent by 120 hours.

39. Any person who fails to survive the decedent by 120 hours is deemed to have predeceased the decedent for purposes of intestate succession, and the decedent's heirs are determined accordingly. If the time of death of the decedent or of the person who would otherwise be an heir, or the times of death of both, cannot be determined, and it cannot be established that the person who would otherwise be an heir has survived the decedent by 120 hours, it is deemed that the person failed to survive for the required period. This section is not to be applied where its application would result in a taking of intestate estate by the State under section 40 of this act.

C. 3A:2A-37 Escheat to State.

40. If there are none who may inherit an intestate estate that estate shall escheat to the State.

C. 3A:2A-38 Representation.

41. When representation is required to effect disposition of an estate, the estate is divided into as many shares as there are surviving heirs in the nearest degree of kinship and deceased persons in the same degree who left issue who survive the decedent, each surviving heir in the nearest degree receiving one share and the share of each deceased person in the same degree being divided among his issue in the same manner.

C. 3A:2A-39 Relatives of half blood.

42. Relatives of the half blood inherit the same share they would inherit if they were of the whole blood.

C. 3A:2A-40 Relatives conceived before death but born thereafter.

43. Relatives of the decedent conceived before his death but born thereafter inherit as if they had been born in the lifetime of the decedent.

C. 3A:2A-41 Meaning of certain terms for purposes of intestate succession.

44. If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person,

a. An adopted person is the child of an adopting parent and not of the natural parents except that adoption of a person by the spouse of a natural parent shall have no effect on the relationship between the person and that natural parent; provided, however, that all rights of inheritance between an adopted person and his natural parents existing by virtue of any law concerning the adoption of persons in effect at the time any judgment of adoption has been or shall be entered shall not be changed by virtue of this section. The provisions of this subsection shall not have the effect of changing any rights of inheritance granted or restrictions thereon imposed under N. J. S. 2A:22–3.

b. In cases not covered by a., a person born out of wedlock is a child of the mother. That person is also a child of the father, if:

(1) The natural parents, before or after the birth of the child, participated in a ceremonial marriage or shall have consummated a common-law marriage where such marriage is recognized as valid in the manner authorized by the law of the place where such marriage took place, even though the attempted marriage is void; or

(2) The paternity is established by an adjudication before the death of the father or is established thereafter by clear and convincing proof, except that the paternity established under this

subparagraph is ineffective to qualify the father or his kindred to inherit from or through the child unless the father has openly treated the child as his, and has not refused to support the child.

C. 3A:2A-42 Debt owed to decedent.

45. A debt owed to the decedent by an heir is not charged against the intestate share of any person except that heir. If the debtor fails to survive the decedent, the debt is not taken into account in computing the intestate share of the debtor's issue.

C. 3A:2A-43 Aliens.

46. No person is disqualified to take as an heir because he or a person through whom he claims is or has been an alien.

2. Inheritance by Spouse or Children not Provided for in Will

C. 3A:2A-44 Inheritance by spouse not provided for in will.

47. a. If a testator fails to provide by will for his surviving spouse who married the testator after the execution of the will, the omitted spouse shall receive the same share of the estate he would have received if the decedent left no will unless it appears from the will that the omission was intentional or 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 statements of the testator or from the amount of the transfer or other evidence.

b. The share of any such spouse shall be taken from devisees under the will ratably in proportion to their respective interests therein.

C. 3A:2A-45 Inheritance by children not provided for in will.

48. a. 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 child receives a share in the estate equal in value to that which he would have received if the testator had died intestate unless:

(1) It appears from the will that the omission was intentional;

(2) When the will was executed the testator had one or more children and devised substantially all his estate to the other parent of the omitted child; or

(3) The testator provided for the child by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by statements of the testator or from the amount of the transfer or other evidence.

b. 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 receives a share in the estate equal in value to that which he would have received if the testator had died intestate.

c. The share of any such child shall be taken from devisees under the will ratably and in proportion to their respective interests therein.

E. Payment of Claims

C. 3A:2A-46 Waiver of defense; statute of limitations.

49. Unless an estate is insolvent the personal representative may, but only with the consent of all successors, waive any defense of limitations available to the estate. If the defense is not waived, no claim which was barred by any statute of limitations at the time of the decedent's death shall be allowed or paid.

C. 3A:2A-47 Insufficiency of assets; payment of claims.

50. a. 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:

(1) Reasonable funeral expenses;

(2) Costs and expenses of administration;

(3) Debts and taxes with preference under Federal law or the laws of this State;

(4) Reasonable medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him;

(5) All other claims.

b. 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.

C. 3A:2A-48 Administration of assets of estates; personal representative.

51. a. All assets of estates being administered in this State are subject to all claims and charges existing or established against the personal representative wherever appointed.

b. If the estate either in this State or as a whole is insufficient to cover all claims and prior charges, each claimant whose claim has been allowed either in this State or elsewhere in administrations of which the personal representative is aware, is entitled to receive payment of an equal proportion of his claim. If a preference or security in regard to a claim is allowed in another jurisdiction but not in this State, the creditor so benefited is to receive dividends

from local assets only upon the balance of his claim after deducting the amount of the benefit.

c. In case the claims and prior charges of the entire estate exceed the total value of the portions of the estate being administered separately and this State is not the state of the decedent's last domicile, the claims allowed in this State shall be paid their proportion if local assets are adequate for the purpose, and the balance of local assets shall be transferred to the domiciliary personal representative. If local assets are not sufficient to pay all claims allowed in this State the amount to which they are entitled, local assets shall be marshaled so that each claim allowed in this State is paid its proportion as far as possible, after taking into account all dividends on claims allowed in this State from assets in other jurisdictions.

F. Fiduciaries

1. Duties and Powers of Personal Representatives

C. 3A:2A-49 Duties and powers of personal representative.

52. The duties and powers of a personal representative commence upon his appointment. The powers of a personal representative relate back in time to give acts by the person appointed which are beneficial to the estate occurring prior to appointment the same effect as those occurring thereafter. Prior to appointment, a person named executor in a will may carry out written instructions of the decedent relating to his body, funeral and burial arrangements. A personal representative may ratify and accept acts on behalf of the estate done by others where the acts would have been proper for a personal representative.

C. 3A:2A-50 Priority among letters.

53. A person to whom general letters of appointment are issued first has exclusive authority under the letters until his appointment is terminated or modified. If, through error, general letters of appointment are afterwards issued to another, the first appointed personal representative may recover any property of the estate in the hands of the personal representative subsequently appointed, but the acts of the latter done in good faith before notice of the first letters are not void for want of validity of appointment.

C. 3A:2A-51 Duty of personal representative to settle and distribute estate; liability; standing to sue or be sued; observation of certain standards.

54. a. A personal representative is under a duty to settle and distribute the estate of the decedent in accordance with the terms

of any probated and effective will and applicable law, and as expeditiously and efficiently as is consistent with the best interests of the estate. He shall use the authority conferred upon him by law, the terms of the will, if any, and any order in proceedings to which he is a party for the best interests of successors to the estate.

b. A personal representative shall not be surcharged for acts of administration or distribution because of lack of authority if the conduct in question was authorized at the time. Subject to other obligations of administration, a probated will is authority to administer and distribute the estate according to its terms. An order of appointment of a personal representative is authority to distribute apparently intestate assets to the heirs of the decedent if, at the time of distribution, the personal representative is not aware of a pending proceeding to probate a will or to determine heirs, a proceeding to vacate an order entered in an earlier proceeding to probate a will, a formal proceeding questioning his appointment or fitness to continue. Nothing in this section affects the duty of the personal representative to administer and distribute the estate in accordance with the rights of claimants and others interested in this estate.

c. Except as to proceedings which do not survive the death of the decedent, a personal representative of a decedent domiciled in this State at his death has the same standing to sue and be sued in the courts of this State and the courts of any other jurisdiction as his decedent had immediately prior to death.

d. Except as otherwise provided by the terms of the will, the personal representative shall observe the standards in dealing with the estate assets that would be observed by a prudent man dealing with the property of another, and if the personal representative has special skills or is named personal representative on the basis of representations of special skills or expertise, he is under a duty to use those skills.

C. 3A:2A-52 Right to possession of property transferred in fraud of creditors.

55. The right to possession of property transferred in fraud of creditors recovered for the benefit of creditors is exclusively in the personal representative.

C. 3A:2A-53 Expeditious settlement and distribution.

56. A personal representative shall proceed expeditiously with the settlement and distribution of a decedent's estate and do so without adjudication, order, or direction of a court, but he may

invoke the jurisdiction of a court, in proceedings authorized by law to resolve questions concerning the estate or its administration.

C. 3A:2A-54 Possession or control of estate; powers and duties of personal representative.

57. Except as otherwise provided by a decedent's will, every personal representative has a right to, and shall take possession or control of, the decedent's personal property, except that any tangible personal property may be left with or surrendered to the person presumptively entitled thereto unless or until, in the judgment of the personal representative, possession of the property by him will be necessary for purposes of administration. The request by a personal representative for delivery of any personal property possessed by an heir or devisee is conclusive evidence, in any action against the heir or devisee for possession thereof, that the possession of the property by the personal representative is necessary for purposes of administration. The personal representative shall take all steps reasonably necessary for the management, protection and preservation of, the estate in his possession. He may maintain an action to recover possession of property or to determine the title thereto.

C. 3A:2A-55 Power over title.

58. Until termination of his appointment a personal representative has the same power over the title to property of the estate that an absolute owner would have, in trust however, for the benefit of the creditors and others interested in the estate. This power may be exercised without notice, hearing, or order of court.

C. 3A:2A-56 Powers and duties of successor personal representative.

59. A successor personal representative has the same power and duty as the original personal representative to complete the administration and distribution of the estate, as expeditiously as possible, but he shall not exercise any power expressly made personal to the executor named in the will.

C. 3A:2A-57 Powers of surviving personal representative.

60. Unless the terms of the will otherwise provide, every power exercisable by copersonal representatives may be exercised by the one or more remaining after the appointment of one or more is terminated, and if one of two or more nominated as copersonal representatives is not appointed, those appointed may exercise all the powers incident to the office.

2. Powers and Jurisdiction over Foreign Fiduciaries

C. 3A:2A-58 Payment of debt, obligation, stock and delivery of property to domiciliary foreign fiduciary.

61. At any time after the expiration of 60 days from the appointment of a domiciliary foreign fiduciary, any person indebted to the estate or having possession or control of personal property, or of an instrument evidencing a debt, obligation, stock or chose in action belonging to the estate may pay the debt, deliver the personal property, or the instrument evidencing the debt, obligation, stock or chose in action, to the domiciliary foreign fiduciary upon being presented with a certificate of his letters or other proof of his authority and an affidavit made by or on his behalf stating:

a. The date of the letters of the domiciliary foreign fiduciary, or the date when he first received authority to act as such;

b. That no letters have issued in this State and no action therefor is pending in this State;

c. That the domiciliary foreign fiduciary is entitled to payment or delivery.

C. 3A:2A-59 Payment or delivery; release of debtor or person having possession.

62. Payment or delivery made in good faith on the basis of the proof of authority and affidavit releases the debtor or person having possession of the personal property to the same extent as if payment or delivery had been made to a local fiduciary.

C. 3A:2A-60 Notification to debtor by resident creditor.

63. Payment or delivery under section 61 of this act may not be made if a resident creditor of the estate has notified the debtor or the person having possession of the personal property that the debt should not be paid nor the property delivered to the domiciliary foreign fiduciary.

C. 3A:2A-61 Proof of authority and bond; filing.

64. If no letters have issued in this State or no action therefor is pending in this State, a domiciliary foreign fiduciary or any other person may file in the office of the Clerk of the Superior Court, or if the decedent, ward, or trust has an interest in real estate in any county of this State, then either in that office or in the office of the surrogate of that county, authenticated copies of the letters or appointment of the fiduciary and of any official bond he has given.

C. 3A:2A-62 Powers of domiciliary foreign fiduciary.

65. Upon compliance with section 64, a domiciliary foreign fiduciary may exercise as to assets in this State all powers he would

have had if he had received letters or been appointed in this State, including the power to release and discharge real or personal estate from a mortgage, judgment or other lien or encumbrance held by his decedent, ward or trust. Whether section 64 is complied with prior to, pending, or subsequent to the action, a domiciliary foreign fiduciary may maintain, or be made a party defendant or otherwise, to any action in any court of this State as if letters had been granted to him in this State, subject to any conditions generally imposed upon nonresident parties. Security for costs may be required of him.

C. 3A:2A-63 Powers of fiduciaries.

66. The power of a domiciliary foreign fiduciary under sections 64 or 65 shall be exercised only if no letters have issued or action therefor is pending in this State. The issuance of local letters or an action therefor terminates the power of the domiciliary foreign fiduciary to act under section 65, but a court in this State may allow the domiciliary foreign fiduciary to exercise limited powers to preserve the estate. No person who, before receiving actual notice of local letters or an action therefor, has changed his position in reliance upon the powers of the domiciliary foreign fiduciary, shall be prejudiced by reason of the action for, or issuance of, local letters. The local fiduciary is subject to all duties and obligations which have accrued by virtue of the exercise of the powers by the domiciliary foreign fiduciary and may be substituted for him in any action in this State.

C. 3A:2A-64 Submission to jurisdiction of courts.

67. A domiciliary foreign fiduciary submits himself personally to the jurisdiction of the courts of this State in any proceeding relating to the estate by (1) filing authenticated copies of his letters or appointment as provided in section 64 (2) receiving payment of money or taking delivery of personal property under section 61 or (3) doing any act as a fiduciary in this State which would have given the State jurisdiction over him as an individual. Jurisdiction under (2) is limited to the money or value of personal property collected.

C. 3A:2A-65 Jurisdiction by act of decedent.

68. In addition to jurisdiction conferred by section 67, a domiciliary foreign fiduciary for a decedent is subject to the jurisdiction of the courts of this State to the same extent that his decedent was subject to their jurisdiction immediately prior to death.

C. 3A:2A-66 Service of process.

69. If a domiciliary foreign fiduciary has submitted himself to the jurisdiction of the courts of this State, service of process shall be made upon him as provided by the Rules of the Supreme Court of New Jersey.

C. 3A:2A-67 Adjudication in favor or against fiduciary.

70. An adjudication rendered in any jurisdiction in favor of or against any fiduciary of the estate is as binding on the local fiduciary upon notice to him as if he were a party to the adjudication.

3. Liability

C. 3A:2A-68 Liabilities of fiduciary.

71. a. Unless otherwise provided in the contract, a fiduciary is not individually liable on a contract properly entered into in his fiduciary capacity in the course of administration of the estate unless he fails to reveal his fiduciary capacity and identify the estate in the contract.

b. A fiduciary is individually liable for obligations arising from ownership or control of the estate or for torts committed in the course of administration of the estate only if he is personally at fault.

c. Claims based on contracts entered into by a fiduciary in his fiduciary capacity, on obligations arising from ownership or control of the estate or on torts committed in the course of estate administration may be asserted against the estate by proceeding against the fiduciary in his fiduciary capacity, whether or not the fiduciary is individually liable therefor.

d. Issues of liability as between the estate and the fiduciary individually may be determined in a proceeding for accounting, surcharge or indemnification or other appropriate proceeding.

C. 3A:2A-69 Improper exercise of power concerning estate.

72. If the exercise of power concerning the estate is improper, the fiduciary is liable to interested persons for damage or loss resulting from breach of his fiduciary duty to the same extent as a trustee of an express trust. The rights of purchasers and others dealing with a fiduciary shall be determined as provided in sections 73 and 74 of this act.

C. 3A:2A-70 Conflict of interest in sale, encumbrance or transaction; exceptions.

73. Any sale or encumbrance to the fiduciary, his spouse, agent or attorney, or any corporation or trust in which he has a substantial beneficial interest, or any transaction which is affected

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by a substantial conflict of interest on the part of the fiduciary, is voidable by any person interested in the estate except one who has consented after fair disclosure, unless:

a. The will or a contract entered into by the decedent expressly authorized the transaction; or

b. The transaction is approved by the court after notice to interested persons.

C. 3A:2A-71 Assisting or dealing with fiduciary.

74. A person who in good faith either assists a fiduciary or deals with him for value is protected as if the fiduciary properly exercised his power. The fact that a person knowingly deals with a fiduciary does not alone require the person to inquire into the existence of a power or the propriety of its exercise. No provision in any will or order of court purporting to limit the power of a fiduciary is effective except as to persons with actual knowledge thereof. A person who in good faith pays, transfers or delivers to a fiduciary money or other property is not responsible for the proper application thereof by the fiduciary; and any right or title acquired from the fiduciary in consideration of such payment, transfer or delivery is not invalid in consequence of a misapplication by the fiduciary. The protection here expressed extends to instances in which some procedural irregularity or jurisdictional defect occurred in proceedings leading to the issuance of letters, including a case in which the alleged decedent is found to be alive. The protection here expressed is in addition to that provided by comparable provisions of the laws relating to commercial transactions and laws simplifying transfers of securities by fiduciaries.

G. Distribution

C. 3A:2A-72 Nonresident decedent; distribution of estate.

75. The estate of a nonresident decedent being administered by a personal representative appointed in this State shall, if there is a personal representative of the decedent's domicile willing to receive it, be distributed to the domiciliary personal representative for the benefit of the successors of the decedent unless (1) by virtue of the decedent's will, if any, and applicable choice of law rules, the successors are identified pursuant to the local law of this State without reference to the local law of the decedent's domicile; or (2) the personal representative of this State, after reasonable inquiry, is unaware of the existence or identity of a domiciliary personal representative. In other cases, distribution of the estate of a decedent shall be made in accordance with the law.

C. 3A:2A-73 Appropriation of assets; order; abatement.

76. a. Except as provided in subsection b. and except as may be otherwise provided by law, shares of distributees abate, without any preference or priority as between real and personal property, in the following order: (1) property passing by intestacy; (2) residuary devises; (3) general devises; (4) specific devises. For purposes of abatement, a general devise charged on any specific property or fund is a specific devise to the extent of the value of the property on which it is charged, and upon the failure or insufficiency of the property on which it is charged, a general devise to the extent of the failure or insufficiency. Abatement within each classification is in proportion to the amounts 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.

b. If the will expresses an order of abatement, or if the testamentary plan or the express or implied purpose of the devise would be defeated by the order of abatement stated in subsection a., the shares of the distributees abate as may be found necessary to give effect to the intention of the testator.

c. If the subject of a preferred devise is sold or used incident to administration, abatement shall be achieved by appropriate adjustments in, or contribution from, other interests in the remaining assets.

C. 3A:2A-74 Right of retainer.

77. The amount of a noncontingent indebtedness of a successor to the estate if due, or its present value if not due, shall be offset against the successor's interest; but the successor has the benefit of any defense which would be available to him in a direct proceeding for recovery of the debt.

C. 3A:2A-75 General pecuniary devises; interest rate.

78. General pecuniary devises bear interest at the rate of 4% per annum beginning 1 year after the first appointment of a personal representative until payment, unless a contrary intent is indicated by the will.

C. 3A:2A-76 Distribution in kind of assets; applicable provisions; valuation; proposal.

79. a. Unless a contrary intention is indicated by the will, the distributable assets of a decedent's estate shall be distributed in kind to the extent reasonably possible through application of the following provisions:

(1) A specific devisee is entitled to distribution of the thing devised to him.

(2) Any devise payable in money may be satisfied by value in kind provided:

(a) The person entitled to the payment has not demanded payment in cash;

(b) The property distributed in kind is valued at fair market value as of the date of its distribution; and

(c) No residuary devisee has requested that the asset in question remain a part of the residue of the estate.

(3) For the purpose of valuation under paragraph (2) securities regularly traded on recognized exchanges, if distributed in kind, are valued at the price for the last sale of like securities traded on the business day prior to distribution, or if there was no sale on that day, at the median between amounts bid and offered at the close of that day. Assets consisting of sums owed the decedent or the estate by solvent debtors as to which there is no known dispute or defense are valued at the sum due with accrued interest or discounted to the date of distribution. For assets which do not have readily ascertainable values, a valuation as of a date not more than 30 days prior to the date of distribution, if otherwise reasonable, controls. For purposes of facilitating distribution, the personal representative may ascertain the value of the assets as of the time of the proposed distribution in any reasonable way, including the employment of qualified appraisers, even if the assets may have been previously appraised.

(4) If the personal representative of either a testate or an intestate estate has, in the exercise of good faith and reasonable discretion, continued to hold in kind the distributable assets of an intestate estate or of the residue of a testate estate, the assets shall be distributed in kind if there is no objection to the proposed distribution and it is practicable to distribute undivided interests, otherwise those assets shall be converted into cash for distribution.

b. After the probable charges against the estate are known, the personal representative may mail or deliver a proposal for distribution to all persons who have a right to object to the proposed distribution. Such proposal shall notify all persons who have a right to object to the proposal of their right to object and that their objection must be in writing and received by the personal representative within 30 days after the mailing or delivery of the proposal. The right of any distributee to object to the proposed distribution on the basis of the kind or value of asset he is to

receive, if not waived earlier in writing, terminates if he fails to object in writing received by the personal representative within 30 days after mailing or delivery of the proposal.

C. 3A:2A-77 Distribution in kind; evidence of distributee's title to property.

80. If distribution in kind is made, the personal representative may and, if requested, shall execute an instrument or deed of distribution assigning, transferring or releasing the assets to the distributee as evidence of the distributee's title to the property.

C. 3A:2A-78 Evidence of succession to interest of estate in distributed assets.

81. Proof that a distributee has received an instrument or deed of distribution of assets in kind or payment in distribution, from a personal representative, is conclusive evidence that the distributee has succeeded to the interest of the estate in the distributed assets, as against all persons interested in the estate.

C. 3A:2A-79 Protection of purchaser.

82. If property distributed in kind or a security interest therein is acquired by a purchaser, or lender, for value from a distributee who has received an instrument or deed of distribution from the personal representative, the purchaser or lender takes title free of any claims of the estate and incurs no personal liability to the estate, whether or not the distribution was proper. To be protected under this provision, a purchaser or lender need not inquire whether a personal representative acted properly in making the distribution in kind.

C. 3A:2A-80 Action for partition.

83. When two or more heirs or devisees are entitled to distribution of undivided interests in any real or personal property of the estate, the personal representative or one or more of the heirs or devisees may institute an action, prior to the formal or informal closing of the estate, for partition. After notice to the interested heirs or devisees, the court shall partition the property in the same manner as provided by law for civil actions of partition. The court may direct the personal representative to sell any property which cannot be partitioned without prejudice to the owners and which cannot conveniently be allotted to any one party.

C. 3A:2A-81 Agreements among successors; personal representative to abide by terms.

84. Subject to the rights of creditors and taxing authorities, competent successors may agree among themselves to alter the interests, shares, or amounts to which they are entitled under the

will of the decedent, or under the laws of intestacy, in any way that they provide in a written contract executed by all who are affected by its provisions. The personal representative shall abide by the terms of the agreement subject to his obligation to administer the estate for the benefit of creditors, to pay all taxes and costs of administration, and to carry out the responsibilities of his office for the benefit of any successors of the decedent who are not parties. Personal representatives of decedent's estates are not required to see to the performance of trusts if the trustee thereof is another person who is willing to accept the trust. Accordingly, trustees of a testamentary trust are successors for the purposes of this section. Nothing herein relieves trustees of any duties owed to beneficiaries of trusts.

C. 3A:2A-82 Person under legal disability; distribution to guardian.

85. A personal representative may discharge his obligation to distribute to any person under legal disability by distributing to his guardian.

H. Effect of Homicide of Decedent

C. 3A:2A-83 Effect of homicide of decedent.

86. a. A surviving spouse, heir or devisee who intentionally kills the decedent is not entitled to any benefits under a testate or intestate estate and the estate of decedent passes as if the killer had predeceased the decedent. Property appointed by the will of the decedent to or for the benefit of the killer passes as if the killer had predeceased the decedent.

b. Any joint tenant who intentionally kills another joint tenant thereby effects a severance of the interest of the decedent so that the share of the decedent passes as his property and the killer has no rights by survivorship. This provision applies to joint tenancies and tenancies by the entirety, joint accounts in banks, savings and loan associations, credit unions and other institutions, and any other form of coownership with survivorship incidents.

c. A named beneficiary of a bond, life insurance policy, or other contractual arrangement who intentionally kills the principal obligee or the person upon whose life the policy is issued is not entitled to any benefit under the bond, policy or other contractual arrangement, and it becomes payable as though the killer had predeceased the decedent.

d. Any other acquisition of property or interest by the killer shall be treated in accordance with the principles of this section.

e. A final judgment of conviction of intentional killing is conclusive for purposes of this section. In the absence of a conviction of intentional killing the court may determine by a preponderance of evidence whether the killing was intentional for purposes of this section.

f. This section does not affect the rights of any person who, before rights under this section have been adjudicated, purchases from the killer for value and without notice property which the killer would have acquired except for this section, but the killer is liable for the amount of the proceeds or the value of the property. Any insurance company, bank, or other obligor making payment according to the terms of its policy or obligation is not liable by reason of this section unless prior to payment it has received at its home office or principal address written notice of a claim under this section.

I. Simultaneous Death

87. N. J. S. 3A:5–6 is amended to read as follows:

Inapplicability of chapter.

3A:5–6. This chapter shall not apply to a devolution of property of a decedent under a will or upon intestacy, where the law provides that in order to take on the devolution, a person shall survive the decedent by 120 hours, living trusts, deeds, or contracts of insurance, wherein provision has been made for distribution of property different from the provisions of this chapter.

J. Presumption of Death

88. N. J. S. 3A:40–1 is amended to read as follows:

Presumption of death.

3A:40–1. A resident or nonresident of this State who absents himself from the place of his last known residence for a continuous period of 5 years, during which he has not been heard from, and whose absence is not satisfactorily explained after diligent search, or inquiry is presumed to be dead. His death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

K. Exoneration of Property

89. N. J. S. 3A:26–1 is amended to read as follows:

Exoneration of property.

3A:26–1. When property subject to a mortgage or security interest descends to an heir or passes to a devisee, such heir or

devisee shall not be entitled to have such mortgage or security interest discharged out of any other property of the ancestor or testator, but such property so descending or passing to him shall be primarily liable for the mortgage or secured debt, unless the will of the testator shall expressly or impliedly direct that the mortgage or security interest be otherwise paid.

L. REPEALERS

C. 3A:2A-84 Repealer.

90. N. J. S. 3A:1–1, 3A:3–1 through 3A:3–3, 3A:3–6 through 3A:3–11, 3A:3–13, 3A:3–14, 3A:3–22, 3A:4–1 through 3A:4–7, 3A:4–9 through 3A:4–11, 3A:12–7 through 3A:12–9, 3A:13–1, 3A:24–2, 3A:25–1 and 3A:25–8 are hereby repealed.

91. This act shall take effect 18 months after its enactment.

Approved February 23, 1978.

CHAPTER 413

AN ACT to amend P. L. 1965, c. 127 and the "Savings and Loan Act (1963)," approved August 30, 1963 (P. L. 1963, c. 144), and repealing section 41 thereof.

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

1. Section 24 of P. L. 1963, c. 144 (C. 17:12B–24) is amended to read as follows:

C. 17:12B-24 Branch offices.

24. A. Branch offices. No State association shall hereafter establish or operate a branch office or offices, other than as provided by the conditions and limitations of sections 24 through 27 of this act; provided, however, that any association operating an authorized branch office at the effective date of this act may continue to do so.

The provisions of section 25 of this act shall apply only to branch offices authorized as the result of an association meeting the capital, reserve, and other requirements set forth in such section. Such branch offices shall be designated as section 25 branch offices.

The provisions of section 27 of this act shall apply only to branch offices authorized as the result of a merger of two or more associations or the purchase or acquisition of all or a substantial portion of the assets of one association by another association as set forth in Article XIII of this act. Such branch offices shall be designated as section 27 branch offices.

B. Limited facility branch offices. (1) In addition to an application or applications for a branch office or offices, a State association may make application for authority to operate one or more limited facility branch offices without regard to the requirements of section 25 (C. 17:12B–25) or section 26 (C. 17:12B–26) of this act. The application shall be in such form as shall be prescribed by the commissioner and notice of the application for a limited facility branch office shall be published in accordance with the rules and regulations of the commissioner as adopted under the provisions of the "Administrative Procedure Act" (P. L. 1968, c. 410, C. 52:14B–1 et seq.). Within 20 days after said notice is published, any person having objections to the application shall submit in writing to the commissioner detailed factual and legal grounds for the objections. The commissioner shall not be required to hold a hearing in connection with an application for a limited facility branch office. The commissioner shall approve such application as a limited facility branch office if, after consideration of written objections if any and such investigation as he deems advisable, he shall find:

(a) That the convenience and needs of the public will be served to advantage by the establishment of such limited facility branch office; and

(b) That the costs of establishing such limited facility branch office, including (i) construction and alteration costs, (ii) the cost of real property, if any, to be acquired in connection therewith or rental to be paid for space to be occupied by such office, (iii) the cost of purchasing or renting the equipment to be used in the operation of such office, and (iv) the cost of personnel to be utilized in the operation of such office shall not, in the aggregate, exceed such sum as the commissioner shall deem reasonable, taking into account the earnings, reserves, surplus and capital of the applying association. The commissioner may approve the sharing of such facilities with other associations when the application is for a fully automated office or may require the sharing of such facilities with other associations or banking institutions authorized to do business in this State.

(2) Removal of limitations. Limitations imposed by the commissioner in the case of a limited facility branch office may be removed, in whole or in part, from time to time upon application by the State association operating a limited facility branch office. No application for removal of limitations may be filed until a limited facility branch office has been in operation for 2 years. If and when all limitations have been removed by the commissioner, the limited facility branch office will become a branch office to be operated by the association in the same manner as a branch office approved pursuant to this section.

(3) Any operating State association which has been authorized to operate a limited facility branch office or offices may terminate the operation of such limited facility branch office in its discretion and, if so terminated, may not be reopened except upon a new application to the commissioner. Notice of an application to terminate a limited facility branch office shall be filed with the commissioner at least 2 weeks prior to the termination of operation. The operation of a limited facility branch office may not be changed to a new location except upon application to the commissioner.

(4) Subject to the "Administrative Procedure Act" (P. L. 1968, c. 410, C. 52:14B–1 et seq.), the commissioner may adopt, amend, alter or rescind regulations limiting State associations' powers to operate limited facility branch offices as hereinabove set forth.

2. Section 25 of P. L. 1963, c. 144 (C. 17:12B–25) is amended to read as follows:

C. 17:12B-25 Mutual associations; capital stock associations.

25. A. Mutual associations.

(1) Any mutual association may make written application to the commissioner for authority to operate one section 25 branch office when the total of its reserve accounts, established under the provisions of section 128 of this act, and undivided profits are at least equal to 4% of its capital or $100,000.00, whichever is less.

(2) Any mutual association operating one or more section 25 or 27 branch offices, may apply to the commissioner for authority to operate additional section 25 branch offices, when the total of its reserve accounts, established under the provisions of section 128 of this act, and undivided profits are at least equal to 4% of its capital, plus an amount equal to $50,000.00 for each existing section 25 branch office the association is operating at the date of its application.

If an applying mutual association's reserves and undivided profits do not equal or exceed the amounts for reserves and undivided profits hereinabove set forth, the mutual association may nevertheless make such application, provided the mutual association agrees to establish a "guaranty account," under the same conditions as set forth in section 18 except as modified by the following:

(a) The amount of such guaranty account shall equal the difference between the reserves and undivided profits the applying mutual association requires under the provisions of subsection 2 of this section, and the amount of reserves and undivided profits held by the applying mutual association at the date of such application.

(b) A separate guaranty account may be established for each section 25 branch office applied for.

(c) The agreement for the guaranty account shall contain a provision providing for its release to the owners thereof at such time as the reserves, established under section 128 of this act, and undivided profits of the mutual association are equal to 4% of capital, plus $50,000.00 for each section 25 branch office in operation; or at such earlier time as the commissioner may upon application of the association approve, irrespective of the provisions of section 18. Upon release, the amount released shall be transferred to a savings account in the mutual association, in the name of the owner. In the event a mutual association simultaneously applies for authority to operate more than one section 25 branch office, or other applications for section 25 branch offices are pending by such association, the mutual association must comply with the reserve and undivided profits or guaranty account requirements as hereinabove set forth for each section 25 branch office applied for in excess of the first application.

B. Capital stock associations.

(1) Any capital stock association may make written application to the commissioner for authority to operate one section 25 branch office when the total of its reserve accounts, required or permitted under the provisions of this act, its stated capital, capital surplus, and earned surplus are at least equal to 4% of its depositors' accounts, or $100,000.00; whichever is less.

(2) Any capital stock association operating one or more section 25 or 27 branch offices, may apply to the commissioner for authority to operate additional section 25 branch offices when the total of its reserve accounts, required or permitted under the provisions of

this act, its stated capital, capital surplus, and earned surplus are at least equal to 4% of its depositors' accounts, plus the sum of $50,000.00 for each existing section 25 branch office said association is operating at the time of its application.

3. Section 26 of P. L. 1963, c. 144 (C. 17:12B–26) is amended to read as follows:

C. 17:12B-26 Establishment and operation of one or more section 25 branch offices.

26. 1. Subject to the other limitations of this act, an association may establish and operate one or more section 25 branch offices as follows:

(a) In the same municipality in which it operates its principal office; or

(b) In any municipality where there is no principal office or branch office of any other association in operation at the time it is proposed to establish such branch office; or

(c) In any municipality where, at date of application, there is located a principal office or offices of an association or associations, and where the population of the municipality is 10,000 or more. The commissioner, upon application, may set aside the population requirement set forth above. The presence of one or more branch offices or limited facility branch offices of one or more associations in any municipality shall not prevent the establishment of a section 25 branch office under this subdivision; or

(d) In a municipality in which the association is operating a section 25 or 27 branch office where there is no principal office or branch office of another association.

(e) (Deleted by amendment.) P. L. 1973, c. 196.

(f) Nothing in this subsection shall affect the operation of any branch office legally established under prior law.

2. No association shall establish a section 25 branch office unless the association shall first file written application with the commissioner for his approval. An application shall be deemed to have been filed at such time as a written application, including such supporting data as may be required by the commissioner, shall have been made in writing by the applying association and delivered by certified mail, return receipt requested, or in person to the commissioner. Before approving such application, the commissioner shall determine that:

(a) The association and the proposed branch meet all of the requirements of sections 25 and 26 of this act; and

(b) The establishment and operation of such branch office is in the public interest and will be of benefit to the area served by such branch office; and that

(c) Such branch office may be established if the commissioner determines that the needs and convenience of the public will be served to advantage by the establishment of such branch office; and that

(d) Conditions in the area to be served, afford reasonable promise of successful operation and that the costs of establishing such branch office are reasonable, taking into consideration the association's earnings, reserves, surplus and capital.

Within 10 days after the submission of any such application to the commissioner, the applying State association shall give notice of such application by publication of a notice of such application in a newspaper published within the municipality in which it is proposed to locate the branch office if there be one or, if there be no such newspaper, in a newspaper published in the county and having a substantial circulation in the municipality. The notice shall be in a form approved by the commissioner, and shall include the name of the applying association and the location, as precisely as possible, in the municipality where such branch office is to be located. The commissioner shall conduct such investigation or hearing or both, as he may deem to be advisable. For good cause, the commissioner may dispense with the notice requirements of this section.

No less than 30 days after filing with the commissioner the proof of publication of the aforementioned notice and within 90 days thereafter, the commissioner shall announce his decision upon such application and file in his office, a written memorandum stating the reasons therefor, which shall be open to public inspection; and he shall forthwith thereafter give written notice thereof to the applicant.

4. Section 27 of P. L. 1963, c. 144 (C. 17:12B–27) is amended to read as follows:

C. 17:12B-27 Section 27 branch office; application to commissioner for authority to operate; commissioner's decision.

27. Any State association, into which another association has been merged or which has acquired by purchase, reorganization or in any other manner, all or a substantial portion of the assets of another association, may make application to the commissioner for authority to operate the office previously operated by such other association, or a substitute therefor, as a section 27 branch office.

The commissioner may grant authority for the operation of such section 27 branch office under such terms and conditions as he shall prescribe, and such authority may be inclusive of authorized branch offices operated by the selling or merging association; provided, however, that no branch office or offices shall be established under this section unless the commissioner shall first determine that the operation of such branch office or offices is in the public interest and will be of benefit to the area served by such branch office or offices and will serve to advantage the needs and convenience of the public.

Within 30 days after the filing of the merger or asset sale agreement with the commissioner or the holding of a hearing, whichever last occurs, the commissioner shall announce his decision upon such application and file in his office, a written memorandum stating the reasons therefor, which shall be open to public inspection; and he shall forthwith thereafter give written notice thereof to the applicant.

5. Section 4 of P. L. 1965, c. 127 (C. 17:12B–27.1) is amended to read as follows:

C. 17:12B-27.1 Removal of branch offices.

4. Removal of branch offices. A State association may change the location of a branch office to a location, in the same municipality, which is 1,500 feet or less in distance from the existing location of the branch office to be relocated, provided it files a certificate of such change of location with the commissioner within 1 week from the date such change is made. Otherwise a State association may change the location of a branch office upon written application to and approval by the commissioner.

(1) If the distance between the proposed new location is more than 1,500 feet, but is in the same municipality as the existing branch office, the applying State association shall, within 10 days after the submission of any such application to the commissioner, give notice of such application by publication of a notice of such application in a newspaper published within the municipality in which it is proposed to locate such branch office, if there be one, or, if there be no such newspaper, in a newspaper published in the county and having a substantial circulation in the municipality. Notice shall be in a form approved by the commissioner and shall include the name of the applying association and the location, as precisely as possible, in the municipality where such branch office is to be located.

(2) If the proposed new location is in another municipality than that in which the existing branch office is located, the State association shall comply with the notice requirements set forth in subsection 2 of section 26 of this act and the commissioner, before approving the application, shall determine that the establishment and operation of such proposed branch office is in the public interest, will be of benefit to the area served by such branch office and that such branch office will meet the needs and convenience of the public in the area proposed to be served, and that conditions in the area to be served, afford reasonable promise of successful operation.

(3) For the purposes of this section, distances shall be measured in a straight line drawn from the center point of the main entrance of the present location of the branch office to the center point of the main entrance of the proposed location.

(4) Upon receipt of a written application to change the location of branch office as provided in subsections (1) and (2) of this section, the commissioner shall conduct such investigation or hearing, or both, as he may deem to be advisable. Not less than 30 days after and publication of the required notice by the applying association and within 90 days thereafter, the commissioner shall announce his decision upon such application and file in his office a written memorandum stating the reasons therefor which shall be open to public inspection; and he shall forthwith thereafter give written notice thereof to the applicant.

6. Section 5 of P. L. 1965, c. 127 (C. 17:12B–27.2) is amended to read as follows:

C. 17:12B-27.2 Time limit for opening branch office; discontinuance of branch office.

5. Time limit for opening branch office; discontinuance of branch office.

The failure of a State association to open and operate a branch office within 6 months after the commissioner approves the application therefor, shall automatically terminate the right of the State association to open the branch office, except that, for good cause shown, the commissioner may, in his discretion, on application of the State association extend for additional periods, not in excess of 6 months each, the time within which such branch office may be opened, provided the initial application shall be made before the expiration of 6 months from the date that the commissioner approves the application and any subsequent application for extension shall be made before the expiration of any subsequent period

for which permission to extend is granted by the commissioner. A State association may discontinue a branch office upon resolution of its board. Upon adoption of such a resolution, the State association shall file a certificate with the commissioner specifying the location of the branch office to be discontinued, and the date upon which the discontinuance shall be effective.

7. Section 28 of P. L. 1963, c. 144 (C. 17:12B–28) is amended to read as follows:

C. 17:12B-28 Interchange of principal and branch offices.

28. Interchange of principal and branch offices. A State association may change the location of its principal office to a location then occupied by a branch office operated by it, subject to the requirements herein set forth:

(1) If the interchange results in the new location of the principal office remaining in the same municipality as the previous location, the State association shall file a certificate of such change with the commissioner within 1 week from the date such change is made.

The State association may, in such case, operate its principal office at the location previously occupied by its branch office and may operate a branch office at the location previously occupied by its principal office without further requirement.

(2) If the interchange results in the principal office being removed from one municipality to another, the State association shall apply to the commissioner for written approval of such change of location in accordance with the provisions of section 40 of this act. Upon approval of the commissioner, in accordance with section 40 of this act, the association may operate its principal office at the previous location of its branch office and may operate a branch office at the previous location of its principal office without further requirement.

The failure of a State association to complete such interchange within 6 months after filing the certificate or after approval by the commissioner, as the case may be, shall automatically terminate the right of the State association to effect such interchange, except that, for good cause shown, the commissioner may in his discretion on application of the State association, extend for additional periods, not in excess of 6 months each, the time within which such interchange may be effected, provided the initial application shall be made before the expiration of 6 months from the date that the commissioner approves the application and any subsequent application for extension shall be made before the expiration of any sub-

sequent period for which permission to extend is granted by the commissioner.

8. Section 40 of P. L. 1963, c. 144 (C. 17:12B–40) is amended to read as follows:

C. 17:12B-40 Change of office location.

40. Change of office location. A State association may change the location of its principal office to a new location subject to the following requirements:

(1) If the new location of its principal office is in the same municipality, the State association shall file a certificate of such change with the commissioner within 1 week from the date such change is made.

(2) Where the principal office is to be removed from one municipality to another, such change or removal shall take place only after application to and the written approval of the commissioner of such change of location. Within 10 days after the submission of any such application, the commissioner shall give written notice by mail to the State association of a time and place designated by him for a hearing on such application. The time designated for such hearing shall be not less than 6 weeks nor more than 8 weeks after the date upon which the commissioner mails such notice. The State association shall thereupon give notice of such application by publication of a notice of such application in a newspaper published within the municipality in which it is proposed to locate the branch office, if there be one, or, if there be no such newspaper, in a newspaper having a substantial circulation in the municipality. The notice shall be in a form approved by the commissioner and shall include the name of the applying association and the location, as precisely as possible, in the municipality where such branch office is to be located and shall set forth the time and place designated by the commissioner for a hearing thereon. Such notice shall be published at least 3 weeks prior to the date of such hearing.

9. Section 42 of P. L. 1963, c. 144 (C. 17:12B–42) is amended to read as follows:

C. 17:12B-42 Commissioner's decision; filing of written memorandum.

42. Within 30 days after the close of the hearing, the commissioner shall announce his decision upon such application and file in his office a written memorandum stating the reasons therefor, which shall be open to public inspection, and he shall forthwith furnish a copy thereof to the applicant.

10. Section 43 of P. L. 1963, c. 144 (C. 17:12B–43) is amended to read as follows:

C. 17:12B-43 Approval of application.

43. If the commissioner shall find that—

(a) the proposed change of location is in the public interest, and

(b) will be of benefit to the area to which it is proposed to remove such office, and

(c) that the new location will serve to advantage the needs and convenience of the public, and

(d) the State association will have a reasonable prospect of success in the proposed new location;

he shall approve such application.

Repealer.

11. Section 41 of P. L. 1963, c. 144 (C. 17:12B–41) is repealed.

12. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 414

AN ACT to amend "An act providing for property tax rebates or credits for residential tenants in certain cases," approved August 17, 1976 (P. L. 1976, c. 63) as said title was amended by P. L. 1977, c. 81.

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

1. Section 13 of P. L. 1976, c. 63 is amended to read as follows:

13. This act shall take effect immediately.

2. This act shall take effect immediately.

Approved February 23, 1978.

CHAPTER 415

AN ACT concerning the rights of parents and guardians of public school children in relation to their assignment to certain educational programs and amending N. J. S. 18A:46–8.

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

1. N. J. S. 18A:46–8 is amended to read as follows:

Identification, examination and classification of handicapped child; report to parent or guardian.

18A:46–8. Each handicapped child shall be identified, examined and classified according to procedures, prescribed by the commissioner and approved by the State board, under one of the following categories: mentally retarded, visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted or multiply handicapped.

The proposed classification shall be reported to the parent or guardian of the child and an opportunity provided, prior to implementation of the classification, for consultation by such parent or guardian with the appropriate special educational services personnel of the district. Pursuant to rules of the State board, the parent or guardian shall also be provided an opportunity for further review of the classification in the Department of Education.

2. This act shall take effect July 1 next following enactment.

Approved February 24, 1978.

CHAPTER 416

AN ACT to amend "An act to provide for the issuance by banks of convertible and nonconvertible capital notes and debentures, and supplementing 'An act concerning banking and banking institutions (Revision of 1948),' approved April 29, 1948 (P. L. 1948, c. 67)," approved September 6, 1966 (P. L. 1966, c. 272).

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

1. Section 10 of P. L. 1966, c. 272 (C. 17:9A–131.29) is amended to read as follows:

C. 17:9A-131.29 Outstanding notes included with bank's capital funds.

10. The principal amount owing on all capital notes of a bank at any time outstanding, whether issued by the bank pursuant to this act, or issued as capital notes or debentures before the effective date of this act with the approval of the commissioner, or issued as an incident of a merger effected pursuant to article 21 (C. 17:9A–132 to 17:9A–148) of The Banking Act of 1948, P. L. 1948, c. 67, shall be included with the amount of the bank's capital funds for the purpose of determining the limitations on liability to a bank pursuant to article 13 of the act to which this act is a supplement.

2. Section 12 of P. L. 1966, c. 272 (C. 17:9A–131.31) is amended to read as follows:

C. 17:9A-131.31 Act not applicable.

12. This act shall not apply to any borrowing by a bank, however evidenced, which is payable in 1 year or less from the date of such borrowing nor shall the provisions of sections 4, 9 and 10 of this act apply to any obligation issued by a bank to evidence a loan or loans made to such bank by the New Jersey Mortgage Finance Agency pursuant to the New Jersey Mortgage Finance Agency Law, P. L. 1970, c. 38, nor shall the following sections of this act apply to capital notes issued as an incident of a merger effected pursuant to article 21 (C. 17:9A–132 to 17:9A–148) of the Banking Act of 1948, P. L. 1948, c. 67:

a. Section 1 (C. 17:9A–131.20), insofar as it provides that capital notes may be issued only to evidence obligations to repay money borrowed by a bank;

b. Section 3 (C. 17:9A–131.32), insofar as it provides that capital notes may be issued only for cash, and insofar as it provides that such notes may be converted only into common stock;

c. Section 6 (C. 17:9A–131.25);

d. Section 7 (C. 17:9A–131.26); and

e. Section 11 (C. 17:9A–131.30).

3. This act shall take effect immediately.

Approved February 24, 1978.

CHAPTER 417

AN ACT to amend "The Banking Act of 1948," approved April 29, 1948 (P. L. 1948, c. 67).

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

1. Section 6 of P. L. 1948, c. 67 (C. 17:9A–6) is amended to read as follows:

C. 17:9A-6 Par value of shares of capital stock.

6. A. Except as otherwise provided in this section the par value of the shares of the capital stock issued by any bank shall be not less than $2.00 per share.

B. A bank may create and issue common stock and preferred stock.

C. The minimum par value imposed by subsection A of this section shall not apply to stock issued before the effective date of this act. Notwithstanding any other provision of this act, any bank heretofore organized may, in increasing or decreasing its capital stock, or in converting its preferred stock into common stock, assign to its shares the same par value as that assigned to such stock issued and outstanding on the effective date of this act.

2. Section 124 of P. L. 1948, c. 67 (C. 17:9A–124) is amended to read as follows:

C. 17:9A-124 Issuance of preferred stock.

124. A bank may issue preferred stock

(1) Upon its organization as a successor bank pursuant to section 16; or

(2) Upon its reorganization pursuant to Article 24; or

(3) Upon amending its certificate of incorporation as provided by Article 19, upon the vote of the holders of at least two-thirds of the shares of each class of stock issued by the bank; or

(4) As an incident of a merger when it is a receiving bank as defined in section 132 (C. 17:9A–132).

3. Section 125 of P. L. 1948, c. 67 (C. 17:9A–125) is amended to read as follows:

C. 17:9A-125 Certificates of incorporation and of amendment and merger agreements; provisions.

125. A. The certificate of incorporation of every bank hereafter authorized to issue preferred stock upon its organization pursuant

to section 16, and the certificate of amendment to the certificate of incorporation of every other bank hereafter issuing preferred stock, and every merger agreement hereafter effected which provides for the issuance of preferred stock shall state:

(1) The number of classes of preferred stock to be issued, and the number of shares in each class;

(2) The par value of the shares of each class of preferred stock;

(3) The issue price of each share of preferred stock, except that, when preferred stock is issued in exchange for the capital stock of a merging bank pursuant to Article 21, the issue price shall be the par value of such preferred stock;

(4) When the issue price exceeds the par value, the use to which the excess over the par value is to be put;

(5) The priorities, preferences, and rights of each class of preferred stock;

(6) If the preferred stock is to be subject to retirement, the retirement price of each share thereof;

(7) If the preferred stock is to be subject to conversion into common stock, the terms and conditions upon which such conversion shall be effected;

(8) The rate of dividend to be paid on the preferred stock, and whether such rate is to be based upon the par value or the issue price of the stock;

(9) If a sinking fund is to be established for the retirement of preferred stock, the terms and conditions governing the establishment and maintenance of such fund;

(10) The amount which shall be paid upon each such share of preferred stock upon the dissolution of the bank.

B. In addition to the matters required by subsection A of this section, the original or amended certificate of incorporation and the merger agreement pursuant to which preferred stock is issued may contain such other provisions as may be necessary or convenient, including, by way of description and not by way of limitation,

(1) A provision that, upon a meeting called to approve the voluntary dissolution of the bank, the holders of preferred stock may have two votes for each share of stock;

(2) A provision for the increase of the common stock, without further act of the stockholders, upon the conversion of preferred stock into common stock;

(3) A provision that, upon the issuance of preferred stock, or upon the issuance of common stock to effect a conversion of pre-

ferred stock, such stock may be issued without an offer thereof to existing stockholders.

4. Section 126 of P. L. 1948, c. 67 (C. 17:9A–126) is amended to read as follows:

C. 17:9A-126 Priorities and limitations.

126. Every issue of preferred stock shall be subject to the following:

(1) The issue price for each share shall be not less than the par value, and shall be the same for all shares included within a single class;

(2) So long as a bank is not in default in the payment of dividends on preferred stock, or in meeting any requirements specified in its certificate of incorporation or in a merger agreement providing for the issuance of preferred stock for the maintenance of a sinking fund for the retirement of preferred stock, the holders of preferred stock shall have no greater voting rights than the holders of common stock; but, if so provided in the certificate of incorporation or merger agreement, the holders of preferred stock of any class or classes shall, upon either such default, have two votes for each share of such stock so held;

(3) The retirement price, if any, of each share of preferred stock shall be not less than its par value or greater than its issue price, plus any accrued dividends thereon;

(4) No more than the par value of shares of preferred stock shall be charged against the capital stock of a bank upon retirement of such stock;

(5) No preferred stock shall be retired if the effect of such retirement would be to reduce the capital stock of the bank below the minimum specified in section 121;

(6) The valuation placed upon preferred stock for the purpose of its conversion into common stock shall be not less than its par value nor greater than the price approved by the commissioner on the issue of such preferred stock, plus any accrued dividends thereon. The valuation placed upon common stock issued on the conversion of preferred stock shall be not less than par value of such common stock;

(7) The dividend rate shall not exceed 6% per annum of the par value of such stock or of the issue price thereof, if the issue price is greater; except that the commissioner may approve a rate in excess of 6% per annum if, upon application, the commissioner deems a higher rate is appropriate after giving consideration to the bank's capital, surplus, and earnings.

5. Section 127 of P. L. 1948, c. 67 (C. 17:9A–127) is amended to read as follows:

C. 17:9A-127 Dividends.

127. No dividend shall be declared or paid on common stock until all accrued dividends shall have been paid on preferred stock, or until funds shall have been set aside for such payment; nor shall any dividends be paid on common stock until the provisions, if any, of the certificate of incorporation or merger agreement governing the establishment and maintenance of a sinking fund for the retirement of preferred stock, shall have been satisfied.

6. Section 128 of P. L. 1948, c. 67 (C. 17:9A–128) is amended to read as follows:

C. 17:9A-128 Priority on dissolution.

128. Upon a bank's dissolution in any manner, the holders of preferred stock shall be entitled to receive in full the amount specified in the certificate of incorporation or merger agreement providing for the issuance of preferred stock, before any distribution is made to the holders of common stock.

7. Section 132 of P. L. 1948, c. 67 (C. 17:9A–132) is amended to read as follows:

C. 17:9A-132 Definitions.

132. As used in this article:

(1) "Merging bank" means a bank which is merged, or which is in process of being merged, into another bank; and, in a case where a national banking association is merged into or consolidated with, or is in process of being merged into or consolidated with, a bank under the charter of such bank, "merging bank" also means such national banking association;

(2) "Receiving bank" means a bank into which one or more other banks are merged, or are in process of being merged; and, in a case where a national banking association is merged into or consolidated with, or is in process of being merged into or consolidated with, a bank under the charter of such bank, "receiving bank" also means the bank into which such national banking association is merged or consolidated, or is in process of being merged or consolidated;

(3) "Company" as used in sections 133 and 134 (C. 17:9A–133 and 17:9A–134) means a corporation, joint stock company, business trust, general or limited partnership, voting trust and any similar organized group of persons whether incorporated or not, owning more than 25% of the capital stock of a receiving bank after a merger is effected.

8. Section 133 of P. L. 1948, c. 67 (C. 17:9A–133) is amended to read as follows:

C. 17:9A-133 Mergers.

133. A. Any two or more banks may, with the approval of the commissioner, merge one or more of them into another of them as provided in this article.

B. A merger may be effected by any one or by any combination of any two or more or all of the following methods:

(1) By the exchange of shares of capital stock of each merging bank for the shares of capital stock of the receiving bank;

(2) By the exchange of shares of capital stock of each merging bank for the shares of capital stock of a company as such term is defined in paragraph (3) of section 132 (C. 17:9A–132);

(3) By the exchange of shares of capital stock of each merging bank for capital notes of the receiving bank;

(4) By the exchange of shares of capital stock of each merging bank for cash received from the receiving bank or from a company as such term is defined in paragraph (3) of section 132 (C. 17:9A–132);

(5) By the exchange of shares of capital stock of each merging bank for capital notes of a company as such term is defined in paragraph (3) of section 132 (C. 17:9A–132).

9. Section 134 of P. L. 1948, c. 67 (C. 17:9A–134) is amended to read as follows:

C. 17:9A-134 Merger agreement; authorization.

134. A. The boards of directors of the several banks proposing to merge shall authorize the execution of a merger agreement which shall contain:

(1) The name of each merging bank and the location of the principal office and branch offices of each merging bank;

(2) The name of the receiving bank and the location of its principal office and branch offices;

(3) The name by which the receiving bank will be known after the merger is effected;

(4) The names of the persons who will be the directors of the receiving bank;

(5) The names of the persons who will be officers of the receiving bank;

(6) The location then occupied by the principal office or a branch office of a merging bank or the receiving bank at which the principal office of the receiving bank will be maintained;

(7) The locations then occupied by the principal offices and branch offices of the merging banks and the receiving bank which will be continued as branch offices of the receiving bank;

(8) The effective date of the merger;

(9) The amount of the capital stock, the number of shares into which it will be divided, the par value of each share, and the amount of the surplus which the receiving bank will have after the merger is effected;

(10) The basis upon which shares of each merging bank will be exchanged for shares of capital stock of the receiving bank, or for shares of capital stock of a company as such term is defined in paragraph (3) of section 132 (C. 17:9A–132), or for capital notes, or for cash, or for any one or more or all of the foregoing, as the case may be;

(11) A provision stating whether the capital notes to be issued pursuant to such agreement shall be convertible into shares of capital stock of the receiving bank, and, if so, shall contain a further provision for authorized but unissued shares of capital stock of the receiving bank in an aggregate par value sufficient to effect the conversion of such notes into such shares of capital stock of the receiving bank;

(12) If the merger agreement provides for the issuance of preferred stock, the provisions stated in subsection B of section 125 (C. 17:9A–125);

(13) Such other provisions, including the provisions stated in subsection B of section 125 (C. 17:9A–125), not inconsistent with the provisions of this act, as may be necessary or appropriate to effect the merger.

B. Capital notes issued pursuant to this section shall conform with and be subject to sections 4, 8, 9 and 10 of P. L. 1966, chapter 272, (C. 17:9A–131.23, 17:9A–131.27, 17:9A–131.28, and 17:9A–131.29).

10. Section 147 of P. L. 1948, c. 67 (C. 17:9A–147) is amended to read as follows:

C. 17:9A-147 Issuing new stock certificates.

147. A. The receiving bank shall require each stockholder of each merging bank to surrender his certificates of capital stock of each such bank, and shall, upon such surrender, issue or deliver in lieu thereof, certificates for such number of its own shares of capital stock and such number of shares of capital stock of a company, as such term is defined in paragraph (3) of section 132 (C. 17:9A–132),

and such amount of capital notes or cash, as such stockholder is entitled to receive pursuant to the terms of the merger agreement.

B. The increase in a receiving bank's capital stock resulting from the issuance of its shares of capital stock in exchange for the shares of capital stock of each merging bank, or in exchange for convertible capital notes converted into shares of capital stock pursuant to the merger agreement shall not entitle the stockholders of the receiving bank to acquire additional shares of capital stock.

11. This act shall take effect immediately.

Approved February 24, 1978.

CHAPTER 418

AN ACT to amend "An act concerning fraternal benefit societies, defining certain terms relative thereto, providing for the enforcement of the act, providing penalties for violations, repealing chapters 39 to 44, both inclusive, of Title 17 and supplementing Title 17, of the Revised Statutes," approved November 12, 1959 (P. L. 1959, c. 167).

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

1. Section 29 of P. L. 1959, c. 167 (C. 17:44A–29) is amended to read as follows:

C. 17:44A-29 Licensing of agents of societies.

29. Agents of societies shall be licensed in accordance with the provisions of this section.

(1) Insurance agent defined. The term "insurance agent" as used in this section means any authorized or acknowledged agent of a society who acts as such in the solicitation, negotiation or procurement or making of a life insurance, accident and health insurance or annuity contract, except that the term "insurance agent" shall not include:

(a) Any regular salaried officer or employee of a licensed society who devotes substantially all of his services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of such contracts no commis-

sion or other compensation directly dependent upon the amount of business obtained; or

(b) Any agent or representative of a society who devotes, or intends to devote, less than 50% of his time to the solicitation and procurement of insurance contracts for such society. Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of $50,000.00, or, in the case of any other kind or kinds of insurance which the society might write, on the persons of more than 25 individuals and who has received or will receive a commission or other compensation, therefor, shall be presumed to be devoting, or intending to devote, 50% of his time to the solicitation or procurement of insurance contracts for such society.

(2) License required. No person shall act in this State as an insurance agent, as defined in subsection (1) hereof, for a society without having authority so to do by virtue of a license issued and in force pursuant to the provisions of this section.

(3) Payment of commissions forbidden. No society doing business in this State shall pay any commission or other compensation to any person for any services in obtaining in this State any new contract of life, accident or health insurance, or any new annuity contract, except to a licensed insurance agent of such society and except an agent exempted under subsection (1) (b) of this section.

(4) Prerequisites, issuance and renewal of insurance agent's licenses.

(a) The commissioner may issue a license to any person who has complied with the requirements of this section, authorizing the licensee to act as an insurance agent on behalf of any society named in such license which is authorized to do business in this State. The annual fee for each license issued shall be $5.00.

(b) Before any insurance agent's license shall be issued there shall be on file in the office of the commissioner the following documents:

(1) A written application by the prospective licensee in such form or forms and supplements thereto, and containing such information, as the commissioner may prescribe;

(2) A certificate by the society which is to be named in such license, stating that such society has satisfied itself that the named applicant is trustworthy and competent to act as such insurance agent and that the society will appoint such applicant to act as its agent if the license applied for is issued by the commissioner. Such certificates shall be executed and ac-

knowledged by an officer or managing agent of such society; and

(3) A certificate that the applicant for a license shall have taken, and successfully completed, a program of studies established by regulation of the commissioner to the end that the applicant shall be reasonably familiar with the kinds of insurance he intends to solicit or negotiate. The commissioner may waive the educational requirement set forth herein if the applicant was previously licensed for the authority he is seeking.

(c) A written examination shall be required to be satisfactorily completed by any individual seeking to be named as a licensee to represent a fraternal benefit society as its agent. An examination fee of $15.00 shall be paid at the time of the original application for each examination scheduled unless the applicant be exempt hereunder. An examination fee shall be paid for each examination and reexamination permitted. If the applicant fails to qualify for, or is refused, a license, the license fee shall be returned. The examination fee shall not be returned for any reason.

No written examination or program of studies as prescribed in subsection 4 (b) (3) of this section will be required of:

(1) An applicant who is the holder of a valid agent's license issued by the commissioner or an applicant for a renewal license, except in a case where the commissioner has good and sufficient cause to believe that the applicant for renewal has demonstrated incompetency in the conduct of his business as an agent to the detriment of the insurance-buying public;

(2) An applicant whose license to do business or act as an insurance agent for life insurance, health insurance or annuities in this State has expired less than 3 years prior to the date of application. If the applicant has permitted his license to lapse for a period of more than 3 years, he must submit to and pass an examination the same as a new applicant, except where the applicant is a veteran who meets the requirements of paragraph (c) (3) hereunder, when no reexamination shall be required;

(3) An applicant who is a citizen of New Jersey and has served in the Armed Forces of the United States and has been honorably discharged or released under conditions other than dishonorable and was the holder at any time of an agent's license or a broker's license, in New Jersey, which authorized the applicant to transact the business of life insurance, health insurance or annuity;

(4) An applicant who provides certification that he is a designated Fraternal Insurance Counselor.

(d) The commissioner may refuse to issue or renew any insurance agent's license if in his judgment the proposed licensee is not trustworthy and competent to act as such agent, or has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance or renewal, as the case may be, of such license.

(e) Every license issued pursuant to this section, and every renewal thereof, shall expire biennially on December 31.

(f) If the application for renewal license shall have been filed with the commissioner on or before December 31 of the year in which the existing license is to expire, such applicant named in such existing license may continue to act as insurance agent under such existing license, unless same shall be revoked or suspended, until the issuance by the commissioner of the renewal license or until the expiration of 5 days after he shall have refused to renew such license and shall have served written notice of such refusal on the applicant. If the applicant shall, within 30 days after such notice is given, notify the commissioner in writing of his request for a hearing on such refusal, the commissioner shall, within a reasonable time after receipt of such notice, grant such hearing, and he may, in his discretion, reinstate such license.

(g) Any such renewal license of an insurance agent may be issued upon the application of a society named in the existing license. Such application shall be in the form or forms prescribed by the commissioner and shall contain such information as he may require. Such application shall contain a certificate executed by the president, or by a vice president, a secretary, an assistant secretary, or corresponding officer by whatever name known, or by an employee expressly designated and authorized to execute such certificate of a domestic or foreign society or by the United States manager of an alien society, stating that the addresses therein given of the agents of such society for whom renewal licenses are requested therein have been verified in each instance immediately preceding the preparation of the application. Notwithstanding the filing of such application, the commissioner may, after reasonable notice to any such society, require that any or all agents of such society to be named as licensees in renewal licenses shall execute and file separate applications for the renewal of such licenses, as hereinbefore specified, and he may also require that each such application shall be accompanied by the certificate specified in paragraph (b) (2) of subsection (4) of this section.

(5) Notice of termination of appointment of insurance agent. Every society doing business in this State shall, upon the termination of the appointment of any insurance agent licensed to represent it in this State, forthwith file with the commissioner a statement, in such form as he may prescribe, of the facts relative to such termination and the cause thereof. Every statement made pursuant to this section shall be deemed a privileged communication.

(6) Revocation or suspension of insurance agent's license.

(a) The commissioner may revoke, or may suspend for such period as he may determine, any insurance agent's license if, after notice and hearing as specified in this section, he determines that the licensee has:

(1) Violated any provision of, or any obligation imposed by, this section, or has violated any law in the course of his dealings as agent;

(2) Made a material misstatement in the application for such license;

(3) Been guilty of fraudulent or dishonest practices;

(4) Demonstrated his incompetency or untrustworthiness to act as an insurance agent; or

(5) Been guilty of rebating as defined by the laws of this State applicable to life insurance companies.

(6) The revocation or suspension of any insurance agent's license shall terminate forthwith the license of such agent. No individual whose license has been revoked shall be entitled to obtain any individual agent's license under the provisions of this section for a period of 1 year after such revocation or, if such revocation be judicially reviewed, for 1 year after the final determination thereof affirming the action of the commissioner in revoking such license.

2. This act shall take effect immediately, but shall remain inoperative for 90 days.

Approved February 25, 1978.

CHAPTER 419

AN ACT to regulate and to require full and fair disclosure in the disposition of certain real estate developments, located within this State, and providing an appropriation therefor.

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

C. 45:22A-21 Short title.

1. This act shall be known and may be cited as "The Planned Real Estate Development Full Disclosure Act."

C. 45:22A-22 Declaration of policy.

2. The Legislature in recognition of the increased popularity of various forms of real estate development in which owners share common facilities, units, parcels, lots, areas, or interests, and taking notice of the underlying complexities of these new and proliferating forms, deems it necessary in the interest of the public health, safety, and welfare, and in the effort to provide decent, safe and affordable housing, and to foster public understanding and trust, that dispositions in these developments be regulated by the State pursuant to the provisions of this act.

C. 45:22A-23 Definitions.

3. As used in this act unless the context clearly indicates otherwise:

a. "Disposition" means any sales, contract, lease, assignment, or other transaction concerning a planned real estate development.

b. "Developer" or "subdivider" means any person who disposes or offers to dispose of any lot, parcel, unit, or interest in a planned real estate development.

c. "Offer" means any inducement, solicitation, advertisement, or attempt to encourage a person to acquire a unit, parcel, lot, or interest in a planned real estate development.

d. "Purchaser" or "owner" means any person or persons who acquires a legal or equitable interest in a unit, lot, or parcel in a planned real estate development, and shall be deemed to include a prospective purchaser or owner.

e. "State" means the State of New Jersey.

f. "Commissioner" means the Commissioner of Community Affairs.

g. "Person" shall be defined as in R. S. 1:1–2.

h. "Planned real estate development" or "development" means any real property situated within the State, whether contiguous or not, which consists of or will consist of, separately owned areas, irrespective of form, be it lots, parcels, units, or interest, and which are offered or disposed of pursuant to a common promotional plan, and providing for common or shared elements or interests in real property.

This definition shall specifically include, but shall not be limited to, property subject to the "Condominium Act" (P. L. 1969, c. 257, C. 46:8B–1 et seq.), any form of homeowners' association, any housing cooperative or to any community trust or other trust device.

This definition shall be construed liberally to effectuate the purposes of this act.

i. "Common promotional plan" means any offer for the disposition of lots, parcels, units or interests of real property by a single person or group of persons acting in concert, where such lots, parcels, units or interests are contiguous, or are known, designated or advertised as a common entity or by a common name.

j. "Advertising" means and includes the publication or causing to be published of any information offering for disposition or for the purpose of causing or inducing any other person to purchase an interest in a planned real estate development, including the land sales contract to be used and any photographs or drawings or artist's representations of physical conditions or facilities on the property existing or to exist by means of any:

(1) Newspaper or periodical;

(2) Radio or television broadcast;

(3) Written or printed or photographic matter;

(4) Billboards or signs;

(5) Display of model houses or units;

(6) Material used in connection with the disposition or offer of the development by radio, television, telephone or any other electronic means; or

(7) Material used by developers or their agents to induce prospective purchasers to visit the development, particularly vacation certificates which require the holders of such certificates to attend or submit to a sales presentation by a developer or his agents.

"Advertising" does not mean and shall not be deemed to include: Stockholder communications such as annual reports and interim financial reports, proxy materials, registration statements,

securities prospectuses, applications for listing securities on stock exchanges, and the like; all communications addressed to and relating to the account of any person who has previously executed a contract for the purchase of the subdivider's lands except when directed to the sale of additional lands.

k. "Nonbinding reservation agreement" means an agreement between the developer and a purchaser and which may be cancelled without penalty by either party upon written notice at any time prior to the formation of a contract for the disposition of any lot, parcel, unit or interest in a planned real estate development.

l. "Blanket encumbrance" means a trust deed, mortgage, judgment, or any other lien or encumbrance, including an option or contract to sell or a trust agreement, affecting a development or affecting more than one lot, unit, parcel, or interest therein, but does not include any lien or other encumbrance arising as the result of the imposition of any tax assessment by any public authority.

m. "Conversion" means any change with respect to a real estate development or subdivision, apartment complex or other entity concerned with the ownership, use or management of real property which would make such entity a planned real estate development.

C. 45:22A-24 Administration of act.

4. This act shall be administered by the Division of Housing and Urban Renewal, of the State Department of Community Affairs, hereinafter referred to as the "agency." In the performance of its legislatively mandated activities, the agency shall as necessary seek the advice and assistance of the Division of State and Regional Planning, of the Department of Community Affairs.

C. 45:22A-25 Act not applicable.

5. a. Unless the method of disposition is adopted for purposes of evasion, the provision of this act shall not apply to offers or dispositions:

(1) By an owner for his own account in a single or isolated transaction;

(2) Wholly for industrial, commercial, or other nonresidential purposes;

(3) Pursuant to court order;

(4) By the United States, by this State or any of its agencies or political subdivisions;

(5) Of real property located without the State;

(6) Of cemetery lots or interests;

(7) Of less than 100 lots, parcels, units or interests; provided, however, that with respect to condominiums and cooperatives, this exemption shall not apply, irrespective of the number of lots, parcels, units, or interests offered or disposed of;

(8) Of developments where the common elements or interests, which would otherwise subject the offering to this act, are limited to the provision of unimproved, unencumbered open space;

(9) In a development composed wholly of rental units, where the relationship created is one of landlord and tenant.

b. The agency may from time to time, pursuant to its rules and regulations, exempt from any of the provisions of this act any development, or any lots, units, parcels, or interests in a development, if it finds that the enforcement of this act with respect to such, is not necessary in the public interest or required for the protection of purchasers by reason of the small amount of the purchase price involved, the limited character of the offering, or the limited nature of the common or shared elements.

C. 45:22A-26 Registration of development with agency; delivery to purchaser of current public offering statement; cancellation of contract; notice to purchaser.

6. a. Unless otherwise exempted:

(1) No developer may offer or dispose of any interest in a planned real estate development, prior to the registration of such development with the agency.

(2) No developer may dispose of any lot, parcel, unit, or interest in a planned real estate development, unless he: delivers to the purchaser a current public offering statement, on or before the contract date of such disposition.

b. Any contract or agreement for the purchase of any parcel, lot, unit, or interest in a planned real estate development may be canceled without cause by the purchaser by sending or delivering written notice of cancellation by midnight of the seventh calendar day following the day on which the purchaser has executed such contract or agreement. Every such contract or agreement shall contain, in writing, the following notice in 10-point bold type or larger, directly above the space provided for the signature of the purchaser:

> "NOTICE TO THE PURCHASER: you have the right to cancel this contract by sending or delivering written notice of cancellation to the developer by midnight of the seventh calendar day following the day on which it was executed. Such

cancellation is without penalty, and any deposit made by you shall be promptly refunded in its entirety.''

c. Notice as required in subsection b. shall, in addition to all other requirements, be conspicuously located and simply stated in the public offering statement.

d. The developer shall make copies of the public offering statement freely available to prospective purchasers prior to the contract date of disposition.

C. 45:22A-27 Application for registration; filing; contents; availability to interested parties; registration of additional property; report of material changes; fee.

7. a. The application for registration of the development shall be filed as prescribed by the agency's rules and shall contain the following documents and information:

(1) An irrevocable appointment of the agency to receive service of any lawful process in any noncriminal proceeding arising under this act against the developer or his agents;

(2) The states or other jurisdictions, including the Federal Government, in which an application for registration or similar documents have been filed, and any adverse order, judgment or decree entered in connection with the development by the regulatory authorities in each jurisdiction or by any court;

(3) The name, address, and principal occupation for the past 5 years of every officer of the applicant or person occupying a similar status, or performing similar management functions; the extent and nature of his interest in the applicant or the development as of a specified date within 30 days of the filing of the application;

(4) Copies of its articles of incorporation, with all amendments thereto, if the developer is a corporation; copies of all instruments by which the trust is created or declared, if the developer is a trust; copies of its articles of partnership or association and all other papers pertaining to its organization, if the developer is a partnership, unincorporated association, joint stock company, or any other form of organization; and if the purported holder of legal title is a person other than the developer, copies of the above documents from such person;

(5) A legal description of the lands offered for registration, together with a map showing the subdivision proposed or made, and the dimensions of the lots, parcels, units, or interests, as available, and the relation of such lands to existing streets, roads, and other improvements;

(6) Copies of the deed or other instrument establishing title to the subdivision in the developer, and a statement in a form acceptable to the agency of the condition of the title to the land comprising the development, including encumbrances as of a specified date within 30 days of the date of application by a title opinion of a licensed attorney, or by other evidence of title acceptable to the agency;

(7) Copies of the instrument which will be delivered to a purchaser to evidence his interest in the development, and of the contracts and other agreements which a purchaser will be required to agree to or sign;

(8) Copies of any management agreements, service contracts, or other contracts or agreements affecting the use, maintenance or access of all or a part of the development;

(9) A statement of the zoning and other government regulations affecting the use of the development including the site plans and building permits and their status, and also of any existing tax and existing or proposed special taxes or assessments which affect the development; and a statement of the existing use of adjoining lands;

(10) A statement that the lots, parcels, units or interests in the development will be offered to the public, and that responses to applications will be made without regard to marital status, sex, race, creed, or national origin;

(11) A statement of the present condition of access to the development, the existence of any unusual conditions relating to noise or safety, which affect the development and are known to the developer, the availability of sewage disposal facilities and other public utilities including water, electricity, gas, and telephone facilities in the development to nearby municipalities, and the nature of any improvements to be installed by the developer and his estimated schedule for completion;

(12) In the case of any conversion an engineering survey shall be required, which shall include mechanical, structural, electrical and engineering reports to disclose the condition of the building;

(13) In the case of any development or portion thereof against which there exists a blanket encumbrance, a statement of the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under the instrument or instruments creating such encumbrances and the steps, if any, taken to protect the purchaser in such eventuality;

(14) A narrative description of the promotional plan for the disposition of the lots, parcels, units or interests in the development, together with copies of all advertising material which has been prepared for public distribution, and an indication of their means of communication;

(15) The proposed public offering statement;

(16) A current financial statement, which shall include such information concerning the developer as the agency deems to be pertinent, including but not limited to, a profit and loss statement certified by an independent public accountant and information concerning any adjudication of bankruptcy during the last 5 years against the developer, or any principal owning more than 10% of the interests in the development at the time of filing, provided, however, that this shall not extend to limited partners, or others whose interests are solely those of investors;

(17) Copies of instruments creating easements or other restrictions;

(18) A statement of the status of compliance with the requirements of all laws, ordinances, regulations, and other requirements of governmental agencies having jurisdiction over the premises;

(19) Such other information, documentation, or certification as the agency deems necessary in furtherance of the protective purposes of this act.

b. The information contained in any application for registration and copies thereof, shall be made available to interested parties at a reasonable charge and under such regulations as the agency may prescribe.

c. A developer may register additional property pursuant to the same common promotional plan as those previously registered by submitting another application, providing such additional information as may be necessary to register the additional lots, parcels, units or interests, which shall be known as a consolidated filing.

d. The developer shall immediately report any material changes in the information contained in an application for registration. The term "material changes" shall be further defined by the agency in its regulations.

e. The application shall be accompanied by a fee in an amount equal to $10.00 per lot, parcel, unit, or interest contained in the application, which fees may be used by the agency to partially defray the cost of rendering services under the act.

C. 45:22A-28 Public offering statement; form and contents; use as promotional material.

8. a. A public offering statement shall disclose fully and accurately the characteristics of the development and the lots, parcels, units, or interests therein offered, and shall make known to prospective purchasers all unusual or material circumstances or features affecting the development. The proposed public offering statement submitted to the agency shall be in a form prescribed by its rules and regulations and shall include the following:

(1) The name and principal address of the developer;

(2) A general narrative description of the development stating the total number of lots, units, parcels, or interests in the offering, and the total number of such interests planned to be sold, leased or otherwise transferred;

(3) Copies of any management contract, lease of recreational areas, or similar contract or agreement affecting the use, maintenance, or access of all or any part of the development, with a brief and simple narrative statement of the effect of each such agreement upon a purchaser, and a statement of the relationship, if any, between the developer and the managing agent or firm;

(4) The significant terms of any encumbrances, easements, liens, and restrictions, including zoning and other regulations, affecting such lands and each unit, lot, parcel, or interest, and a statement of all existing taxes and existing or proposed special taxes or assessments which affect such lands;

(5) (a) Relevant community information, including hospitals, health and recreational facilities of any kind, streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities and customary utilities; and

(b) The estimated cost, size, date of completion, and responsibility for construction and maintenance of existing and proposed amenities which are referred to in connection with the offering or disposition of any interest in the subdivision or subdivided lands;

(6) A copy of the proposed budget for the operation and maintenance of the common or shared elements or interests;

(7) Additional information required by the agency to assure full and fair disclosure to prospective purchasers.

b. The public offering statement shall not be used for any promotional purposes before registration of the development and afterwards only if it is used in its entirety. No person may advertise or represent that the agency approves or recommends the development or dispositions therein. No portion of the public

offering statement may be underscored, italicized, or printed in larger or heavier or different color type than the remainder of the statement, unless the agency requires or permits it.

c. The agency may require the developer to alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers, and no change in the substance of the promotional plan or plan of disposition or development of a planned real estate development may be made after registration without the approval of the agency. A public offering statement shall not be current unless all amendments have been incorporated.

d. The public offering statement shall, to the extent possible, combine simplicity and accuracy of information, in order to facilitate purchaser understanding of the totality of rights, privileges, obligations and restrictions, comprehended under the proposed plan of development. In reviewing such public offering statement, the agency shall pay close attention to the requirements of this subsection, and shall use its discretion to require revision of a public offering statement which is unnecessarily complex, confusing, or is illegible by reason of type size or otherwise.

C. 45:22A-29 Investigation by agency.

9. Upon receipt of an application for registration in proper form, the agency shall forthwith initiate an investigation to determine that:

a. The developer can convey or cause to be conveyed the units offered for disposition if the purchaser complies with the terms of the offer;

b. There is reasonable assurance that all proposed improvements can be completed as represented;

c. The advertising material and the general promotional plan are not false or misleading and comply with the standards prescribed by the agency in its rules and afford full and fair disclosure;

d. The developer has not, or if a corporation, its officers and principals have not, been convicted of a crime involving any aspect of the real estate sales business in this State, United States, or any other state or foreign country within the past 10 years; and that the developer has not been subject to any permanent injunction or final administrative order restraining a false or misleading promotional plan involving real property dispositions the seriousness of which in the opinion of the agency warrants the denial of registration; and

e. The public offering statement requirements of this act have been satisfied.

C. 45:22A-30 Notice of filing to applicant; issuance; acceptance or rejection by agency.

10. a. Upon receipt of the application for registration in proper form, and accompanied by proper fee, the agency shall, within 10 business days, issue a notice of filing to the applicant. Within 90 days from the date of the notice of filing, the agency shall enter an order registering the development or rejecting the registration. If no order of rejection is entered within 90 days from the date of notice of filing, the development shall be deemed registered unless the applicant has consented in writing to a delay.

b. If the agency affirmatively determines that the requirements of section 9 of this act have been met, it shall enter an order registering the development.

c. If the agency determines upon inquiry and examination that any of the requirements of section 9 of this act have not been met, the agency shall notify the applicant that the application for registration must be corrected in such particulars, within 30 days, as designated by the agency. If the requirements are not met within the time allowed, the agency may enter an order rejecting the registration which shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective until 20 days after the lapse of the aforesaid specified period during which 20-day period the applicant may petition for reconsideration and shall be entitled to a hearing. Such order of rejection shall not take effect, in any event, until such time as the hearing, once requested, has been given to the applicant.

C. 45:22A-31 Annual report; filing.

11. Within 30 days after each anniversary date of the order registering the development, and while the developer retains any interest therein, he shall file with the agency an annual report reflecting any material changes in information contained in the original application for registration, in a form designated by the agency.

In the event that the agency determines that such annual report is no longer necessary for the protection of the public interest, or when the annual report reveals that the developer no longer retains any interest, and no longer has contractual, bonded or other obligations in the development, the agency shall issue an order terminating the responsibilities of the developer under this act.

C. 45:22A-32 Agency's powers and duties.

12. a. The agency may:

(1) Accept registrations filed in this State, in other states or with the Federal Government;

(2) Contract with similar agencies in this State or other jurisdictions to perform investigative functions;

(3) Accept grants in aid from any governmental or other source;

(4) Cooperate with similar agencies in this State or in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules and common administrative practices;

(5) Grant exemptions pursuant to its rules and regulations;

(6) Make necessary public or private investigations within or outside of this State to determine whether any person has violated or is about to violate this act or any rule or order hereunder, or to aid in the enforcement of this act or in the prescribing of rules and forms hereunder;

(7) Require or permit any person to file a statement in writing, under oath or otherwise, as the agency determines, as to all the facts and circumstances concerning the matter to be investigated;

(8) For the purpose of any investigation or proceeding under this act, the agency or any officer designated by rule, may administer oaths, or affirmations, and upon its own motion or upon request of any party may subpena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

(9) Upon failure to obey a subpena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the agency may apply to the Superior Court for an order compelling compliance.

C. 45:22A-33 Temporary cease and desist orders; grounds.

13. a. If the agency determines after notice and hearing that a person has:

(1) Violated any provision of this act;

(2) Directly or through an agent or employee knowingly engaged in any false, deceptive, or misleading advertising, promotional, or sales methods to offer or dispose of a unit;

(3) Made any substantial change in the plan of disposition and development of the subdivision subsequent to the order of registration without obtaining prior written approval from the agency;

(4) Disposed of any units, lots, parcels, or interests in a planned real estate development which have not been registered with the agency, or;

(5) Violated any lawful order or rule of the agency; it may issue an order requiring the person to cease and desist from the unlawful practice or to take such other affirmative action as in the judgment of the agency will carry out the purposes of this act.

b. If the agency makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary cease and desist order. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing shall be held within 10 days of such request to determine whether or not it becomes permanent. Such temporary cease and desist order shall be forwarded by certified mail.

C. 45:22A-34 Revocation of registration; notice and hearing; grounds; findings of fact; issuance of in lieu cease and desist order.

14. a. A registration may be revoked after notice and hearing upon a written finding of fact that the developer has:

(1) Failed to comply with the terms of a cease and desist order;

(2) Been convicted in any court subsequent to the filing of the application for registration for a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, dishonest dealing, or other like offense;

(3) Disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of purchasers;

(4) Failed faithfully to perform any stipulation or agreement made with the agency as an inducement to grant any registration, to reinstate any registration, or to approve any promotional plan or public offering statement;

(5) Advertised his lands or responded to applications for his lands in a manner which was discriminatory on the basis of marital status, sex, race, creed, or national origin;

(6) Willfully violated any provision of this act or of a rule adopted thereunder;

(7) Made intentional misrepresentation or concealed material facts in an application for registration filed for registration.

b. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

c. If the agency finds, after notice and hearing, that the developer has been guilty of a violation for which revocation could be ordered, it may in lieu thereof issue a cease and desist order. Revocation of registration may be utilized only as a remedy of last resort.

C. 45:22A-35 Rules and regulations; injunctive relief or temporary restraining orders; suits.

15. a. The agency shall adopt, amend, or repeal such rules and regulations as are reasonably necessary for the enforcement of the provisions of this act in accordance with the provisions of the Administrative Procedure Act, P. L. 1968, c. 410 (C. 52:14B–1 et seq.). The rules may provide for, but are not limited to: provisions for advertising standards to insure full and fair disclosure; disclosure provisions relating to conversions; provisions relating to nonbinding reservation agreements; provisions for adequate bonding or access to some escrow or trust fund not otherwise required by the municipal governing body to be located within this State, so as to insure compliance with the provisions of this act, and to compensate purchasers for failure of the registrant to perform in accordance with the terms of any contract or public statement; provisions that require a registrant to deposit purchaser down payments, security deposits or other funds in an escrow account, or with an attorney licensed to practice law in this State, until such time as the agency by its rules and regulations deems it appropriate to permit such funds to be released; provisions to insure that all contracts between developer and purchaser are fair and reasonable; provisions that the developer must give a fair and reasonable warranty on construction of any improvements; provisions that the budget for the operation and maintenance of the common or shared elements or interests shall provide for adequate reserves for depreciation and replacement of the improvements; provisions for operating procedures; and such other rules and regulations as are necessary and proper to effectuate the purposes of this act, and taking into account and providing for, the broad range of development plans and devises, management mechanisms, and methods of ownership, permitted under the provisions of this act.

b. If it appears that a person has engaged, or is about to engage, in an act or practice constituting a violation of a provision of this act, or a rule or order hereunder, the agency, with or without prior administrative proceedings, may bring an action in the Superior Court to enjoin the acts or practices and to enforce com-

pliance with this act or any rule or order hereunder. Upon proper showing, injunctive relief or temporary restraining orders shall be granted, and a receiver may be appointed. The agency shall not be required to post a bond in any court proceeding.

c. The agency may intervene in a suit involving any planned real estate development. In any such suit, by or against the developer, the developer shall promptly furnish the agency with notice of the suit and copies of all pleadings.

C. 45:22A-36 Application for registration deemed submission to jurisdiction; service of process; conduct prohibited by act; authorization to receive service.

16. a. For purposes of this act, an application for registration submitted to the agency shall be deemed a submission by the applicant to the jurisdiction of the New Jersey courts.

b. In addition to the methods of service of process provided for in the rules governing the New Jersey courts, service may be made by delivering a copy of the process to the office of the agency, but such service shall not be effective unless the plaintiff, which may be the agency in a proceeding instituted by it:

(1) Forthwith sends a copy of the process and of the pleading by certified mail to the defendant or respondent at his last known address, and

(2) The plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, or within such further time as the court allows.

c. If any person, including any nonresident of this State, engages in conduct prohibited by this act or any rule or order hereunder, and does not file a consent to the service of process, and personal jurisdiction over him cannot otherwise be obtained in this State, that conduct authorizes the agency to receive service of process in any noncriminal proceeding against him or his successor which grows out of that conduct and which is brought under this act or any rule or order hereunder, with the same force and validity as if served on him personally. Notice shall be given as provided in subsection b.

C. 45:22A-37 Violation of act or making untrue statement; liability to purchaser; void provisions.

17. a. Any developer disposing of real property subject to this act, who shall violate any of the provisions of section 6 hereof, or who in disposing of such property makes an untrue statement of material fact or omits a material fact from any application for registration, or amendment thereto, or from any public offering

statement, or who makes a misleading statement with regard to such disposition, shall be liable to the purchaser for double damages suffered, and court costs expended, including reasonable attorney's fees, unless in the case of an untruth, omission, or misleading statement such developer sustains the burden of proving that the purchaser knew of the untruth, omission or misleading statement, or that he did not rely on such information, or that the developer did not know and in the exercise of reasonable care could not have known of the untruth, omission, or misleading statement.

b. The court may, in addition to remedies provided herein, frame such other relief as may be appropriate under the circumstances. If the purchaser shall fail in establishing a cause of action, and the court further determines that the action was wholly without merit, the court may award attorney's fees to the developer.

c. Every person who directly or indirectly controls a development or developer liable under subsection a., every general partner, officer, or director of a developer, and every person occupying a similar status or performing a similar function, shall also be liable jointly and severally with and to the same extent as such developer, unless the person otherwise liable sustains the burden of proof that he did not know and in the exercise of reasonable care could not have known of the existence of the facts by reason of which the liability is alleged to exist. There is a right to contribution as in cases of contract among persons so liable.

d. A person may not recover under this section in actions commenced more than 6 years after his first payment of money to the developer in the contested transaction.

e. Any stipulation or provision purporting to bind any purchaser acquiring a parcel, lot, unit, or interest, in any development subject to the provisions of this act, or any rule, regulation, or order promulgated thereunder, to a waiver of compliance with said provisions, shall be void.

C. 45:22A-38 Violation of act; fine; levy and collection of penalties.

18. a. Any person who violates any provision of this act or of a rule adopted under it or any person who in an application for registration filed for registration makes any untrue statement of a material fact or omits to state a material fact shall be fined not less than $250.00, nor more than $50,000.00 per violation.

b. The commissioner, through the agency, may levy and collect the penalties set forth in subsection a. hereof after affording the person alleged to be in violation of this act an opportunity to appear before the commissioner or his designee and to be heard

personally or through counsel on the alleged violations and a finding by the commissioner that said person is guilty of the violation. When a penalty so levied by the commissioner has not been satisfied within 30 days of the levy, the penalty may be sued for and recovered by and in the name of the commissioner in a summary proceeding pursuant to the Penalty Enforcement Law (N. J. S. 2A:58–1 et seq.).

c. The agency may in the interest of justice compromise any civil penalty, if in its determination the gravity of the offense or offenses does not warrant the assessment of the full fine.

C. 45:22A-39 Application of act.

19. The provisions of this act shall apply to lands situated in this State whether promoted or advertised within or without the State.

C. 45:22A-40 Partial invalidity.

20. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

C. 45:22A-41 Retirement subdivision or community deemed subject to provisions of act.

21. Any retirement subdivision or community as defined in the Retirement Community Full Disclosure Act, P. L. 1969, c. 215 (C. 45:22A–1 et seq.) shall, after the effective date of this act, be deemed for all purposes to be subject to the provisions of this act alone; provided, however, that any portion or section of such retirement community or subdivision registered with the Division of Housing and Urban Renewal prior to the effective date of this act shall remain under the jurisdiction of the Retirement Community Full Disclosure Act.

C. 45:22A-42 Inapplicability of act.

22. This act shall not apply to any portion of a planned real estate development which has on the effective date of this act:

a. Its building permit or permits; or

b. Final municipal approval of (1) its site plan or (2), in the case of single or two-family homes or separate lots, its subdivision plat; provided that the land is not valued, assessed and taxed as an agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964", P. L. 1964, c. 48 (C. 54:4–23.1 et seq.); provided further that this section shall not be construed as applying to conversions or Retirement Subdivisions or Communities as

defined in the Retirement Community Full Disclosure Act, P. L. 1969, c. 215 (C. 45:22A–1 et seq.).

23. For the purpose of administering the provisions of this act, there is appropriated to the Department of Community Affairs, Division of Housing and Urban Renewal, the sum of $76,000.00.

24. This act shall take effect 270 days after enactment, but the commissioner and the agency shall take any action and promulgate any rules or regulations necessary for the full implementation hereof on said effective date.

Approved February 25, 1978.

CHAPTER 420

AN ACT concerning optometric education, supplementing Title 18A of the New Jersey Statutes and making an appropriation.

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

C. 18A:63B-1 Legislature's findings.

1. The Legislature finds and declares:

a. That the Health Manpower Report of the United States Bureau of Labor Statistics recognizes an increasing need for additional optometrists;

b. That New Jersey is experiencing a recognized shortage of optometrists;

c. That at the present time, there are no existing facilities in the State of New Jersey for the training of students to enter the profession of optometry; and

d. That increasing costs of optometric education programs in our sister states have resulted in resistance to admission of New Jersey students without contractual agreements between the states.

C. 18A:63B-2 Authorization to contract with optometry schools.

2. The State Board of Higher Education with the advice of the committee created by section 5 of this act is hereby authorized to contract with any and all schools of optometry accredited by the New Jersey State Board of Optometrists for the acceptance of students who are residents of New Jersey and have been so for at least 4 years prior thereto and desire to study optometry.

C. 18A:63B-3 Parties to contracts.

3. All such contracts shall be entered into by the New Jersey State Board of Higher Education on behalf of the State through the Contract Sponsorship Program of the American Optometric Foundation or directly with one or more accredited schools of optometry.

C. 18A:63B-4 Standards of admission.

4. Institutional participants in this program shall maintain the same standards of admission for New Jersey applicants as are provided for applicants of their own state.

C. 18A:63B-5 Advisory committee; membership; terms.

5. In order to assist the New Jersey State Board of Higher Education in the administration of this program, there is hereby established an advisory committee consisting of the following: (1) a representative of the New Jersey State Board of Optometrists for a term of 4 years; (2) a representative of the New Jersey Optometric Association for a term of 4 years; (3) four New Jersey optometrists appointed by the Governor for terms of 4 years each. Of the first four appointees, one shall be appointed for 1 year, one for 2 years, one for 3 years and one for 4 years, as designated by the Governor; and (4) a public member appointed by the Governor for a term of 4 years.

C. 18A:63B-6 Organization of committee; compensation.

6. Said advisory committee shall organize annually by the appointment of one of its members as chairman and one as vice chairman. Members shall serve without compensation, but shall be entitled to all necessary expenses.

7. There is hereby appropriated to the Department of Higher Education for the purposes of this act for the fiscal year 1977-78 the sum of $100,000.00.

8. This act shall take effect immediately.

Approved February 25, 1978.

CHAPTER 421

A SUPPLEMENT to the "Public Employees' Retirement System Act," approved June 28, 1954 (P. L. 1954, c. 84, C. 43:15A–1 et seq.) as said short title was amended by P. L. 1971, c. 213.

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

1. Any other provision of the act to which this act is a supplement to the contrary notwithstanding, any employee of a legislative commission without a regular personnel officer to inform such employee of his rights provided in section 11 (C. 43:15A–11), for which funds have been appropriated for the employment of staff, who was prior to employment with such commission the holder of any office, position or employment in any department, board, commission or agency in the executive branch of the State Government, and who was eligible to purchase pension credit for temporary service but failed to do so, shall be permitted to purchase such prior service credit upon application therefor made within 3 months after the effective date of this act.

2. This act shall take effect immediately and shall expire and be inoperative on the first day of the fourth month following enactment.

Approved February 25, 1978.

CHAPTER 422

AN ACT concerning county officers and employees, and supplementing Chapter 9 of Title 40A 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 N. J. S. 40A:9–1 or any other law to the contrary, any officer or employee of a county who was employed by a county on the effective date of this act shall be

exempt from the requirement of residency within a respective county until June 30, 1978.

2. This act shall take effect immediately.

Approved February 25, 1978.

CHAPTER 423

AN ACT authorizing municipalities to designate areas as urban growth zones and to encourage the development of such areas.

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

C. 40:55-21.15 Designation of urban growth zones.

1. Any municipality receiving State aid pursuant to the provisions of P. L. 1971, c. 64, as amended and supplemented from time to time, or a municipality certified by the Commissioner of Community Affairs to qualify under such law in every respect except population, may by ordinance determine that an area or areas within such municipality be designated an urban growth zone as defined in and for all purposes of "The New Jersey Economic Development Authority Act," P. L. 1974, c. 80 (C. 34:1B–1 et seq.). Such ordinance may provide that, notwithstanding any law or other ordinance or local regulation to the contrary, all construction projects undertaken by, or with the assistance of, the New Jersey Economic Development Authority in such urban growth zones shall be exempt from the terms and requirements of the land use ordinances and regulations, including but not limited to the master plan and zoning ordinances, of such municipality for any period of time which may be mutually agreed upon.

2. This act shall take effect immediately.

Approved February 27, 1978.

CHAPTER 424

A SUPPLEMENT to "An act concerning the care, custody, guardianship, maintenance and supervision of dependent and neglected children, promoting home life therefor, providing for the financing thereof, and repealing certain statutes relating thereto," approved May 31, 1951 (P. L. 1951, c. 138, C. 30:4C–1 et seq.).

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

C. 30:4C-50 Short title.

1. This act shall be known and may be cited as the "Child Placement Review Act."

C. 30:4C-51 Declaration of policy.

2. The Legislature declares that it is in the public interest to afford every child placed outside his home by the Division of Youth and Family Services with the opportunity for eventual return to his home or placement in an alternative permanent home; that it is the obligation of the State to promote this end through effective planning and regular review of each child's placement; and that it is the purpose of this act to establish procedures for both administrative and judicial review of each child's placement in order to ensure that such placement serves the best interest of the child.

C. 30:4C-52 Definitions.

3. As used in this act, unless the context indicates otherwise:

a. "Child" means any person less than 18 years of age;

b. "Child placed outside his home" means a child under the care, custody or guardianship of the division who resides in a foster home, group home or residential treatment facility approved for payment by the division;

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. "Relative" means a grandparent, sister, brother, aunt or uncle of the child;

f. "Temporary caretaker" means a foster parent as defined in section 1 of P. L. 1962, c. 136 (C. 30:4C–26.4) or a director of a group home or residential treatment facility.

C. 30:4C-53 Notice of placement; filing and form; court jurisdiction; notice of permanent placement.

4. Within 72 hours after the placement of a child outside his home, the division shall file notice of such placement with the juvenile and domestic relations court in the child's county of supervision. Such notice shall be in the form of a complaint and shall include the date and type of placement and the reasons for such placement. Such filing shall establish a continuing jurisdiction of the court over the placement of the child.

The division shall also file immediate notice with the court of any change in placement and of the permanent placement or return home of the child. The court jurisdiction shall cease upon receipt of such notification of the return home or alternative permanent placement of the child.

C. 30:4C-54 Approval of placement.

5. The court shall, within 15 days following receipt of the notice of the initial placement, determine whether or not the continuation of the child in his home would be contrary to the welfare of the child, and either approve the placement or order the return of the child to his home. Such determination shall be made in accordance with such procedures as shall be established by court rules.

C. 30:4C-55 Placement plan; contents.

6. The division shall prepare and revise, when necessary, in consultation with the child's parents or legal guardian and, when appropriate, the child, a placement plan for each child placed outside his home. The plan shall include:

a. A statement of the goal for the permanent placement or return home of the child;

b. The intermediate objectives relating to the attainment of the goal; and

c. 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, the parents or legal guardian, and the temporary caretaker.

C. 30:4C-56 Administrative procedures.

7. The division shall be responsible for establishing such administrative procedures as will enable it to effectively provide for the needs of children placed outside their homes and to secure such Federal funding as is available to meet these needs. Such procedures shall provide for:

a. Appropriate planning and regular review of each child's case by the division;

b. Collection and analysis of data regarding the division's caseload to facilitate the continuing evaluation of the division's services, policies and procedures with regard to children placed outside their homes; and,

c. Provision of such information as may be required by the courts or the placement review boards.

C. 30:4C-57 Child placement review boards; establishment; membership; appointment; vacancies; fee; reimbursement for expenses.

8. The presiding judge of the juvenile and domestic relations court of each county shall establish as an arm of the court one or more child placement review boards. Each board shall consist of five members to be appointed by the judge from among the residents of such county. Each member shall be a person who has either training, experience or interest in issues concerning child placement or child development. Each board shall, to the maximum extent feasible, represent the various socioeconomic, racial and ethnic groups of the county in which it serves. The judge shall annually select one of the members of the board as chairperson.

Members shall be appointed for terms of 3 years, except that of those initially appointed, one shall be for a term of 1 year, two for terms of 2 years, and two for terms of 3 years. Members shall serve after the expiration of their terms until their respective successors shall have been appointed. Vacancies shall be filled for the duration of the unexpired terms. Members shall receive a per diem fee for their attendance at board meetings. The Supreme Court shall set the fee, which shall not be less than $25.00. In addition, members shall be entitled to be reimbursed for all reasonable and necessary expenses incurred in the performance of their official duties.

Each board shall meet at such times as it shall determine. Each juvenile and domestic relations court shall provide its board with reasonable administrative and clerical support services.

C. 30:4C-58 Review of cases.

9. It shall be the duty of each board to act on behalf of the juvenile and domestic relations court in reviewing the case of every child placed outside his home to determine whether the best interests of the child are being served by such placement. A review shall be completed within 45 days following the initial placement and at least every 12 months thereafter. Such reviews shall include, but not necessarily be limited to, the consideration and evaluation of such matters as:

a. The appropriateness of the goal and objectives of the placement plan;

b. The appropriateness of the services provided to the child, the parents or legal guardian and the temporary caretaker;

c. Whether the child has siblings who are also placed outside of their home;

d. Whether the wishes of the child were considered regarding placement and development of the placement plan, when appropriate;

e. Whether the division, the parents or legal guardian and the temporary caretaker are fulfilling their respective responsibilities in accordance with the placement plan;

f. Whether the parents or legal guardian have been afforded the opportunity and been encouraged to participate in a program of regular visitation with the child; and

g. Whether there are obstacles which hinder or prevent the attainment of the placement plan objectives and goal.

In the case of a child in placement outside of his home on the effective date of this act, the first review shall be completed as soon as possible, but not later than 12 months following such effective date.

C. 30:4C-59 Written notice of review to parties involved.

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 appear before the board:

a. The division;

b. The child;

c. The parents or legal guardian; and

d. Any other person or agency whom the board determines has an interest in or information relating to the welfare of the child, which may include the temporary caretaker.

The board may, in its discretion, dispense with the attendance of the child at such review and may, with the consent of all notified parties, conduct a review and make recommendations based solely upon the submission of written materials.

C. 30:4C-60 Written report to court; findings.

11. Within 10 days after such review, the board shall submit a written report to the juvenile and domestic relations court and the division. Such report shall offer one of the following findings:

a. That return of the child to his parent or legal guardian is in the child's best interest;

b. That continued placement outside of the home is in the child's best interest and that the placement plan is appropriate for the child's needs;

c. That continued placement outside of the home is in the child's best interest, but that the placement plan is not appropriate for the child's needs;

d. That the initiation of proceedings for the termination of parental rights in order to free the child for adoption is in the child's best interest.

C. 30:4C-61 Issuance of order concerning child's placement; review of report; hearing; notice to parties.

12. a. Upon review of the board's report, the juvenile and domestic relations court shall issue an order concerning the child's placement which it deems will best serve the interests of the child.

The court shall either:

(1) Order the return of the child to his parents or legal guardian;

(2) Order continued placement in accordance with the placement plan currently in effect;

(3) Order continued placement in accordance with a new placement plan to be developed by the division and approved by the court's placement plan; or

(4) Order the division to initiate proceedings to terminate parental rights in order to free the child for adoption.

b. In reviewing the report, the court may, either on its own motion or in response to a petition from any party with an interest in the welfare of the child, schedule a hearing. Notice of such hearing, including a statement of the dispositional alternatives of the court, shall be provided at least 30 days in advance to the following parties, each of whom shall be entitled to participate in the proceeding:

(1) The division;

(2) The chairperson of the review board;

(3) The child;

(4) The child's parents or legal guardian; and

(5) Such other persons or agencies which the court determines has an interest in or information relating to the welfare of the child, which may include the temporary caretaker.

The court may, in its discretion, dispense with the attendance of the child at such hearing and may, with the consent of all parties, dispense with the hearing and make a determination based upon papers and affidavits submitted to the court.

C. 30:4C-62 Child placement advisory council; membership; responsibility of council.

13. There is hereby established a Child Placement Advisory Council to consist of one member from each of the child placement review boards to be selected annually by the chairman of each review board. The Administrative Office of the Courts shall provide the council with reasonable administrative and clerical support services. It shall be the responsibility of the council to:

a. Advise the Supreme Court with respect to the issuance of rules governing the duties, responsibilities and practices of the review boards;

b. Review the policies, practices and procedures of the division with respect to the placement of children;

c. Monitor and evaluate the effectiveness of this act in promoting the welfare of children placed outside their home;

d. Establish guidelines and procedures for the training of placement review board members;

e. Establish reporting procedures to be followed by the review boards for the provision of data for the evaluation of this act.

f. Make an annual report on the effectiveness of the implementation of this act to the Supreme Court, the Governor and the Legislature and such other reports as it may deem proper or as may be requested from time to time by the court, the Governor or the Legislature.

C. 30:4C-63 Rules governing duties, responsibilities and practices; issuance.

14. The Supreme Court, in consultation with the Child Placement Advisory Council, shall issue such rules governing the duties, responsibilities and practices of the boards as it deems necessary to effectuate the purposes of this act.

C. 30:4C-64 Monitoring and evaluating act; report to Legislature.

15. The Institutions, Health and Welfare committees of the Senate and General Assembly, or their respective successors, are constituted a joint committee for the purposes of monitoring and evaluating the effectiveness of the implementation of this act.

At least 3 months prior to the date of expiration of this act, the Joint Committee shall report to the Legislature as to whether this act shall be extended, in either its present or modified form, or whether it shall be permitted to expire.

C. 30:4C-65 Partial invalidity.

16. If any provision of this act or the application thereof to any person or circumstance is held to be invalid, the remainder of the

act and application of such provision to other persons or circumstances shall not be affected thereby.

17. There is appropriated so much of the revenues derived from the Federal funds resulting from implementation of this act as is necessary for the implementation of this act not to exceed $250,000.00, to be allotted between the Division of Youth and Family Services and the Judiciary in such manner as shall be determined by the Division of Budget and Accounting.

18. This act shall take effect 120 days following enactment, but administrative actions or appointments necessary to effectuate its purposes may be taken immediately, and shall expire on June 30 following the third anniversary of the effective date.

Approved February 27, 1978.

CHAPTER 425

AN ACT concerning education and supplementing Title 18A of the New Jersey Statutes.

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

1. Any other provision of law to the contrary notwithstanding, any nonoperating school district may withdraw from its capital reserve fund account an amount equal to the amount raised locally by the board of education plus any earnings attributable to the investment of such amount. This amount shall be anticipated as a revenue in the district's budget and shall be used for the current expenses of the district.

2. This act shall take effect immediately.

Approved February 27, 1978.

CHAPTER 426

AN ACT concerning volunteer firemen and volunteer first aid, emergency, ambulance and rescue squads and amending N. J. S. 2A:127–4.

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

1. N. J. S. 2A:127–4 is amended to read as follows:

Short-wave radio receiver operative on certain frequencies; penalty; exceptions.

2A:127–4. Any person who installs or has in any automobile, a short-wave radio receiver operative on frequencies assigned by the Federal Communications Commission for fire, police, municipal or other governmental uses, is guilty of a misdemeanor, unless a permit therefor has first been obtained from the chief of the county police, or from the chief of the police of the municipality, wherein such person resides.

This section does not apply to any fire, police or other governmental official of the State or of any county or municipality thereof.

The term fire official, as used in this act, shall include all active members and officers of any municipal fire department or force or any first aid and emergency or volunteer ambulance or rescue squad whether said department, force or squad be paid, part-paid, or volunteer.

2. This act shall take effect immediately.

Approved February 27, 1978.

CHAPTER 427

AN ACT concerning perishable agricultural commodities amending sections 4:11–16, 4:11–17, 4:11–19, 4:11–20, 4:11–29, and 4:11–34 of the Revised Statutes and supplementing Article 2 of chapter 11 of Title 4 of the Revised Statutes.

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

1. R. S. 4:11–16 is amended to read as follows:

Article inapplicable to certain transactions.

4:11–16. This article shall not apply to any transaction in which the grower receives at the time of the transaction full payment of the amount due him, or to any duly incorporated agricultural cooperative association in its dealings with its members.

2. R. S. 4:11–17 is amended to read as follows:

Cooperative agricultural associations; inapplicability of article; registration; exempt agent identification cards; issuance.

4:11–17. Nothing contained in this article shall be construed to apply to any agricultural cooperative association which deals only with its members and organized pursuant to the provisions of chapter 13 of this Title (§ 4:13–1 et seq.), or the provisions of an act entitled "An act to provide for the incorporation and regulation of cooperative agricultural associations, either with or without capital stock," approved February 28, 1924.

Cooperative agricultural associations exempted by this section shall register with the Department of Agriculture and be issued exempt agent identification cards.

3. R. S. 4:11–19 is amended to read as follows:

Application for license; fee.

4:11–19. A person before engaging in such business shall on or before November 1 of each year, file an application for a license with the secretary, on a form prescribed by him, and pay an application fee of $30.00 which shall not be returned if the license is not granted, for a license to transact such business.

The application shall state the nature of the business, the kinds of agricultural commodities which the applicant proposes to handle and if they be perishable agricultural commodities then the kinds of perishable agricultural commodities which the applicant proposes to handle, the full name of the person applying for the license, and if the applicant be a firm, association, partnership, or corporation, the full name of each member of the firm, partnership or association, or officers of the corporation, and the name of the local agent of the person, firm, association, partnership or corporation, the municipality and street address, if any, or post-office address, where the business is to be conducted, and such other facts as the secretary shall prescribe.

The applicant shall satisfy the secretary of his character, financial responsibility and good faith in seeking to engage in the business.

4. R. S. 4:11–20 is amended to read as follows:

Bond accompanying application; securities or letters of credit in lieu of bond; additional bond; distribution.

4:11–20. A license shall not be issued unless and until the applicant has filed a good and sufficient surety bond executed in favor of the secretary in his official capacity, for the benefit of all growers with whom the applicant shall transact business, by a surety company duly authorized to transact business in this State in the sum of at least $3,000.00, conditioned on a yearly formula adopted by regulations by the department. The bonds shall be executed upon a form prescribed by the secretary and shall be subject to his approval as to form and sufficiency. The applicant may in lieu of the bond deposit with the secretary securities approved by the department in an amount equal to the sum secured by the bond required to be filed as herein provided; or may in the alternative, obtain and deposit with the secretary an irrevocable letter of credit to equal the amount of the bond. Such securities or letters of credit so deposited with the secretary shall constitute a separate fund and shall be held in trust for and applied exclusively to the payment of claims arising under the provisions of this article against the licensee making such deposit for the period for which such license is issued. All proceeds from surety bonds, money or securities shall be distributed to the grower-creditors by the secretary or returned to the licensee if no claims are made. The department shall establish a yearly maximum for all such bonds, securities, or irrevocable letters of credit which shall not exceed $50,000.00.

The secretary may require a licensee to file an additional bond, after a hearing on any complaint against the licensee, but the total amount of all bonds shall not exceed $100,000.00.

5. R. S. 4:11–29 is amended to read as follows:

Audit of claims; demand upon surety; publication of nonpayment; necessity of filing claims; action.

4:11–29. The secretary shall audit claims properly filed and determine the amounts due all such creditors.

Whenever an audit and hearing determine a claim to be valid and there is a refusal to pay, demand shall be made upon the surety after 90 days. During the 90 days the secretary shall publish the nonpayment of the claim each week in a newspaper in the county where the licensee resides as well as in all counties where transactions may have taken place in New Jersey with a request for all claims. All claimants will be required to file claims before expiration of said 90 days and demand is made on surety. During the 90 days the license of the dealer is revoked and can only be renewed

after a new application and hearing. If the surety shall not make payment of the amount so demanded, upon the expiration of 90 days from the termination of the license period, the secretary shall bring an action at law to recover from the surety on said bond the amount necessary to satisfy such claims or such part thereof as shall equal the amount of the bond, which action may be instituted by the secretary in his official capacity as such on behalf of said claimants, but without naming them as plaintiffs or defendants therein. The moneys obtained from the sale of said securities or by action against the surety shall be used for the satisfaction of such claims, and the secretary shall make distribution thereof to the claimants in accordance with the amounts determined to be due thereon, and if less than the total amount of said claims shall be so obtained, distribution shall be made ratably to the creditors according to said amounts.

If a creditor has reduced his claim to judgment, the judgment shall be presumptive proof of the amount due him.

Claims not filed during the license period or within 90 days from the termination of the license period, shall not be received, acted upon or paid and shall not participate in the proceeds of any bond, moneys or securities deposited with the secretary.

The secretary may bring an action in any court of competent jurisdiction against the licensee or surety or sureties on the bond or bonds for the recovery of any money due and owing to a grower or growers as hereinbefore provided.

6. R. S. 4:11–34 is amended to read as follows:

Penalty for violations; jail for nonpayment.

4:11–34. A person, who shall engage in the business of commission merchant, dealer or broker, as defined in section 4:11–15 of this Title, without first having obtained a license as provided in this article shall be subject to a penalty of not more than $3,000.00 a day for each day of operation.

Any grower or producer of perishable agricultural commodities, poultry products or poultry who knowingly sells to, or utilizes the services of, any unlicensed commission merchant, dealer or broker shall be subject to a penalty of not more than $3,000.00, or who shall violate any other provision of this article shall be subject to a penalty of $100.00 for the first offense and $500.00 for the second and each subsequent offense, to be sued for

and recovered with costs in the name of the department in the manner provided in article 1 of chapter 23 of Title (§ 4:23–1 et seq.) and in such proceeding the defendant may be arrested upon the commencement of the action.

If judgment is rendered for the plaintiff the court shall cause a defendant who shall fail to pay forthwith the amount of the judgment rendered against him, and all costs and charges incident thereto, to be committed to the county jail for a period of not less than 5 nor more than 90 days for a first offense and not less than 10 nor more than 200 days for the second and each subsequent offense.

C. 4:11-28.1 Filing claim; failure.

7. (New section) Each grower shall have 90 days from the date payment was due to file a claim with the Secretary of Agriculture on forms prescribed by him giving all terms of agreement and amount due. Failure to file within 90 days shall nullify the claim. All licensees may make agreements for deferred payments, but no claims shall be allowed on any such agreement payable beyond December 31 of license year.

C. 4:11-34.1 Operating without license; power to stop.

8. (New section) The department shall have the power to stop the operation of any person operating in the State of New Jersey without a license as provided by this act. The secretary may order such operations terminated immediately but any person whose operations are stopped shall have 10 days to appeal to the Secretary of Agriculture for a hearing at which the secretary or any person duly appointed by him shall review all the circumstances of the case. The department may enforce this section by summary proceedings through courts of competent jurisdiction. The State Police, the county sheriff or any municipal police are authorized to assist the department in the enforcement of this section.

9. This act shall take effect the November 1 next following enactment.

Approved February 27, 1978.

CHAPTER 428

AN ACT to amend the "New Jersey Controlled Dangerous Substances Act," approved October 19, 1970 (P. L. 1970, c. 226).

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

1. Section 18 of P. L. 1970, c. 226 (C. 24:21–18) is amended to read as follows:

C. 24:21-18 Drug to be kept in original container.

18. Drug to be kept in original container. An individual to whom or for whose use any controlled dangerous substance has been prescribed, sold or dispensed, by a practitioner and the owner of any animal for which any such substance has been prescribed, sold, or dispensed by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same; provided, however, that an individual may possess a 10 days' supply of a controlled dangerous substance in other than the original container if he has on his person the name, address and registry number of the practitioner who dispensed the substance, the identifying number under which the prescription is recorded, the name, address and registry number of the practitioner prescribing it, the name of the substance, and the directions for its use by the individual or his animal. It shall be the responsibility of the practitioner who dispensed the controlled dangerous substance, or alternatively, the physician who prescribed it, to provide the individual with a writing on which the information listed above is printed.

2. This act shall take effect immediately.

Approved February 27, 1978.

CHAPTER 429

AN ACT to promote technical innovation and new enterprise in New Jersey, creating an Office for Promoting Technical Innovation in the Division of Economic Development of the Department of Labor and Industry, defining its purposes, powers, and duties, and making an appropriation therefor.

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

C. 34:1A-64 Legislature's findings.

1. The Legislature hereby finds and declares:

a. That there exists in the State a great and growing need to stimulate manufacturing investment and industrial and commercial development to enhance opportunities for economic growth and provide and maintain employment and tax revenues;

b. That continuing technological progress is a key element in economic growth and labor productivity and that a climate of scientific enterprise receptive to new products and processes can be a significant factor in encouraging manufacturing, industrial, commercial, and business enterprises to locate, remain, or expand in this State;

c. That New Jersey, by virtue of its wealth of scientific and technological research facilities, technically sophisticated personnel, and sources of venture capital, has the capacity not only to accelerate the pace of technological innovation and progress, but to promote the transformation of new ideas into commercial products fabricated in New Jersey;

d. That a State office to provide assistance and encouragement to the individual inventor and entrepreneur would play a vital role in realizing fully the State's potential for technical advancement and thus contribute to the State's economic growth and the welfare of all its citizens.

C. 34:1A-65 Definitions.

2. For the purposes of this act, the following words and phrases shall have the following meanings, unless the context clearly requires otherwise:

a. "Board" means the Technical Advisory Board created in section 3. b. of this act;

b. "Fund" means the Technical Innovation Financing Fund created in section 6 of this act;

c. "Invention" means any new process, product, or technique without regard to whether or not a patent has or could be granted;

d. "Office" means the Office for Promoting Technical Innovation created by this act;

e. "Product" means any product, device, technique or process which is or may be exploitable commercially; such term shall not refer to pure research but shall be construed to apply to such products, devices, techniques or processes which have advanced beyond the conceptual stage and are readily capable of being, or have been, reduced to practice.

C. 34:1A-66 Office for promoting technical innovation; executive director; appointment; term; vacancy; technical advisory board; membership; appointment; terms; vacancies.

3. a. There is hereby created within the Division of Economic Development in the Department of Labor and Industry an Office for Promoting Technical Innovation. The administrative head of the office shall be an executive director, who shall be appointed by the Commissioner of Labor and Industry, and who shall serve at the pleasure of the Commissioner during the Commissioner's term of office and until his successor is appointed and qualified. Any vacancy occurring in the office of the executive director shall be filed in the same manner as the original appointment. The executive director shall devote his entire time to the performance of his duties and shall receive such salary as shall be provided by law.

b. Within the Office for Promoting Technical Innovation there shall be a Technical Advisory Board, which shall assist the executive director in carrying out the purposes of this act. The board shall comprise seven members, who shall be appointed by the Governor with the advice and consent of the Senate; provided, however, that, to the maximum extent possible, the members shall be chosen so that expertise in the fields of science and technology, law, economics, marketing and management are represented. Of the seven members first to be appointed, two shall be appointed for terms of 1 year, two for terms of 2 years, and three for terms of 3 years. Thereafter, all appointments shall be made for terms of 3 years. All members shall serve after the expiration of their terms until their respective successors are appointed and qualified, and any vacancy occurring in the membership of the board shall be filled in the same manner as the original appointment, but for the unexpired term only. Members of the board shall serve without compensation,

but shall be entitled to reimbursement for expenses incurred in attendance at meetings of the board and in performance of their duties as members thereof. The board shall meet at the call of the executive director and shall address itself to such matters as are referred to it by the executive director.

c. The Division of Economic Development shall make available to the office such research and other professional staff as may be needed to assist the executive director and the board in discharging their duties.

d. The executive director may employ such technical and clerical staff and other employees as may be necessary to assist him in the performance of his duties, within the limits of available appropriations therefor. The provisions of Title 11 (Civil Service) of the Revised Statutes and acts amendatory thereof and supplemental thereto, shall be construed to extend to all such personnel. He may also employ consultants from time to time as may be necessary to assist him on particular projects.

C. 34:1A-67 Purpose of office; powers and duties.

4. The purpose of the Office for Promoting Technical Innovation shall be to stimulate and encourage the development of new commercial products to be fabricated in New Jersey by providing such assistance to the individual inventor and small entrepreneur as is needed to realize the full potential of his invention and to apprise business and industry leaders of new and prospective technical advancements which may be of value to them. In order to carry out this purpose, the office shall have the following powers and duties:

a. Establish communication between inventors, sources of capital, entrepreneurs, and technical, legal, marketing and managerial experts for the purpose of selecting and developing new product enterprises;

b. Organize teams of inventors and technical consultants who will cooperate at all stages in the development of selected inventions into commercial products, including, but not limited to, the screening of patents and inventions for their market potential, the undertaking of feasibility studies, the process of prototype fabrication, the identification of sources of venture capital, the undertaking of market studies, and the organization and management of new enterprises;

c. Advocate the interests of promising enterprises before State and local agencies and authorities and the Division of Economic Development;

d. Inform inventors of available research and development grants from Federal sources and assist in the preparation of applications therefor;

e. Grant or guarantee low interest loans, within the limits of revenues available in the Technical Innovation Financing Fund, to inventors and product developers for projects whose benefit to the State in terms of future applications, employment potential, and tax revenues and ratables can be clearly demonstrated but for which no private or other public sources of financial assistance are available;

f. Maintain liaison with the Federal Intergovernmental Science, Engineering and Technology Advisory Panel established by P. L. 94–282 and represent the State's interests to Federal agencies;

g. Propose legislation aimed at promoting technical progress;

h. Publish and promote its services and activities to the public at large;

i. Seek and accept financial assistance in the form of contributions, gifts, grants, or matching funds from the Federal Government and any other public or private sources to carry out its program;

j. Submit to the Governor and the Legislature an annual report regarding its activities and setting forth recommendations of methods which might be utilized to more efficiently and effectively carry out the purposes of this act;

k. Collect, and serve as clearinghouse of, technical information and resource materials; provided, however, that any information collected which, in the opinion of the board and the executive director, may constitute a trade secret shall be so designated and shall thereby be exempt from the requirements of P. L. 1963, c. 73 (C. 47:1A–1 et seq.).

l. Adopt and promulgate rules and regulations necessary to carry out the purposes of this act, including, but not limited to, codes of behavior and regulations to preserve the confidentiality of inventions and the integrity of all who may be involved in new product development.

C. 34:1A-68 Application for assistance; findings and determinations by division.

5. A copy of any application for assistance under this act received by the office shall be submitted to, and for the review and advice of, the Director of the Division of Economic Development. Prior to making any commitment for such assistance, the office, after consultation with the director of said division, shall, upon the concurrence of the executive director and at least five of the members of the board, find and determine, on the basis of all information

reasonably available to it, that such assistance will tend to promote practical technical innovation in this State and otherwise serve the purposes of the office and this act.

C. 34:1A-69 Technical innovation financing fund; creation; functions.

6. a. There is hereby created in the State Treasury a special account which shall be known as the Technical Innovation Financing Fund and which shall be used by the office as a nonlapsing revolving fund. The fund shall be credited with such moneys as shall be appropriated by the State for the purpose of such fund and all moneys received from contributions, gifts, and grants to the office.

b. The State Treasurer, with the advice of the executive director, may invest and reinvest any moneys in said fund determined not to be needed for its current responsibilities. Any income or interest on, or increment to, moneys so invested or reinvested shall be added to the principal of the fund.

c. The moneys in said fund shall be applied, upon the recommendation of the executive director of the office and in accordance with section 5 of this act, for the purpose of granting or guaranteeing low interest loans pursuant to the provisions of section 4 of this act, subject to any conditions upon which such grants or guarantees may have been made, and for any other purposes consistent with the objectives of this act.

7. There is hereby appropriated from the Unemployment Compensation Auxiliary Fund to the Department of Labor and Industry the sum of $250,000.00 for the establishment and administration of the Office for Promoting Technical Innovation.

8. This act shall take effect 90 days following enactment and shall expire 5 years following enactment.

Approved February 28, 1978.

CHAPTER 430

AN ACT concerning the employment of certain minors in theatrical productions and amending and supplementing P. L. 1962, c. 91.

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

1. Section 2 of P. L. 1962, c. 91 (C. 34:2–21.58) is amended to read as follows:

C. 34:2-21.58 Theatrical employment of minors permitted.

2. Notwithstanding any provision of the child labor laws of this State, the professional employment of minors under the age of 16 years in theatrical productions is authorized upon compliance with the conditions in this act set forth.

2. Section 3 of P. L. 1962, c. 91 (C. 34:2–21.59) is amended to read as follows:

C. 34:2-21.59 Conditions for granting permit.

3. Upon application of an employer, bearing the endorsed approval of a parent or guardian of the minor the issuing officer as defined in the act hereby supplemented may issue a permit authorizing employment of the minor in a theatrical production if it finds that:

(a) The minor is in good health and will not likely be endangered by the working conditions of the prospective employment as certified by a currently issued statement of a licensed physician based upon a physical examination which, for minors under 8 years of age, includes a visual acuity screening if practicable;

(b) The place of employment is approved by the Department of Labor and Industry and the period for which the permit is desired is not in excess of 3 months;

(c) If the minor is not attending public school and the application is for a period other than during the school summer vacation period, that he is receiving equivalent instruction approved by the Department of Education or by the State or county of his residence if he be a nonresident of New Jersey;

(d) The proposed employment will not exceed two performances a day or a total of eight performances in any week; that the employment will not be for more than 6 days in any week, 5 hours in any day or a total of 24 hours, including rehearsal time, in any week and that the minor will not be employed before 7:00 p.m. or after 11:30 p.m. and that school and theatrical performance time shall not exceed 8 hours in any 1 day;

(e) The employment does not involve a type of prohibited performance as hereinafter defined;

(f) The minor will be under the direct care and supervision of an adult who is a parent, guardian or a representative of the employer, named in the application, at all times during his employ-

ment or while living away from home when required as an incident of such employment.

C. 34:2-21.63a Employment of minor to perform indecent exhibition; high misdemeanor; terms defined.

3. (New section) Any person who obtains a permit under this act and employs a minor under the age of 16 to perform an indecent or immoral exhibition, which exhibition is a prohibited performance under this act, shall be guilty of a high misdemeanor. For the purpose of this act, indecent or immoral exhibition means (1) sexual intercourse, or (2) anal intercourse, or (3) masturbation, or (4) bestiality, or (5) sadism, or (6) masochism, or (7) fellatio, or (8) cunnilingus, or (9) any other sexual activity, or (19) nudity, if such nudity is to be depicted for the purpose of sexual stimulation or gratification of any person who may view such depiction.

4. Section 8 of P. L. 1962, c. 91 (C. 34:2–21.64) is amended to read as follows:

C. 34:2-21.64 Forms, regulations and special safeguards.

8. The Department of Education shall prescribe forms and regulations concerning applications for and issuance of permits and the Department of Labor and Industry may issue regulations concerning the administration and enforcement of this act and, notwithstanding any provisions of law to the contrary, after consultation with the Department of Education, shall prescribe special safeguards governing the working conditions, supervision and education of minors under the age of 16, with particular attention to minors under the age of 6 years not inconsistent with the purposes of this act.

5. This act shall take effect immediately.

Approved February 28, 1978.

CHAPTER 431

AN ACT concerning elections and amending R. S. 19:14–12.

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

1. R. S. 19:14–12 is amended to read as follows:

Drawing for position on ballot; procedure, public announcement, authority to witness, bracketing names.

19:14–12. The county clerk shall draw lots in his county to determine which columns the political parties which made nominations at the next preceding primary election shall occupy on the ballot in the county. The name of the party first drawn shall occupy the first column at the left of the ballot, and the name of the party next drawn shall occupy the second column, and so forth.

The position which the names of candidates, and bracketed groups of names of candidates nominated by petitions for all offices, shall have upon the general election ballot, shall be determined by the county clerks in their respective counties.

The manner of drawing the lots shall be as follows: paper slips with the names of each political party written thereon, shall be placed in capsules of the same size, shape, color and substance and then placed in a covered box with an aperture in the top large enough to admit a man's hand and to allow the capsules to be drawn therefrom. The box shall be well shaken and turned over to thoroughly intermingle the capsules. The county clerk or his deputy shall at his office, draw from the box each capsule separately without knowledge on his part as to which capsule he is drawing.

The person making the drawing shall open the capsule and shall make public announcement at the drawing of each name, the order in which name is drawn and the office for which the drawing is made.

Where there is but one person to be elected to an office, the names of the several candidates who have filed petitions for such office shall be written upon paper slips and placed in separate capsules of the same size, shape, color and substance. The capsules shall be placed in a covered box with an aperture in the top large enough to admit a man's hand and to allow the capsules to be drawn therefrom. The box shall be turned and shaken thoroughly to mix the capsules and the capsules shall be withdrawn one at a time.

When there is more than one person to be elected to an office where petitions have designated that certain candidates shall be bracketed, the position of such bracketed names on the ballot (each bracketed group to be treated as a single name), together with individuals who have filed petitions for such office, shall be determined as above described.

Any legal voter of the county or municipality, as the case may be, shall have the privilege of witnessing the drawing.

The name or names of the candidate or bracketed group of candidates first drawn from the box shall be printed directly below the proper title of the office for which they were nominated, and the name or names of the candidate or bracketed group of candidates next drawn shall be printed next in order, and so on, until the last name or bracketed group of names shall be drawn from the box.

The arrangement of names of any bracketed group of candidates for any office for which more than one are to be elected shall be printed in the same order on the ballot as they were arranged on the petition of nomination.

The drawing for the positions which the names of candidates and bracketed groups of names of candidates, nominated by petition for office, and for the columns which the political parties which made nominations at the next preceding primary election shall occupy upon the general election ballot, shall be held at 3 o'clock in the afternoon of the eighty-fifth day prior to the day of the general election.

2. Section 19:13–22 of the Revised Statutes is amended to read as follows:

Secretary of state; statement to county clerks of nominations; vacancies.

19:13–22. The Secretary of State, not later than eighty-six days before any election whereat any candidates nominated in any direct petition or primary certificate of nomination or State convention certificate filed with him are to be voted for, shall make and certify, under his hand and seal of office, and forward to the clerks of the several counties of the State a statement of all such candidates for whom the voters within such county may be by law entitled to vote at such election. This statement, in addition to the names of the candidates for President and Vice-President of the United States, if any such have been included in any such certificate or petition filed with him, shall contain the names and residences of all other candidates, the offices for which they are respectively nominated, and the names of the parties by which or the political appellation under which they are respectively nominated. Candidates nominated directly by petition, without distinctive political appellation, shall be certified as independent candidates. Similar statements shall be made, certified and forwarded, when vacancies are filled subsequently, according to law.

3. This act shall take effect immediately.

Approved February 28, 1978.

CHAPTER 432

AN ACT relating to the construction, reconstruction and control of certain monuments and memorials and supplementing chapter 10 of Title 40 of the Revised Statutes.

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

1. R. S. 40:10–5 is amended to read as follows:

Appropriations of moneys for acquisition of lands and construction; disbursement.

40:10–5. The board or body having charge of the finances of the municipality may by ordinance and the governing body of the county may by resolution or ordinance, appropriate such sums of money as they, in their discretion, shall determine to be adequate and necessary for the acquisition of such lands and for the construction, reconstruction, furnishing and equipping of such building or buildings, and for any necessary expenses incidental thereto, and borrow the money so appropriated in the manner provided by law.

All moneys so appropriated and raised shall be turned over to, and disbursed by, the treasurer of the commission, upon the order of such commission, for the purposes authorized by R. S. 40:10–2 to 40:10–8 and for no other purpose.

2. R. S. 40:10–8 is amended to read as follows:

Compliance with law in entering contracts.

40:10–8. A commission created under the provisions of R. S. 40:10–3 shall in entering into any contract for the doing of any work or for the furnishing of any materials, supplies or labor comply with the provisions of the "Local Public Contracts Law," P. L. 1971, c. 198 (C. 40A:11–1 et seq.).

C. 40:10-9 Transfer of title or interest; termination of powers and duties.

3. (New section) A municipality or county may transfer its title or interest in a memorial building or buildings one to the other by resolution of the governing body. Such transfer of title or interest shall be complete and effective and all responsibilities, powers and duties of the municipality or county adopting said resolution shall terminate upon the acceptance by the other of such transfer by the adoption of a resolution.

4. This act shall take effect immediately.

Approved February 28, 1978.

CHAPTER 433

AN ACT concerning official advertising, and amending section 35:2–1 of the Revised Statutes.

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

1. Section 35:2–1 of the Revised Statutes is amended to read as follows:

Rates for official advertising.

35:2–1. The price to be paid for publishing all official advertising as defined in section 35:1–1 of this Title in newspapers shall be as follows:

In newspapers published in the State of New Jersey having a bona fide net paid circulation of up to 2,500 copies, the rate shall be $0.21 per 5½ point line for each insertion; in the case of any newspaper having a bona fide net paid circulation of not less than 2,500 copies nor more than 5,000 copies, the rate shall be $0.26 per 5½ point line for each insertion; and in the case of any newspaper having a bona fide net paid circulation of not less than 5,000 copies and not more than 10,000 copies, the rate shall be $0.28 per 5½ point line per insertion; and in the case of any newspaper having a bona fide net paid circulation of not less than 10,000 copies and not more than 30,000 copies, the rate shall be $0.29 per 5½ point line per insertion; and in the case of any newspaper having a bona fide net paid circulation of not less than 30,000 and not more than 45,000 copies, the rate shall be $0.30 per 5½ point line per insertion; and in the case of any newspaper having a bona fide net paid circulation of not less than 45,000 copies and not more than 60,000 copies, the rate shall be $0.32 per 5½ point line per insertion; and in the case of any newspaper having a bona fide net paid circulation of not less than 60,000 copies and not more than 75,000 copies, the rate shall be $0.37 per 5½ point line per insertion; and in the case of any newspaper having a bona fide net paid circulation of not less than 75,000 copies and not more than 100,000 copies, the rate shall be $0.50 per 5½ point line per insertion; and in the case of any newspaper having a bona fide net paid circulation of not less than 100,000 copies, and not more than 125,000 copies, the rate shall be $0.55 per 5½ point line per insertion; and in the case of any newspaper having a bona fide net paid circulation of

not less than 125,000 copies, and not more than 150,000 copies, the rate shall be $0.60 per 5½ point line per insertion; and in the case of any newspaper having a bona fide net paid circulation of not less than 150,000 copies and not more than 200,000 copies, the rate shall be $0.68 per 5½ point line per insertion; and in the case of newspapers having a bona fide net paid circulation of not less than 200,000 copies, and not more than 300,000 copies, the rate shall be $0.76 per 5½ point line per insertion; and in the case of any newspaper having a bona fide net paid circulation in excess of 300,000 copies the rate shall be $0.83 per 5½ point line per insertion; but before any newspaper can charge the foregoing rates, the publisher or business manager of such newspaper must file with the properly authorized officer of every municipality, county or governing body, placing official advertising in such newspaper, an affidavit setting forth the average net paid circulation of such newspaper for the 12 months' period ending September 30 next preceding and the rate to be charged for official advertising, which in no case shall be in excess of, or below, the rates provided in the foregoing schedule.

The charge per 5½ point line shall be based on measurement of a line of not less than 9 picas in width, but date lines, paragraph endings, titles, signatures and similar short lines or lines that require special emphasis, such as the title of the notice, shall be computed as full lines where set to conform to the usual rules of composition.

2. This act shall take effect 30 days after enactment.

Approved February 28, 1978.

CHAPTER 434

AN ACT concerning the valuation and assessment of residential property in certain circumstances, 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. 54:4-23.24 Valuation and assessment of residential property due to change in zoning ordinance.

1. All property which has been valued and assessed as residential property within a zone designated as residential and which has

been so assessed for a period of 3 years or longer, and which upon the revision of a zoning ordinance becomes situate in a commercial or industrial zone, shall continue to be valued and assessed as residential property so long as the owner thereof at the time of the change in the zoning ordinance shall continue to occupy such property as his principal place of residence.

2. This act shall take effect immediately and be applicable to the tax year 1978 and thereafter.

Approved February 28, 1978.

CHAPTER 435

AN ACT authorizing the establishment of joint municipal consolidation study commissions with powers to study and make recommendations regarding the consolidation of municipalities, authorizing State financial assistance for certain purposes pertaining thereto, amending the "Interlocal Services Aid Act," approved December 6, 1973 (P. L. 1973, c. 289) and N. J. S. 40A:4–53, supplementing Title 40 of the Revised Statutes, and repealing chapter 38 of Title 19 of the Revised Statutes and P. L. 1939, c. 343 as amended and supplemented.

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

C. 40:43-66.35 Short title.

1. This act shall be known and may be cited as the "Municipal Consolidation Act."

C. 40:43-66.36 Legislature's findings.

2. The Legislature hereby finds and declares that it is in the public interest to encourage contiguous municipalities to consider consolidation as a means of insuring more rational control of growth and development, more efficient provision of local services and more effective public administration; that the existing laws of this State are inadequate to encourage local consideration of consolidation in many instances where such action might be desirable; and, that the State should provide technical and financial assistance to encourage such consideration in those instances where

it may be appropriate, and where voluntarily agreed to by the municipalities involved.

The Legislature further declares that, since political and administrative consolidation of separate municipalities is an act of high public importance to which are attached many unforeseen difficulties and obstacles, the successful completion of a plan of consolidation, once approved by a vote of the residents of the municipalities involved, shall constitute a public purpose of this State; and, therefore, that the grant of powers under this act is intended to be as broad as is consistent with the Constitution of New Jersey and with general law relating to local government, and shall be construed as liberally as possible in regard to the consolidated municipality's right to organize its own form of government, to organize its structure and to alter or abolish previously existing municipal agencies, subject to the general mandate of performing services and to the provisions of the plan of consolidation approved by the voters.

C. 40:43-66.37 Definitions.

3. As used in this act, unless the context requires another or different meaning:

a. "Commissioner" means the Commissioner of Community Affairs;

b. "Consolidated municipality" means the single new municipality that results from an affirmative consolidation effort pursuant to the provisions of this act;

c. "Consolidation commission," or "commission," means a joint municipal consolidation study commission created pursuant to the provisions of this act;

d. "Department" means the Department of Community Affairs;

e. "Eligible consolidated municipality" means a municipality consolidated pursuant to the provisions of this act under a plan approved by the department; and,

f. "Participating municipalities" means any two or more municipalities involved in a consolidation effort, or which have been consolidated together into a consolidated municipality, pursuant to the provisions of this act.

C. 40:43-66.38 Consolidation.

4. Any two or more contiguous municipalities in the same county may be consolidated into a single municipality pursuant to the provisions of this act.

C. 40:43-66.39 Joint municipal consolidation study commission; proposal for formation by ordinance; adoption and transmittal.

5. The governing body of any municipality proposing to consolidate with one or more other municipalities may, by ordinance, propose the formation of a joint municipal consolidation study commission as provided for in section 7 of this act. The ordinance shall state that the governing body is seeking the formation of a joint municipal consolidation study commission pursuant to the provisions of this act, and shall name the municipalities for which a consolidation study is proposed. Upon adoption of such ordinance, the clerk of the municipality adopting the ordinance shall forthwith transmit a certified copy thereof to the municipal clerk of each of the other municipalities named in the ordinance and to the clerk of the county in which such municipalities are located.

C. 40:43-66.40 Petition by registered voters; filing and certification; transmittal.

6. The registered voters of any municipality may, by petition, propose the formation of a joint municipal consolidation study commission. The petition, or each petition paper, as the case may be, shall state the purpose of the petition, and shall name the municipalities for which a consolidation study is proposed. The petition to be sufficient shall be signed by the registered and qualified voters of the municipality in a number at least equal to 10% of the total votes cast in the municipality at the last preceding general election at which members of the General Assembly were elected. The petition shall be filed with the clerk of the municipality who shall, upon said filing, forthwith ascertain and certify the number and validity of the signatures affixed thereto. If the petition is determined to be insufficient, the person designated in the petition for such purpose shall have 10 days from the notification of insufficiency to file a supplementary petition designed to rectify such insufficiency, which shall be in the same form and shall be filed in the same manner as the original petition. If no supplementary petition is filed within 10 days after such notification of insufficiency, or if the clerk shall, within 5 days after such a supplementary petition is filed, examine it and determine it to be still insufficient, the clerk shall file his certificate of insufficiency in his office and notify such person of the insufficiency. A finding of insufficiency shall not prejudice the filing of a new petition for the same purpose, provided that such new petition otherwise conforms to the requirements of this act.

If the petition is determined to be sufficient, the clerk of the municipality shall so certify, and shall forthwith transmit a certi-

fied copy to the governing body of the municipality, to the municipal clerk of each of the other municipalities named in the petition, and to the clerk of the county in which such municipalities are located.

C. 40:43-66.41 Submission of question to voters; form.

7. If, within 1 year after the date on which the first ordinance, pursuant to section 5 of this act, or the first petition, pursuant to section 6 of this act, is filed with the clerk of the county, either an ordinance or a certified petition is transmitted to the county clerk by each of the other municipalities named in the first such ordinance or petition, the question of forming a consolidation commission shall be submitted to the voters of each of the municipalities named in such ordinances or petitions in the following form:

"Shall a joint municipal consolidation study commission be formed to study the feasibility of consolidating (insert the names of each of the municipalities named in such ordinances or petitions) into a single new municipality, to study the question of the form of government under which such new municipality should be governed, to study the feasibility of consolidating the local school districts of the aforesaid municipalities, and to make recommendations thereon; or, in the alternative, to make recommendations on the consolidation of certain municipal services?"

The question shall be submitted to the voters of each municipality so named in the ordinances or petitions on the date for the next general election or on the date for the next regular municipal election, whichever shall first occur at least 60 days after the date of the filing with the county clerk of the final ordinance or petition necessary to require the submission of the question to the voters. Nothing herein contained shall be construed to prevent the submission of the question of forming a consolidation commission to the voters of the municipalities named in any combination of such ordinances and petitions, provided that such ordinances and petitions are substantively similar.

C. 40:43-66.42 Members of consolidated commission; election.

8. Municipal members of a consolidation commission shall be elected by the qualified voters at the same time as the public question is submitted.

Duly nominated candidates for the office of commission member shall be placed upon the ballot containing the public question in the same manner as is provided by law for candidates nominated by petition for other elective offices of a single municipality, except that they shall be listed without any designation or slogan.

Each voter shall be instructed to vote on the question and, regardless of the manner of his vote on the question, to vote for the elected members of a commission.

C. 40:43-66.43 Candidates for commission; qualifications; nominating petition; contents.

9. a. The candidates for a consolidation commission from each participating municipality shall be registered voters of that municipality. They may be nominated by petitions signed by the registered and qualified voters of the municipality in a number at least equal to 5% of the total votes cast in the municipality at the last preceding general election at which members of the General Assembly were elected, and filed with the municipal clerk not less than 40 days prior to the date of the election.

b. Each nominating petition shall set forth the names, places of residence, and post-office addresses of the person or persons therein nominated, and a statement that the nomination is for the office of commission member and that the petitioners are registered voters of the municipality. Every voter signing a nominating petition shall, in addition to his signature, give his place of residence, post-office address and street number, if any.

c. Before filing with the municipal clerk, each nominating petition shall have fixed or appended thereto, or, if the same person or persons are named in more than one petition, fixed or appended to one of such petitions, a written acceptance of such nomination signed by the person or persons nominated therein. Such acceptance shall certify that the nominee is a registered voter of the municipality, that the nominee consents to stand as a candidate at the election and that, if elected, he agrees to take office and serve.

d. Each nominating petition shall be verified by an oath or affirmation of one or more of the signers thereof, taken and subscribed before a person qualified under the laws of New Jersey to administer an oath, to the effect that the petition was signed by each of the signers thereof in his proper handwriting, that the signers are, to the best knowledge and belief of the affiant, registered voters of the municipality, and that the petition is prepared and filed in good faith for the sole purpose of endorsing the person or persons named therein for election as stated in the petition.

e. If any nominating petition, or any oath, affirmation or written statement attached thereto, is defective, the person designated in the petition for such purpose may cause such petition or oath.

affirmation or written statement to be amended in the manner prescribed for the amendment of defective petitions for nominating candidates for general elections in R. S. 19:13–13.

C. 40:43-66.44 Adoption of public question.

10. The public question submitted to the voters pursuant to section 7 of this act shall be deemed adopted, and a consolidation commission formed, if a majority of the votes cast on the question in each of the municipalities in which the question is submitted shall be in the affirmative.

C. 40:43-66.45 Membership of commission.

11. The membership of a joint municipal consolidation study commission formed pursuant to the provisions of this act shall consist of five members from each participating municipality.

The five candidates for commission member receiving the greatest number of votes shall be elected and shall constitute the commission members from the participating municipality in which they reside, provided that if a majority of those voting on the public question in any of the municipalities in which the question was submitted shall have voted against the formation of a commission, none of the candidates in any of the municipalities shall be elected. In the instance that the vote for commission members should result in six or more candidates in any one participating municipality receiving sufficient votes to be elected, then those candidates receiving the least and equal number of votes shall draw lots to determine which shall be elected.

C. 40:43-66.46 Results of election; certification.

12. The results of the election in each municipality in which the question was submitted shall be certified in accordance with Title 19 of the Revised Statutes, and the county clerk shall, in turn, not more than 5 days after said certification, notify the Commissioner of Community Affairs of said election results.

C. 40:43-66.47 Appointment by commissioner of community affairs.

13. The Commissioner of Community Affairs shall appoint a person to act as his representative to the commission. The commissioner's appointee shall not be a member or an officer of the commission, shall not be a resident of any of the participating municipalities, but shall participate in all meetings, activities and proceedings of the commission.

C. 40:43-66.48 Meeting of commission; election of officers; quorum; schedule for conduct of business.

14. As soon as possible and in any event no later than 15 days after the election of its members, the consolidation commission

shall organize and hold its first meeting. The commission shall elect from its membership a chairman and a vice-chairman. The commission shall fix its hours and places of meeting, adopt such rules for the conduct of its business as it may deem necessary and advisable, and appoint a secretary, who need not be a member of the commission. A majority of the total membership of the commission shall constitute a quorum for the transaction of business, but no recommendation of said commission shall have any legal effect pursuant to this act, unless adopted by a majority of the five commission members from each of the participating municipalities.

At its first meeting, or as soon thereafter as possible, the commission shall establish a schedule for the conduct of its business which shall take into account the following mandatory dates:

a. The 5 month date set forth in section 20 of this act by which the Department of Community Affairs is required to report its fiscal findings to the commission;

b. The 6 month date set forth in section 21 of this act by which the commission is required to make a preliminary report to the department and to the governing bodies of the participating municipalities;

c. The 8 month date set forth in section 21 of this act by which the department is required to provide its evaluative statement to the commission; and,

d. The 9 month date set forth in section 22 of this act by which the commission is required to submit its final report.

A copy of such schedule shall be filed with the commissioner and with the clerk of each of the participating municipalities within 30 days after the first meeting.

C. 40:43-66.49 Vacancies.

15. In case of any vacancy in the membership of the commission, the governing body of the participating municipality in which the vacancy occurred shall, within 10 days after notification of such vacancy, fill it by appointing thereto a registered voter of said municipality.

C. 40:43-66.50 Duties and functions of commission; report.

16. It shall be the duty and function of the joint municipal consolidation study commission to study the question and feasibility of consolidating the participating municipalities into a single new municipality. In carrying out its duties and functions, the commission shall also study the plans or forms of government available

under the "Optional Municipal Charter Law" (P. L. 1950, c. 210; C. 40:69A–1 et seq.), the "commission form of government law" (R. S. 40:70–1 et seq.), the "municipal manager form of government law" (R. S. 40:79–1 et seq.), and the plans or forms of government of the participating municipalities, and shall exercise all of the functions and powers of a charter commission under this act and under the "Optional Municipal Charter Law," insofar as the provisions of that law may be consistent with the provisions of this act. The commission shall prepare a report setting forth its findings and recommendations. Should the commission determine to recommend the consolidation of the participating municipalities into a single municipality, the commission shall in such report recommend a plan of consolidation which shall set forth:

a. The name, type, plan or form of government of the proposed new municipality;

b. Details of adjustment of the indebtedness and other obligations of the participating municipalities, and if appropriate, of the school districts therein, in such manner as to preserve a fair and equitable burden of taxation for debt service;

c. The transfer of property and assets of the participating municipalities to the proposed new municipality, and, if appropriate, from their constituent school districts to the proposed new school district;

d. The extent to which participating municipalities may authorize or issue bonds or other obligations or incur contractual duties during the period between the date of the election held pursuant to section 25 of this act and the date of consolidation as provided for in section 29 of this act;

e. Any adjustments or changes in offices, positions, or employment, including the abolition thereof that may be necessitated by the consolidation;

f. The number and manner of election of the members of the governing body of the proposed new municipality, including, if appropriate, the designation of the number of wards into which the proposed consolidated municipality is to be divided, which shall be consistent with the plan or form of government recommended and shall be in accordance with law;

g. Those ordinances, rules and regulations of the participating municipalities which may be adopted by the governing body of the consolidated municipality to temporarily take effect within the consolidated municipality; and,

h. In accordance with the pertinent provisions of Title 18A of the New Jersey Statutes and the provisions of this act: the manner of school district consolidation, if any; the type of school district or districts to be operated by or in the consolidated municipality; and, the number of school board members of the recommended school district or districts as shall be necessary.

C. 40:43-66.51 Open public meetings; powers of commission.

17. The commission shall hold its meetings and hearings in accordance with the provisions of the "Open Public Meetings Act" (P. L. 1975, c. 231; C. 10:4–6 et seq.), and shall generally provide for the widest possible public information and discussion with regard to the purposes and progress of its work.

The commission shall have the power to take testimony and issue subpenas; to compel the attendance of officers and employees of the participating municipalities; to compel the production of all books, documents and other papers of the participating municipalities; and, to administer oaths to persons appearing before it to testify. Any such subpenas shall be enforceable, and misconduct of a witness may be dealt with, in the manner provided by the "County and Municipal Investigations Law" (P. L. 1953, c. 38; C. 2A:67A–1 et seq.).

C. 40:43-66.52 Reimbursement of expenses.

18. Members of the consolidation commission shall serve without compensation, but shall be reimbursed for necessary expenses incurred by them in the performance of their official duties.

C. 40:43-66.53 Budget; preparation; approval; apportionment; facilities and employees; audit.

19. a. The joint municipal consolidation study commission shall prepare a proposed budget for its activities showing anticipated expenses and anticipated receipts of funds from all sources, which shall be submitted to the governing bodies of the participating municipalities for their review. The governing bodies shall approve a budget for the commission within 30 days of submission thereof. To the extent that funds from other sources are not adequate to cover the expenses of the commission, expenses approved by the governing bodies of the participating municipalities shall be apportioned among such municipalities according to the proportion that the assessed valuation of all taxable real property within each such municipality bears to the total assessed valuation of all such property within all participating municipalities. Such apportionment shall be based upon the most current abstract of

ratables prepared for the purpose of levying taxes in the respective participating municipalities.

b. The commission may apply for and accept a State grant from the Department of Community Affairs to conduct a feasibility study or studies, or may request the department to conduct such study or studies in accordance with the provisions of sections 5 and 6 of the "Interlocal Services Aid Act" (P. L. 1973, c. 289; C. 40:8B–5 and 40:8B–6). The commission may also accept privately contributed funds, and any Federal assistance or grants that may be available. Participating municipalities shall be reimbursed, in the same manner prescribed in subsection a. for apportioning commission expenses among such municipalities, for any advance payments made by such municipalities to the commission in anticipation of the commission's receipt of revenues from such sources as are set forth in this subsection, if funds from such source were included as a revenue item in the commission's budget approved by the participating municipalities. Reimbursement shall be made immediately upon receipt of such anticipated revenues.

c. The participating municipalities shall make available to the commission such facilities and such professional, technical and clerical assistance as said municipalities may jointly agree.

d. Within the limits of available funds, the commission may appoint a secretary, consultants and such other clerical and professional assistants as it may require, who shall serve at the pleasure of the commission. The commission may fix a reasonable compensation to be paid for such services. Any commission established pursuant to the provisions of this act shall not be subject to the provisions of the "Local Public Contracts Law" (P. L. 1971, c. 198; C. 40A:11–1 et seq.), or to the provisions of Title 11 (Civil Service) of the Revised Statutes.

e. All expenditures of funds by the commission shall be subject to audit in the same manner as municipal expenditures.

f. Amounts necessary to fund budget requests made by a commission pursuant to the provisions of this section may be appropriated by participating municipalities as emergency appropriations pursuant to N. J. S. 40A:4–53.

C. 40:43-66.54 Study by department; cooperation with commission; State financial assistance.

20. a. The Department of Community Affairs shall, within 5 months from the date of its receipt of the election results establishing a commission pursuant to section 10 of this act, prepare an

objective study of the fiscal aspects of the proposed consolidation, and shall report its findings to the commission.

b. The department shall, to every possible extent, advise and cooperate with any consolidation commission created pursuant to this act and shall make available its facilities, records, and technical and professional resources. The department shall consider promptly any commission application for a State grant to conduct, or any commission request for the department to conduct, any other feasibility study or studies consistent with the provisions of this act; provided, however, that whenever any such study or studies are to be conducted by a party other than the department, said party shall be approved by, and conduct such study or studies under the supervision of, the department, and the amount of State financial assistance therefor, shall not exceed in the aggregate 75% of the cost of such study or studies. Upon approval of such study or studies, the commissioner shall certify the amount approved therefor to the State Treasurer, who shall make immediate payment thereon. Any application for financial assistance submitted by a commission created pursuant to this act shall have first claim on any moneys appropriated under the "Interlocal Services Aid Act" which have not been expended or committed at the time of application. At the written request of such a commission, a reservation of moneys shall be made by the commissioner prior to the formal filing of an application therefor by such commission.

C. 40:43-66.55 Preliminary report and recommendations.

21. a. The consolidation commission shall make a preliminary report and recommendations, not later than 6 calendar months from the date of its election, to the Commissioner of Community Affairs, who shall review same and shall indicate to the commission in writing whether or not the report and recommendations accurately reflect the department's findings concerning the fiscal aspects of the proposed consolidation. The preliminary report and recommendations shall be returned to the commission together with the department's written statement thereon. The commission may respond in writing to the department's written statement, may amend the report and recommendations in such manner as it deems appropriate, and shall submit its final report to the department. Following his receipt of the final report, but in no event later than 8 months following the election of the commission, the commissioner shall provide the commission with a brief and concise evaluative statement, based upon the best information available to the commissioner

at that time, concerning the fiscal feasibility of the proposed consolidation.

b. At the same time that it submits its preliminary report to the department, the commission shall submit a copy thereof to the governing body of each participating municipality. The governing bodies may, within 30 days of their receipt thereof, submit to the commission and to the department written comments thereon.

C. 40:43-66.56 Final report; official abstract; notice.

22. a. The joint municipal consolidation study commission shall publish and file its final report and recommendations within 9 calendar months from the date of its election. A copy of such final report signed by the chairman of the commission shall be filed with the Secretary of State, the department, the county clerk and with the municipal clerk of each participating municipality. Included in such final report shall be: a statement, if any, by any member of the commission dissenting from the findings and recommendations set forth in the final report; the department's findings on the fiscal aspects of the proposed consolidation; the commissioner's evaluative statement concerning the fiscal feasibility of the proposed consolidation; and, any written comments received from the governing bodies of the participating municipalities. The municipal clerks shall deliver a copy of such final report to each member of the governing body of their respective municipalities. The commission shall cause a reasonable number of copies of the final report to be printed and made available to the general public upon request.

b. If the commission recommends consolidation, it shall prepare an "official abstract" of its report and recommendations and plan of consolidation consisting of a concise statement, which shall be objective in content and presentation, and shall be descriptive of the substance of the plan. At the time the commission publishes and files its final report, and again on a date not less than 30 days preceding the date fixed for the election, the commission shall cause the official abstract to be published at least once in a newspaper of general circulation in the participating municipalities, together with notice of:

(1) The time, place and purpose of the election;

(2) The manner in which copies of the commission's final report and recommendations may be obtained;

(3) The commissioner's evaluative statement concerning the fiscal feasibility of the proposed consolidation;

(4) The fact that if the voters favor the consolidation by a majority vote in each of the participating municipalities, the consolidation plan shall become binding and legally enforceable between or among such municipalities.

C. 40:43-66.57 Discharge.

23. The consolidation commission shall be discharged:

a. On the date of the filing of its final report and recommendations, if such report recommends against the consolidation of the participating municipalities;

b. On the date of the certification of the results of the referendum, if such certification establishes that the consolidation recommended by the commission has not been approved by the voters of each of the participating municipalities; or,

c. If the plan of consolidation is approved by the voters of the participating municipalities, on the one hundredth and eighty-first day following the date of consolidation, or on such date as the governing body of the consolidated municipality shall adopt permanent ordinances, rules and regulations for the consolidated municipality, whichever shall occur sooner, during which interval the commission shall serve as an advisory body to the governing body of the consolidated municipality.

C. 40:43-66.58 Recommendations in final report.

24. In its final report the consolidation commission may recommend:

a. That a referendum be held to submit to the registered voters of the participating municipalities the question of whether or not the participating municipalities shall be consolidated into a single new municipality pursuant to the plan of consolidation set forth in the report. In which case, the commission shall also recommend:

(1) The adoption of one of the plans or forms of government authorized under the "Optional Municipal Charter Law," the "commission form of government law," or the "municipal manager form of government law;" or,

(2) That the governing bodies of the participating municipalities shall petition the Legislature, pursuant to Article IV, Section VII, Paragraph 10, of the Constitution, for the enactment of the special charter set forth in the final report of the commission; or,

(3) That the plan or form of government of one of the participating municipalities be retained as the plan or form of government of the consolidated municipality.

b. That the participating municipalities not be consolidated into a single new municipality. In which case, the commission may, if it deems appropriate, make alternative findings and recommendations to the governing bodies of the participating municipalities, in lieu of political consolidation, concerning the consolidation or regionalization of separate municipal services and functions pursuant to any of the statutes of this State that authorize and permit joint action, consolidation or regionalization of municipal services and functions. Such alternative findings and recommendations may take either of the following forms:

(1) A recommendation for the consolidation or regionalization of specific functions and services, which may include a designation of which functions or services are to be consolidated or regionalized and a suggested schedule therefor; or,

(2) A recommended schedule for the staged regionalization or consolidation of the functions and services of the participating municipalities over some specific period of time leading to the reconsideration of the question of political consolidation at a later date.

C. 40:43-66.59 Submission of question to voters; form.

25. If the commission recommends the submission of the question of consolidation to the voters, the municipal clerk of each participating municipality shall cause the question of consolidation to be submitted to the registered voters of each participating municipality on the date for the next general or municipal election, whichever shall occur sooner. At that election, the question shall be submitted in the same manner as other public questions in each such municipality, and in the following form or such part thereof as shall be applicable:

"Shall (insert the names of the participating municipalities) be consolidated into a single municipality to be known as (insert name and type of municipality) and governed under (insert alternative a., b., c., d., or e. below, as may be appropriate)?"

(a. the present plan or form of government of (insert name of appropriate municipality) and (if appropriate) providing for a division of the municipality into (insert number) ..... wards, with (insert number) ..... (insert title of members of governing body) ..... to be elected from each ward and (insert number) ..... to be elected at large);

(b. a special charter to be enacted by the Legislature as recommended by the consolidation commission);

(c. the (insert name of plan) ..... of the "Optional Municipal Charter Law," providing for a division of the municipality into (insert number) ..... wards, with (insert number) ..... councilmen, (one to be elected from each ward and (insert number) ..... to be elected at large));

(d. the commission form of government to be adopted pursuant to chapters 70 to 76 of Title 40 of the Revised Statutes (R. S. 40:70–1 et seq.)); or,

(e. the municipal manager form of government to be adopted pursuant to chapters 79 to 85 of Title 40 of the Revised Statutes (R. S. 40:79–1 et seq.)).

☐ For Consolidation

☐ Against Consolidation

C. 40:43-66.60 Special charter for consolidated municipality; petition to legislature.

26. If any consolidation plan approved by the voters shall involve a special charter for the consolidated municipality, the governing bodies of the participating municipality shall, forthwith upon the approval by the voters of such consolidation plan, petition the Legislature, pursuant to Article IV, Section VII, Paragraph 10, of the Constitution, for the special charter set forth in the Commission's report. Such special charter shall set forth the date of election of the first officers of the consolidated municipality, and the manner in which such charter shall be ratified in order for it to become operative.

C. 40:43-66.61 Circumstances where commission cannot be created.

27. No ordinance may be adopted and no petition may be filed for the creation of a joint municipal consolidation study commission pursuant to sections 5 and 6 of this act while proceedings are pending under any other petition filed or ordinance adopted pursuant to the provisions of the "Optional Municipal Charter Law" or any other general law relating to a change in the form of government in any of the participating municipalities. No ordinance may be adopted and no petition may be filed for the creation of such a commission pursuant to the provisions of this act within 4 years after the date on which the question of consolidation has been submitted to the voters pursuant to section 25 of this act; provided, however, that the adoption of an ordinance or the filing of a petition and the holding of any referendum thereafter under the provisions of the "Optional Municipal Charter Law" or other general law relating to a change in the form of government in any of the par-

ticipating municipalities, if such proceedings have been completed, shall not preclude the participating municipalities from proceeding under the provisions of this act notwithstanding the fact that 4 years may not have expired since the completion of said proceedings.

C. 40:43-66.62 Necessary vote for approval.

28. The question submitted pursuant to section 25 of this act shall be deemed approved and adopted only if a majority of those voting on the question in each of the participating municipalities votes in favor of the question.

C. 40:43-66.63 Nomination and election of officers for consolidated municipality; ward and election district boundaries.

29. a. Following the adoption of the question of consolidation in each of the participating municipalities, the nomination and election of officers for the consolidated municipality shall be conducted in accordance with the plan or form of government adopted for the consolidated municipality, and the participating municipalities shall be deemed consolidated on the date on which such officers shall be authorized to take office under such plan or form of government; provided, however, that, if the commission shall have recommended submission to the Legislature of a special charter, the provision for the election of new officers and the date of consolidation shall be at such time following the approval of such special charter by the Legislature as shall be set forth in such charter.

b. Within 45 days after the adoption of the question of consolidation, the commission shall draw the ward boundaries, if any, for the consolidated municipality in the manner prescribed by law for the plan or form of government adopted. If the plan of consolidation has recommended the submission of a special charter to be submitted to the Legislature, the commission shall draw such ward boundaries, if any, in the manner prescribed in such special charter within 45 days after the ratification of such special charter.

Ward boundaries shall be so fixed and determined that each ward is formed of compact and contiguous territory. The wards so created shall not differ in population, according to the most recent Federal census, by more than 10% of the population of the least populous ward created.

c. Within 45 days after the adoption of the question of consolidation, the county board of elections shall establish the election district boundaries for the consolidated municipality in the manner prescribed in Article 2 of chapter 4 of Title 19 of the Revised Statutes.

d. For the purpose of conducting the nomination and election of officers for the consolidated municipality as provided in subsection a. of this section, the municipal clerks of the participating municipalities shall organize themselves as a committee. Such committee shall, as prescribed by law for the plan or form of government adopted for the consolidated municipality: furnish forms for, and receive, petitions of nomination for such officers; conduct the certification of such petitions; prepare, cause to be printed, and authenticate the ballot for the election of such officers; cause any notices for such election to be published; and, receive and canvass the returns of such election.

C. 40:43-66.64 Consolidated municipality body politic and corporate; adoption of ordinances; application of State laws.

30. From and after the date of consolidation, as set forth in section 29 of this act, the participating municipalities shall constitute and be a single municipality under the name, type, plan or form of government set forth in the report and recommendations of the commission. The inhabitants of the territory comprising the consolidated municipality shall thereafter be a body politic and corporate in fact and in law under such name. During the first 20 days following the date of consolidation, the governing body of the consolidated municipality may, by resolution, adopt any ordinances which were in effect in any of the participating municipalities, and make any provisions for officers and for the organization and administration of the consolidated municipality. Such resolutions shall not be subject to any publication requirements, or any referendum or initiative provisions, of any law of this State; provided, however, that subsequent to the adoption thereof the governing body shall cause notice of such adoption to be published in the manner provided by law for municipal ordinances. All such resolutions shall expire not later than 180 days after the date of consolidation.

The general laws of the State applying to municipalities of such type, plan or form of government and class, if any, shall apply to the consolidated municipality created pursuant to this act.

C. 40:43-66.65 Succession.

31. From and after the date of consolidation, the consolidated municipality or new school district, if any, shall be vested with and subject to the assets, contracts, debts and other obligations of the participating municipalities, or constituent school districts, as the case may be, to the extent set forth in the recommendations contained in the final report of the joint municipal consolidation study

commission. The consolidated municipality, or such new school district, as the case may be, shall have the power to complete any work, service or improvement, and to confirm and collect previously levied taxes and assessments of the participating municipalities or constituent school districts, as may be appropriate, which are incomplete, unconfirmed, or uncollected on the date of consolidation. The consolidated municipality or new school district shall carry out those provisions of the plan of consolidation approved by the voters of the participating municipalities which are not inconsistent with this act or other laws of this State.

C. 40:43-66.66 Transition of government.

32. All officers and employees of the participating municipalities are authorized and directed to cooperate fully with any officers elected to govern the consolidated municipality, who have not yet taken office, in order to insure an orderly transition of government.

C. 40:43-66.67 Delivery of funds to custody of fiscal officer; transfer of property; taxation for property subject to separate taxation.

33. Immediately upon the installation of the government of the consolidated municipality, the officers having custody of the funds of the participating municipalities shall deliver all funds in their possession into the custody of the proper fiscal officer of the consolidated municipality, who shall acknowledge delivery by giving his receipt therefor.

The mayor or other chief executive officer of the consolidated municipality shall supervise and direct the transfer of all personal property, books, papers, vouchers, or other documents belonging to the participating municipalities, to the proper officers of the new government. He shall cause a complete inventory to be made of all assets, real and personal, received by the new government.

The department shall cause an audit and settlement of officer's accounts to be made forthwith. The official bonds of the officers and officials shall continue in force and effect until the audit and settlement have been completed.

Whenever a plan of consolidation provides that property within a participating municipality or school district therein, shall remain subject to separate taxation, after consolidation, for the payment of interest and principal on any preexisting indebtedness, such property shall be taxed and assessed therefor at the same time and in the same manner as provided by law for general taxation of real property for the support of the municipality or school district, as the case may be.

C. 40:43-66.68 Terms of office and appointments of local officers and employees; termination.

34. The terms of office and appointments of all local officers and employees elected or appointed by, in, or for the participating municipalities shall, except as otherwise provided in this act, cease and terminate on the date of consolidation. The terms of office of any members appointed by the governing body of any participating municipality to any special district or public authority shall cease and terminate on the date of consolidation.

C. 40:43-66.69. Suit, action or proceeding continued.

35. No suit, action, or proceeding pending in any court or before any board or department wherein one of the participating municipalities or constituent school districts is a party, or in which it is interested, or by the determination of which it might be affected, shall abate by reason of the consolidation, but the consolidated municipality or new school district shall be substituted in the place and stead of such participating municipality or constituent school district, and the suit, action, or proceeding shall continue as if the consolidation had not taken place, and in accordance with the applicable laws, ordinances and regulations of the relevant participating municipality or school district.

C. 40:43-66.70 Debt obligations and bond issues.

36. During the period between the date of election of new officers for the consolidated municipality, and the date of consolidation, no new debt obligations, excepting emergency notes issued pursuant to N. J. S. 40A:4–51, shall be authorized and issued by any participating municipality or constituent school district. Any bonds of the participating municipalities, or any constituent school districts to be combined into a new school district, which have been authorized prior to the date of such election, or in anticipation of the issuance of which temporary notes have been issued prior to the date of such election, may be issued and delivered or permanent bonds issued, as the case may be.

C. 40:43-66.71 Permits, licenses and franchises.

37. Permits, licenses and franchises granted to any place or person by any of the participating municipalities shall, subject to their conditions, remain in full force and effect and be recognized by the consolidated municipality until the expiration of the term for which they were granted. But this section shall not be construed as to prevent the revocation of any such permit or license before its expiration, in the manner provided by law.

C. 40:43-66.72 School districts of consolidated municipalities; administration.

38. If so provided in the plan of consolidation approved by the voters of the participating municipalities pursuant to this act, from and after the date of consolidation the school districts of the consolidated municipalities shall be a single school district which shall be administered pursuant to the provisions of Title 18A of the New Jersey Statutes, subject to the following provisions:

a. If the school districts of the participating municipalities are all classified as either a type I or type II district, such classification shall be retained;

b. If the school districts of the participating municipalities are classified as both type I and type II districts, the classification of the single school districts within the consolidated municipality shall be specified in the plan of consolidation;

c. If all of the participating municipalities are members of the same regional school district, the consolidated municipality shall continue as a member of such regional school district; provided, however, that the consolidation commission may recommend that the governing body of the consolidated municipality shall, by resolution, apply forthwith to the county superintendent of schools to make an investigation as to the advisability of constituting the consolidated municipality as a single school district; and,

d. If one or more of the participating municipalities is a member of a regional school district and the other participating municipalities are not, the school districts existing at the time of consolidation shall retain their territory and jurisdiction; provided, however, that the consolidation commission may recommend that the governing body of the consolidated municipality shall, by resolution, apply forthwith to the county superintendent of schools to make an investigation as to the advisability of constituting the consolidated municipality as a single school district, or of enlarging such regional district so as to include all the territory of the consolidated municipality.

C. 40:43-66.73 Principals, teachers and employees; succession.

39. All principals, teachers, and employees in the public schools of the participating municipalities, or of any regional school district or portion thereof abolished by the consolidation, shall, when the consolidation becomes effective, be principals, teachers and employees respectively in the public schools of the school district established pursuant to section 38 of this act.

C. 40:43-66.74 Members of school board in type I and type II districts; appointment.

40. a. The members of the first board of a type I school district shall be appointed and take office on the date of consolidation in the manner provided in subarticle 4A of chapter 12 of Title 18A of the New Jersey Statutes. All subsequent appointments of members shall be made in accordance with that statute.

b. The members of the first board of a type II school district shall be appointed by the county superintendent of schools, in accordance with the provisions of N. J. S. 18A:13–38, and shall take office on the date of consolidation. The first elected members of the board shall be elected in the manner set forth in N. J. S. 18A:13–39. All subsequent elected members shall be elected in the manner prescribed in subarticle 4B of chapter 12 of Title 18A of the New Jersey Statutes.

c. When any of the participating municipalities is a member of a regional school district, the respective board of education or each of the boards of education in the participating municipalities shall retain their territory and jurisdiction, and the members of such board or boards of education shall continue in office after consolidation until the completion of their terms of office. All subsequent members shall be elected or appointed as provided by law.

C. 40:43-66.75 Officers and employees; tenure and pension rights continued.

41. All officers and employees of the participating municipalities whose employment is continued following consolidation shall be employees of the consolidated municipality. They shall be subject to the orders and control of the mayor or other chief executive officer of the consolidated municipality, and of such other officers of the consolidated municipality as he shall authorize, or as shall be authorized under the plan or form of government of the consolidated municipality.

The tenure and pension rights under State laws of officers and employees of the participating municipalities, or of any public authority thereof, shall not be affected by the consolidation of the participating municipalities, but the provisions of this section shall not preclude the revision, consolidation or elimination of offices and positions as may be required by the consolidation, all of which shall be carried out in conformity with the provisions of the consolidation plan approved by the voters pursuant to section 28 of this act.

Nothing in this section, or chapter 27 of Title 11 of the Revised Statutes, or R. S. 11:28–2 or R. S. 38:16–1 shall be construed

as to limit the discretion of the appointing authority of the consolidated municipality in making appointments to any position which may be placed in the unclassified service pursuant to R. S. 11:22–2, or any other applicable law, following consolidation or the adoption of the permanent ordinances of the consolidated municipality. Any person appointed to any such unclassified position at such time, and who, at the time of such appointment, holds a similar, or substantially similar, position in the classified service of one of the participating municipalities, shall be required to be separated from the classified service, and shall, thereafter, serve in the unclassified service of the consolidated municipality; provided, however, that nothing in this section shall adversely affect the pension, tenure or seniority rights, or the right to employment or reemployment in a comparable position, to which any person, not designated for appointment hereunder, may be entitled pursuant to section 1 of P. L. 1952, c. 323 (C. 11:22–10.1).

C. 40:43-66.76 Application for joint service program grant; limitations.

42. Within 3 months from the date of consolidation, the governing body of the consolidated municipality shall, in accordance with the provisions of this section, file an application with the department for a joint service program grant to be paid out of the appropriations made pursuant to the "Interlocal Services Aid Act." The application shall include a 2-year schedule of anticipated expenses and such other information as may be required by the commissioner. State financial assistance shall be, insofar as adequate funds are available therefor, rendered for not more than 2 successive years for any extraordinary administrative and operating expenses incurred in the first 2 years of the consolidation by the applicant municipality for joint services compensable under that act, that would not have otherwise been incurred if the consolidation had not taken place; except that, such expenses shall not include costs which are considered capital costs as set forth in N. J. S. 40A:2–22.

The amount of the grant of assistance made pursuant to this section shall not exceed, for any 12-month period, $150,000.00 or, one-fourth of the appropriation made pursuant to the "Interlocal Services Aid Act" in the fiscal year in which said grant is to be made, whichever is the lesser amount. In addition, the commissioner may, at the end of the fiscal year, allocate to said municipality any unexpended and uncommitted moneys from the sums appropriated under the "Interlocal Services Aid Act" in order

to provide such additional financial assistance for which the consolidated municipality would have been eligible if the aforesaid limitations were not in effect. Any such consolidated municipality shall have first claim on any moneys appropriated under the "Interlocal Services Aid Act" which have not been committed at the time of application. The commissioner shall reserve the necessary moneys for meeting the certified expenses of any such consolidated municipality. Reservation of moneys shall also be made at any time after the consolidation plan has been approved by the electorate and prior to the filing of an appropriate application, provided that a written request for such reservation is made by the concerned governing body or bodies.

Within 30 days of the receipt of an application from the consolidated municipality, the commissioner shall certify to the State Treasurer the amount of financial assistance to be provided hereunder to the consolidated municipality, and said amount shall thereupon be paid to the consolidated municipality. Payments of aid moneys shall be paid on a quarterly basis for the 2-year period by the State Treasurer in the manner set forth in section 8 (C. 40:8B–8) of the "Interlocal Services Aid Act," and all such moneys expended by the consolidated municipality shall be certified by the commissioner in accordance with paragraph (3) of section 7 (C. 40:8B–7d(3)) of said act.

C. 40:43-66.77 Construction of act; severability.

43. a. This act, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purpose thereof.

b. If the provisions of any article, section or clause of this act or the application thereof to any person shall be judged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any article, section or clause of this act or the application of any part thereof to any other person or circumstance and to this end, the provisions of each title, section and clause of this act are hereby declared to be severable.

44. Section 3 of P. L. 1973, c. 289 (C. 40:8B–3) is amended to read as follows:

C. 40:8B-3 Funds; purposes.

3. The funds appropriated pursuant to this act shall be made available to qualified applicants for the following purposes:

a. To provide a service which, based on the evidence submitted pursuant to section 6 of this act, can only be provided adequately on a joint basis;

b. To provide a service which is currently not being provided at all or which, based on the evidence submitted pursuant to section 6 of this act, is being provided at a level substantially below the minimum needs of the recipients;

c. To promote consolidation of existing service systems to achieve efficiency and economy;

d. To promote municipal consolidation pursuant to the Municipal Consolidation Act, P. L. ...., c. .... (C. .....).

Subject to the availability of funds and the limitations of sections 20 and 42 (C. .....) of the "Municipal Consolidation Act," reservation of funds shall be made for any request or application filed pursuant to said sections and such request or application shall have a first claim on such funds which have not been expended or committed at the time of the receipt by the commissioner of the request or application.

45. Section 4 of P. L. 1973, c. 289 (C. 40:8B–4) is amended to read as follows:

C. 40:8B-4 Application for grant.

4. a. Any local unit may apply for a grant under this act to provide any or all of the services specified in section 5 of this act jointly with any other local unit or units, or for the consolidation of two or more municipalities. A quasi-governmental or para-governmental agency may also apply to participate in a joint program and receive aid under this act; but such application shall be made through the local unit or units served by or supporting such agency, and all grants to such agency shall be made through such local unit or units.

b. The local units applying for aid may provide the service or services in any manner authorized by the "Interlocal Services Act" (P. L. 1973, c. 208; C. 40:8A–1 et seq.), the "Consolidated Municipal Services Act" (P. L. 1952, c. 72; C. 40:48B–1 et seq.), or in any other form authorized by law, or pursuant to the "Municipal Consolidation Act" (P. L. ...., c. .... C. .....).

46. Section 6 of P. L. 1973, c. 289 (C. 40:8B–6) is amended to read as follows:

C. 40:8B-6 Feasibility study; supervision.

6. a. No grant under this act shall be made to any joint program which has not submitted an approved plan of operations based on

a feasibility study of the project conducted pursuant to this section. A 2-year grant may, however, be extended to any consolidated municipality filing an application pursuant to section 42 of the "Municipal Consolidation Act" (P. L. ...., c. .... C. .....). Such feasibility study shall be conducted by or under the supervision of the Department of Community Affairs, either (1) by the Department of Community Affairs or by an agency or agencies of the State of New Jersey approved by the Commissioner of Community Affairs, or (2) by a qualified third party approved by the Department of Community Affairs and by the principal executive officer of any principal executive department of State Government whose approval of such feasibility study is required by subsection b. of this section and by a majority of ⅔ or more of the applicant local units. Such plan of operations shall constitute the final element of the feasibility study when approved by the Commissioner of Community Affairs and by any and every principal executive officer of a principal executive department of State Government which exercises jurisdiction over the performance of the services to be provided jointly under the proposed program.

b. Any local units eligible for aid as defined in sections 3 and 4 of this act shall be eligible to apply for funds to conduct a feasibility study under the auspices of the Department of Community Affairs. Application for such shall include: the names of the proposed participants; certified copies of a resolution or substantially similar resolutions passed by the governing bodies of the participating units authorizing such application; the services for which joint programs are contemplated, and the expected benefits of such a joint program. The application shall be in such form and shall also contain such other information as may be required by the Commissioner of Community Affairs.

All grants for feasibility studies shall require the joint approval of the Commissioner of Community Affairs and the principal executive officer of any and every principal executive department of State Government which exercises jurisdiction over the performance of the services to be provided jointly under the proposed program.

c. The feasibility study shall include such detailed surveys of present service standards in the area to be served by the joint program as may be required to establish substantial evidence that a joint program would either enable provision of a needed service which could not otherwise be provided, or remedy existing levels of service provision, or otherwise produce better services at relatively lower unit costs or with more efficient administration, and

that such joint programs would not adversely affect neighboring local units, and that no neighboring local unit which might benefit is being excluded from the program; provided that any such local unit claiming exclusion had expressed a desire to be included in the feasibility study by giving written notice of such desire to the Commissioner of Community Affairs within 30 days from the date on which the commissioner made public announcement of the feasibility study grant.

d. Within 1 month of the completion of the feasibility study, the Department of Community Affairs shall hold a public hearing in each local unit to be included in the proposed joint program. After such hearings and upon submission and approval of a plan based thereon as provided in subsection a. of this section, the joint program shall be eligible for aid under this act. No joint program shall receive aid unless the governing bodies of all participating local units have passed identically worded resolutions ratifying the grant contract between the State and the participating local units.

If the feasibility study shall contain recommendations for establishing a joint service program, within 6 months from the date of the last public hearing on the feasibility study, the governing body of each local unit which participated in the study shall communicate in writing to the Commissioner of Community Affairs stating their intentions of implementing or their specific and detailed objections to implementing each recommendation made in the feasibility study for establishing a joint service plan.

e. The Commissioner of Community Affairs shall, upon formal request by the governing body or chief executive officer of any local unit, cause to be made a preliminary survey as to the eligibility of such local unit and any other local units for State aid under this act with respect to any joint arrangements for provision of services specified or suggested in such request. Such preliminary survey shall be of sufficient scope and detail to enable the commissioner to advise all local units concerned in the projected joint arrangement whether the circumstances warrant detailed feasibility study pursuant to subsections a., b., c. and d. of this section; and the commissioner shall transmit formal notice of the findings and conclusions of such preliminary survey to all the said local units concerned.

47. N. J. S. 40A:4–53 is amended to read as follows:

Special emergency appropriations; purposes.

40A:4–53. A local unit may adopt an ordinance authorizing special emergency appropriations for the carrying out of any of the following purposes:

a. Preparation of an approved tax map.

b. Preparation and execution of a complete program of revaluation of real property for the use of the local assessor.

c. Preparation of a revision and codification of its ordinances.

d. Engagement of special consultants for the preparation, and the preparation of a master plan or plans, when required to conform to the planning laws of the State.

e. Preparation of drainage maps for flood control purposes.

f. Preliminary engineering studies and planning necessary for the installation and construction of a sanitary sewer system.

g. Authorized expenses of a consolidation commission established pursuant to the "Municipal Consolidation Act" (P. L. ...., c. ....; C. .....).

A copy of all ordinances or resolutions as adopted relating to special emergency appropriations shall be filed with the director.

Repealer.

48. Chapter 38 of Title 19 of the Revised Statutes and the "Local Units Permissive Consolidation Act (1939)" (P. L. 1939, c. 343; C. 40:43–66.1 et seq.), as amended and supplemented, are repealed.

49. This act shall take effect immediately.

Approved March 1, 1978.

CHAPTER 436

AN ACT concerning powers of municipal police officers and supplementing chapter 14 of Title 40A of the New Jersey Statutes.

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

C. 40A:14-152.1 Power of arrest.

1. Notwithstanding the provisions of N. J. S. 40A:14–152 or any other law to the contrary, any full-time, permanently appointed municipal police officer shall have full power of arrest for any crime committed in said officer's presence and committed anywhere within the territorial limits of the State of New Jersey.

2. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 437

AN ACT concerning municipal police and supplementing chapter 14 of Title 40A of the New Jersey Statutes.

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

C. 40A:14-152.2 Immunity from tort liability; rights and benefits.

1. Whenever any municipal police officer has been conferred with Statewide police powers and is acting under lawful authority beyond the territorial limits of his employing municipality, said police officer shall have all of the inmmunities from tort liability and shall have all of the pension, relief, disability, workmen's compensation, insurance, and other benefits enjoyed while performing duties within said employing municipality.

2. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 438

AN ACT concerning powers of county police officers, county detectives, sheriff's officers and sheriff's investigators, amending N. J. S. 40A:14–107, and supplementing Title 40A of the New Jersey Statutes.

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

1. N. J. S. 40A:14–107 is amended to read as follows:

Powers of county police.

40A:14–107. The members and officers of a county police department and force, in addition to any and all other powers prescribed by law, shall have the power to enforce:

(1) All rules and regulations made and promulgated by the board of chosen freeholders of the county governing the use of by the public, and the welfare of the public on, county highways and roads;

(2) All provisions of chapter 171 (Sunday observances) of Title 2A of the New Jersey Statutes;

(3) All provisions of Title 39 (Motor Vehicles and Traffic Regulation) of the Revised Statutes; and

(4) All provisions of Subtitle 10 (Crimes) of Title 2A of the New Jersey Statutes.

The said members and officers have authority to arrest for the commission of any crime anywhere in the county of their appointment; they shall also have full authority to arrest for any crimes committed in their presence which are committed anywhere within the territorial limits of the State of New Jersey.

C. 2A:157-2.1 Power of arrest.

2. (New section) Notwithstanding the provisions of any other law to the contrary, any full-time, permanently appointed county detective, sheriff's officer and investigator sheriff's office shall have full power of arrest for any crime committed in his presence anywhere within the territorial limits of the State of New Jersey.

3. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 439

AN ACT concerning county police officers, county detectives, sheriff's officers and investigators sheriff's office under certain circumstances, and supplementing Title 40A of the New Jersey Statutes.

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

C. 40A:14-107.1 Rights and benefits.

1. Whenever any county police officer, county detective, sheriff's officer or investigator sheriff's office has been conferred with Statewide police powers and is acting under lawful authority beyond the territorial limits of his employing authority, he shall have all of the pension, relief, disability, workers' compensation, insurance, and other benefits enjoyed while performing duties within said employing county.

2. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 440

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

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

C. 48:2-29.6 Legislature's findings.

1. The Legislature hereby finds that a minimum supply of gas and electricity for heating and lighting, cooling, cooking, and other essential household usages is a necessity of life; that the increasing costs of gas and electricity threaten to deprive many persons of the use of these necessities and to jeopardize their life, health, and welfare; and that public policy requires that the minimum essential amount of gas and electricity be provided at the lowest feasible cost.

C. 48:2-29.7 Lifeline increment.

2. a. The Public Utility Commission is hereby authorized to designate a minimum volume of gas and a minimum quantity of electricity which is necessary to supply the minimum energy needs of the average residential user for uses of space and water heating, cooling, lighting, cooking, refrigerating and other such uses as the commission deems necessary for a minimally adequate standard of living. The value or quantity designated pursuant to this act shall be known as the "lifeline increment." In designating such volume and quantity, the commission shall take into account differentials in energy needs between utility customers whose residential energy needs are supplied by electricity and gas. The commission shall also take into account differentials in energy needs caused by geographic differences by differences in severity of climate and by season.

b. The commission is hereby authorized to establish a rate for the minimum amount of gas and electricity established in accordance with the provisions of this section which shall be known as the "lifeline increment". The lifeline rate shall be equal to or lower than the lowest effective rate per kilowatt hour or per therm at which electricity or gas is sold to any class of customers of the utility except as otherwise provided herein.

c. Nothing herein shall preclude a utility from establishing a rate which is lower than the lifeline for any customer, provided, however, that such rate may be established only on the basis of

specific data demonstrating actual economies in the production or delivery of larger volumes of the gas or electricity.

d. Nothing herein shall preclude a utility from making an administrative charge, which shall take into account the cost of meter installation, bookkeeping, billing and other similar administrative costs.

e. Wholesale electrical or gas purchases and the rates charged therefor shall be exempted from the provisions of this section.

C. 48:2-29.8 Eligibility.

3. a. Any user, having an income not in excess of $12,000.00 per year for a married couple or head of household, or $9,000.00 for a single person exclusive of benefits under the Federal Social Security Act and all amendments and supplements thereto.

The commission shall establish a schedule of eligible users within the above income limitations based upon number of dependents.

b. A residential consumer shall be entitled to receive a lifeline rate only at his principal place of residence. No person may receive a lifeline rate at more than one residence.

C. 48:2-29.9 Cost of establishing lifeline rate.

4. In the absence of specific funding for any lifeline rate established pursuant to the provisions of this act, the cost of establishing a lifeline rate shall be borne by a restructuring of the rate structure of users in all classes of customers and in a manner not inconsistent with the provisions of this act.

C. 48:2-29.10 Senior citizens and disabled users; appropriations.

5. There shall be appropriated such sums as shall be necessary to aid in the establishment and maintenance of a lifeline rate for eligible users who are 65 years of age or older or who are disabled. For these purposes, appropriations shall be made when available from revenues derived from licensing and taxation of gambling casinos under P. L. 1977, c. 110 (C. 5:12–1 et seq.).

C. 48:2-29.11 Joint committee to study, make recommendations and review program.

6. The Senate and Assembly standing committees on Transportation and Communications are constituted a joint committee for the purpose of undertaking a study of the cost and effectiveness of the lifeline rate and shall make recommendations to the Legislature concerning its continuation and any possible modifications which may be desirable. The study may include the possible use of energy stamps as a part of or in addition to the lifeline rate, and ways of encouraging the use of insulation as a means of energy

conservation. The study shall be completed 18 months after the date of enactment of this legislation, but the joint committee shall conduct a review annually thereafter and make such recommendations to the Legislature concerning the rate's continuation and any modifications which it may deem appropriate.

C. 48:2-29.12 Rate and schedule; approval or disapproval.

7. a. The commission shall submit the proposed lifeline rate and schedule of eligible users to the said joint committee constituted under section 6 for its review. The joint committee shall make such recommendations to the Legislature on the proposed rate and schedule as it may deem advisable.

If within 60 days of the submission of the rate and schedule to the committee, the Senate and General Assembly do not adopt a concurrent resolution approving or disapproving the rate and schedule, the rate and schedule shall be deemed approved.

b. The commission shall also submit any revision of an established lifeline rate or schedule of eligible users to the said joint committee for its review. The committee shall make such recommendations to the Legislature on the revised rate or schedule as it may deem advisable.

If within 45 days of the submission of the revised rate or schedule to the committee, the Senate and General Assembly do not adopt a concurrent resolution disapproving the rate or schedule, the revision in the rate or schedule shall be deemed approved.

C. 48:2-29.13 Definitions.

8. As used in this act, the following definitions are applicable.

a. "Effective rate" means the average per unit cost charged to any class of customers, determined by dividing the number of kilowatt hours, therm or other units of electricity or gas consumed by the customers in that class during a period of time specified by the Public Utility Commission by the total payment made by the customers in that class for the aforesaid units of electricity or gas during the same period.

b. "Class of customers" means any group of electricity or gas customers, consisting of more than 10 members, which receive gas or electricity under the same rate structure and similar terms of agreement with the same utility.

C. 48:2-29.14 Effective date and expiration of act.

9. This act shall take effect 6 months after enactment and shall expire on the last day of the third year following the effecive date.

Approved March 2, 1978.

CHAPTER 441

AN ACT to amend the "Municipal Utilities Authorities Law," approved August 22, 1957 (P. L. 1957, c. 183).

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

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

C. 40:14B-21 Authorization to charge and collect rents, rates, fees and other charges.

21. Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "water service charges") for direct or indirect connection with, or the use, products or services of, the water system, or for sale of water or water services, facilities or products. Such water service charges may be charged to and collected from any person contracting for such connection or use, products or services or for such sale or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the water system or to which directly or indirectly has been supplied or furnished such use, products or services of the water system or water or water services, facilities or products, and the owner of any such real property shall be liable for and shall pay such water service charges to the municipal authority at the time when and place where such water service charges are due and payable. Such rents, rates, fees and charges shall as nearly as the municipal authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use, products or service of the water system, and may be based or computed either on the consumption of water on or in connection with the real property, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use, products or services of the water system supplied or furnished, or on any combination of such factors, and may give weight to the characteristics of the water or

water services, facilities or products and, as to service outside the district, any other matter affecting the cost of supplying or furnishing the same including the cost of installation of necessary physical properties.

In addition to any such water service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the water system may be imposed upon the person making such connection or upon the owner or occupant of the property so connected. Such connection charges shall be uniform within each class of users and the amount thereof shall not exceed the actual cost of the physical connection plus an amount representing the fair contribution of the connecting party toward the debt service charges on the bonds issued for the installation and construction of the water system previously paid by users of the water system, in order that the combination of such connection fee or tapping fee and the aforesaid water service charges shall meet the requirements of section 23 (C. 40:14B–23).

2. This act shall take effect immediately.

Approved February 25, 1978.

CHAPTER 442

AN ACT concerning the allotment of State aid to municipalities for the construction, improvement, maintenance or repair of municipal roads, and supplementing Title 27 of the Revised Statutes.

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

C. 27:13-1a Condition of eligibility.

1. In determining the allotment of State aid to a municipality for the construction, improvement, maintenance or repair of municipal roads pursuant to chapters 13 or 15 of Title 27 of the Revised Statutes or any supplement thereto, the Commissioner of Transportation shall not consider as a condition of eligibility the width of the road to be constructed, improved, maintained or repaired.

2. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 443

Note: In approving the following act certain items, designated by *, were deleted or reduced by the Governor. See Statement appended following the text of the act.

AN ACT concerning environmental health, authorizing the establishment of county boards of health and county departments of health, providing for their functions, powers, duties and financing, providing responsibilities to the Commissioner of Environmental Protection, establishing a State aid program, amending and supplementing P. L. 1975, c. 329 (C. 26:3A2–1 et seq.) and making an appropriation.

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

C. 26:3A2-21 Short title.

1. (New section) This act shall be known and may be cited as the "County Environmental Health Act."

C. 26:3A2-22 Legislature's findings and declarations.

2. (New section) The Legislature finds that environmental health programs for the control of air pollution, solid waste, noise and water pollution are inherently regional in nature and that the 14 existing county health departments have experience administering environmental health programs on a regional basis and that they are among the most efficient health units in the State.

The Legislature, therefore, declares that it is the policy of this State to provide for the administration of environmental health services by county departments of health throughout the State in a manner which is consistent with certain overall performance standards to be promulgated by the Department of Environmental Protection. The environmental health services shall include the monitoring and enforcement of environmental health standards, the operation of a technical resource center and the enactment and enforcement of environmental health ordinances on a countywide basis to control air pollution, solid waste, noise and water pollution.

C. 26:3A2-23 Definitions.

3. (New section) As used in this act unless otherwise specifically indicated:

a. "Air pollution" means the presence in the atmosphere of one or more air contaminants of any composition whatsoever, in such quantities and duration as are, or tend to be, injurious to the human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property within any portion of this State;

b. "County board" means a county board of health established pursuant to P. L. 1975, c. 329 (C. 26:3A2–1 et seq.) as amended and supplemented and having all the powers of a county board of health provided pursuant to law;

c. "County department" means a county department of health established pursuant to P. L. 1975, c. 329 (C. 26:3A2–1 et seq.) as amended and supplemented with the purpose of providing environmental health programs throughout the county and other local health programs in any municipality which contracts therefor with the county board;

d. "Environmental health" means those health and environmental programs relating to the control of air pollution, solid waste, noise and water pollution.

e. "Monitor" means check, test, observe, survey or inspect to determine compliance with environmental health standards;

f. "Noise" means any sounds of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the State or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazards within the confines of a place of employment.

g. "Solid waste" means garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids except for liquids which are treated in public sewage treatment plants and except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

h. "Water pollution" means the presence in or upon the surface or ground waters of this State of one or more contaminants, including any form of solid or liquid waste of any composition whatsoever, in such quantities and duration as are, or tend to be, injurious to the human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property within any portion of the State.

4. Section 4 of P. L. 1975, c. 329 (C. 26:3A2–4) is amended to read as follows:

C. 26:3A2-4 County board of health; establishment.

4. a. The board of chosen freeholders of any county in this State, on its own initiative, after public hearing may, by ordinance or resolution, establish a county board of health. Notice of the public hearing shall be published at least 15 days prior to that hearing in a newspaper circulated throughout the county.

b. In any county in which the board of chosen freeholders has established a county health agency there may be established a county board of health, pursuant to this act. Said existing county health agency shall be continued as a county health department, as provided herein. In any county having a board of health and vital statistics, organized pursuant to chapter 11 of Title 26 of the Revised Statutes, that board shall be continued as a county board of health as provided herein.

5. Section 6 of P. L. 1975, c. 329 (C. 26:3A2–6) is amended to read as follows:

C. 26:3A2-6 County health department; establishment.

6. a. The county board of health shall establish a county health department, under the administration of a full-time health officer, which provides public health activities meeting "Standards of Performance."

b. The board of chosen freeholders of any county in this State may establish a county health department.

c. In any county in which a county health department has not been established pursuant to subsections a. or b. hereof, the county board of freeholders shall prepare within 90 days of the effective date of this act, a detailed report indicating the manner in which health services meeting the standards of performance and the standards promulgated pursuant to section 10 hereof shall be provided for the territorial area of the county. Such report shall include a description of the administrative organization for providing the environmental health services and such other information as may be required by the Commissioner of Environmental Protection. Within 30 days following the completion of the report, the board of chosen freeholders shall conduct a public hearing to receive public comment concerning the contents of the report. Notice of the public hearing shall be published at least 15 days prior to that hearing in a newspaper circulated throughout the county. Within 30 days following the completion of the public hearing the board of chosen

freeholders shall give due consideration to the comments presented at the public hearing and shall revise the report accordingly. A copy of the revised report shall be submitted to the Commissioners of Environmental Protection and of Health.

C. 26:3A2-24 Environmental health services.

6. (New section) The county department shall provide environmental health services, which meet the performance and administrative standards authorized in section 10 of this act, for the territorial area of the county, under the direction of a full-time employee trained and experienced in managing environmental health programs, provided, however, that such environmental health services shall be provided by any municipal or regional health agency certified by the Commissioner of Environmental Protection pursuant to section 15 within its area of jurisdiction.

C. 26:3A2-25 Powers and duties of county department.

7. (New section) The county department shall investigate citizen complaints and provide public information and citizen education services in all matters concerning environmental health. The county department shall monitor the various State statutes, rules and regulations concerning environmental health; shall report any violation of said statutes, rules and regulations to the Department of Environmental Protection for enforcement; shall gather evidence of said violations as required; and shall provide witnesses for any resultant court action as needed. The county department may maintain an action in a court of competent jurisdiction against any other person to enforce, or to restrain the violation of, any statute, regulation or ordinance which is designed to prevent or minimize pollution, impairment or destruction of the environment as provided in the "Environmental Rights Act," (P. L. 1974, c. 169; C. 2A:35A–1 et seq.).

C. 26:3A2-26 Technical resource center; operation; services.

8. (New section) The county department may operate a technical resource center for environmental health services to provide: a. training programs for public and private persons or groups concerned with environmental health; b. laboratory services for analyzing materials to determine compliance with environmental health standards; c. technical assistance; d. library services; e. data collection and exchange services, concerning the results of all monitoring activities within the county; and, f. any other function or service deemed necessary to effectuate the purposes of this act. The technical resource center may be established at the county college, if any, within the county.

C. 26:3A2-27 Environmental health ordinances; formulation, adoption and enforcement.

9. (New section) The county board may formulate, adopt, amend, repeal and enforce environmental health ordinances to control air pollution, solid waste, noise and water pollution for the territorial area of the county. Such ordinances shall be consistent with all applicable statutes, rules and regulations and with any areawide water quality management plan and any solid waste management plan adopted pursuant to law and approved by the Commissioner of Environmental Protection. Each such ordinance shall be mailed to said commissioner within 1 working day of its passage and shall take effect within 30 days of its passage, unless said commissioner disapproves said ordinance during that period. Said ordinances shall supersede any environmental health ordinances on the same subject adopted by the individual municipalities within the county.

C. 26:3A2-28 Promulgation of environmental health performance standards and standards of administrative procedure; delegation of powers; comprehensive model ordinances.

10. (New section) a. The Commissioner of Environmental Protection shall promulgate, after consultation with the Commissioner of Health, environmental health performance standards and standards of administrative procedure for county departments of health pursuant to the "Administrative Procedure Act" (P. L. 1968, c. 410; C. 52:14B–1 et seq.). Such standards shall include provisions for the delivery to the Department of Environmental Protection of periodic reports on the results of the monitoring and enforcement activities of the county departments.

b. The Commissioner of Environmental Protection may, in the same manner, delegate the administration of one or more aspects of the environmental health laws of this State or of the rules and regulations adopted thereto, which are administered by the Department of Environmental Protection, to a county department, after he has adopted specific standards and guidelines for the administration of such programs by the county departments, for so long as he determines that the county department has the capability and determination to adhere to those specific standards and guidelines.

c. The Commissioner of Environmental Protection is authorized and directed to develop one or more comprehensive model ordinances dealing with the control of air pollution, solid waste, noise, and water pollution for the use of the county board and to provide technical assistance to the county departments.

C. 26:3A2-29 Authorization to make grants to county departments; State's contribution amount.

11. (New section) The Commissioner of Environmental Protection is authorized to make grants to the county departments and such municipal or regional agencies certified by the commissioner pursuant to sections 6 and 15 for the provision of environmental health services. Said commissioner shall prescribe procedures for applying for the grant and terms and conditions for receiving the grant. The State's contribution shall not exceed 50% of the cost of any undertaking for which a grant is made.

C. 26:3A2-30 Transfer of employees.

12. (New section) Each person, who shall have been employed by a local health agency, including a regional health commission formed for the provisions of air pollution services, and whose employment by such agency shall have been terminated by reason of the assumption of its activities and responsibilities by a county department pursuant to this act, shall be transferred to such county department pursuant to the conditions contained in sections 16, 17 and 18 of P. L. 1975, c. 329 (C. 26:3A2–16 to 26:3A2–18).

C. 26:3A2-31 Annual budget; tax levy.

13. (New section) The county health officer shall prepare and submit annually to the board of chosen freeholders, subject to the advice of the county board, in each year, a budget setting forth in detail the amounts of money necessary for the operation of the county department of health for environmental health purposes, during the ensuing year. The board of chosen freeholders shall include annually in the tax levy the amount of money which it believes will best meet the environmental health needs of the county.

C. 26:3A2-32 Partial invalidity.

14. (New section) If any provision of this act or the application thereof to any person or circumstance is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

C. 26:3A2-33 Work program; preparation; objectives; petition for certification; certification by commissioner.

15. A county department shall, within 15 months of the promulgation of environmental health performance standards and standards of administrative procedure for county departments of health by the Commissioner of Environmental Protection, prepare a work program for meeting the standards throughout the county

and shall submit it to the Commissioner of Environmental Protection and to each municipality located therein for review. The work program shall provide a detailed description of program objectives, shall delineate responsibilities for its implementation within the county, shall identify the personnel and resources required to meet the program objectives and shall provide a time schedule for achieving full program implementation.

Any municipal or regional health agency authorized by P. L. 1975, c. 329 (C. 26:3A2–1 et seq.), which is presently providing environmental health services which meet the standards of performance and of procedure and which is willing to coordinate its environmental health programs with those of its neighbors by implementing the work program of the county department, may petition the Commissioner of Environmental Protection for certification and upon certification become the authorized local government for the performance of environmental health services within its jurisdiction.

The Commissioner of Environmental Protection shall certify any municipal or regional health agency as the authorized local government for the performance of environmental health services within its jurisdiction, when he finds that the petitioning health agency provides and will continue to provide a complete program of environmental health services which meet the standards of performance and of procedure as indicated in the work program of the county department. The Commissioner of Environmental Protection shall periodically review the certification of each such health agency to determine whether or not it should be continued.

16. There is hereby appropriated to the Department of Environmental Protection the sum of $125,000.00 for grants pursuant to section 11 of this act.

17. This act shall take effect immediately.

Approved March 2, 1978.

STATEMENT ON SENATE BILL No. 1224

[Fifth Official Copy Reprint]

Pursuant to Article V, Section I, Paragraph 15 of the Constitution, I am appending to Senate Bill No. 1224 (5th OCR) at the time of signing it, this statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

This bill, the County Environmental Health Act, primarily allows counties to assist in the development and enforcement of various environmental health programs. This is a good bill and I believe that it will assist both State and local governments in cooperating to improve our environment.

The bill contains important enabling authority which permits counties, if they so choose, to develop and administer a variety of programs.

I have decided to delete the appropriation of $125,000.00 from the bill for matching grants to counties which elect to implement these programs. I am advised that this level of funding would provide extremely limited aid which would not serve as an incentive for those counties which do not seek to create their own programs.

In view of the tight budgetary picture for the coming months, it seems responsible to delete this funding, particularly when the loss of this amount of State money should not jeopardize the basic objectives of the legislation.

The enabling authority and the remainder of the bill, however, are significant features of the legislation which should become effective.

On Page 7, section 16, line 3: Delete "$125,000.00."

Respectfully,

/s/ BRENDAN T. BYRNE.
Governor.

Attest:

/s/ ROBERT E. MULCAHY, III,
Chief of Staff—Secretary.

CHAPTER 444

AN ACT to amend "An act concerning tax sales, and supplementing chapter 5 of Title 54 of the Revised Statutes," approved May 2, 1942 (P. L. 1942, c. 54).

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

1. Section 1 of P. L. 1942, c. 54 (C. 54:5–53.1) is amended to read as follows:

C. 54:5-53.1 Rights of municipality over property acquired at tax sale.

1. Whenever a municipality has heretofore or shall hereafter become the purchaser of any real property at any tax sale and the certificate of sale has been or shall be recorded in the manner provided by chapter 5 of Title 54 of the Revised Statutes, such municipality shall be entitled to immediate possession of the property sold and described in the certificate and to all the rents and profits thereof while the holder thereof, until redemption, but all rents and profits collected by such municipality shall be credited, except as hereinafter provided, on the amount due upon said certificate of tax sale and for subsequent taxes, assessments or other municipal charges assessed against said lands and when the total amount due for the same, including all interests and costs, has been paid, the said lands shall be redeemed from said tax sale.

Whenever a municipality shall take possession of any property pursuant to the provisions of this section, the collector of taxes or other officer thereof, whose duty it shall be to collect taxes therein, or such other officer as may be designated by the governing body of a municipality, shall take possession of said property and collect the rents and profits thereof for said municipality and, with the approval of the governing body of said municipality, may designate any competent person to act as the agent of said municipality for the collection of the rents and profits of said property and for the management of the same and such person shall account promptly to such collector or other officer, and the collector or other officer shall account promptly to the municipality, for the rents and profits so collected.

No fees shall be allowed to such collector or other officer from the rents and profits collected from such property but he shall be allowed such expenses in connection with the operation and management thereof, including proper compensation to said agent, as the governing body of such municipality may deem necessary to secure the greatest income therefrom. Any moneys collected from any such property which is not needed for its operation and management, shall be used to remove or remedy any violations of the standards of fitness for human habitation as are set forth in State or local housing or health codes or regulations, or any other conditions dangerous to life, health or safety; provided that if a determination is made by a designated public officer that the abatement of code violations is economically unfeasible due to the structural unsoundness of the structure or building involved, said public officer shall proceed to require or to cause the closing or

demolition of such structure or building, or any part thereof, pursuant to the provisions of P. L. 1942, c. 112 (C. 40:48–2.3 et seq.). A record of all expenditures made pursuant to this act shall be kept by the collector of taxes or such other officer as may be designated by the governing body of the municipality. Nothing in this section shall, however, be construed as discharging the owner of any property, of which a municipality takes possession pursuant to said section, of the responsibility and liability for any violation of standards of fitness for human habitation or any other condition dangerous to life, health or safety which may be found to exist on such property within 60 days after the taking of possession of the property by the municipality.

The designated municipal officer in possession of any property pursuant to this section may, at any time, return to the owner of record such property, and any unobligated rents or profits collected therefrom, for the purpose of abating code violations or unsanitary or unsafe conditions, if said owner agrees to make the necessary improvements and submits a list of such improvements, along with an estimate of the costs and a satisfactory schedule for the completion thereof.

While all rents and profits collected and expenditures made pursuant to this section shall be accounted for by and credited to or charged against the individual accounts for each taxable unit of property from which collected or for which expenditures are made, such moneys as are not needed for operations and management of such property may be commingled and aggregated in a single fund for the purpose of abating violations of standards of fitness, as hereinabove required, in accordance with such priorities for expenditures and repairs as may be determined by the responsible officer after consultation with the construction official of the municipality. At no time, however, shall the unobligated moneys deposited in the fund be less than 10% of the total amount deposited and credited to the fund, and in no event shall the amount of moneys available in the fund deprive any person of the right to receive full credits for such rents and profits as would ordinarily be payable on the taxable unit of property at the time of its redemption.

Such municipality and its officers, agents or employees shall not be liable or accountable to the owner or to any other person having an interest in said property for failure to collect rents or profits therefrom but said officers, agents or employees shall remain so liable and accountable to said municipality and such municipality

and its officers, agents or employees shall not be liable for injury to said property or to the person or property of any other person from the use of the property for the purposes of this section, any law to the contrary notwithstanding.

2. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 445

AN ACT to amend the "Public School Education Act of 1975," approved September 29, 1975 (P. L. 1975, c. 212).

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

1. Section 20 of P. L. 1975, c. 212 (C. 18A:7A–20) is amended to read as follows:

C. 18A:7A-20 Categorical program support; calculations.

20. In addition to the equalization support authorized in section 18 of this act, categorical program support shall be paid in accordance with the following calculations:

a. The number of categorical aid units shall be determined by adding the products obtained by multiplying the pupils in each category by the following additional cost factors:

CATEGORICAL PROGRAMS

Special Education Classes	Additional Cost Factors
Educable	0.53
Trainable	0.95
Orthopedically handicapped	1.27
Neurologically impaired	1.06
Perceptually impaired	0.85
Visually handicapped	1.91
Auditorially handicapped	1.38
Communication handicapped	1.06
Emotionally disturbed	1.27
Socially maladjusted	0.95
Chronically ill	0.85
Multiply handicapped	1.27

Other Classes and Services	Additional Cost Factors
Approved private school tuition	1.0 plus the additional cost factor of the handicap
Supplementary and speech instruction	0.09 based on the number of pupils actually receiving such instruction in the prior school year
Resource room	0.65
Bilingual education	0.16
State compensatory education	0.11
Approved local vocational education	0.53

b. The number of categorical aid units for home instruction shall be determined by multiplying the number of hours of instruction actually provided in the prior school year by 0.006.

c. For the purposes of this section, aid shall be paid to districts in which the pupils reside except in the case of home, supplementary or speech instruction where aid shall be paid to the district providing the service. No tuition may be charged for such home, supplementary or speech instruction for costs covered by State support as provided in this section.

d. Categorical program support shall equal the number of units of additional cost multiplied by the State average net current expense budget per pupil for the prebudget year.

2. This act shall take effect July 1, 1978.

Approved March 2, 1978.

CHAPTER 446

A SUPPLEMENT to "An act making appropriations for the support of State Government and the several public purposes for the fiscal year ending June 30, 1978 and regulating the disbursement thereof," approved ....., 1977 (P. L. 1977, c. ....) (now pending before the Legislature as Senate Bill No. 3200).

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

1. The following sum is hereby appropriated out of the General State Fund for the specific purposes herein specified:

DEPARTMENT OF EDUCATION

34300. PROGRAMS FOR THE STATE MUSEUM—STATE AID

34310–530. State Museum		$79,679
Extraordinary:		
Newark Museum Association	($79,679)	
Total Appropriation		$79,679

2. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 447

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

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

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

Authorization to convey certain real estate for nominal consideration.

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

public purposes and by any such fire company for fire company purposes or by such rescue squad for rescue squad purposes and in such case should such property cease to be used for such purposes or if any property conveyed pursuant to this section to any veterans' organization or to any child care service organization cease to be used for any of the purposes contemplated by this section, such property shall thereupon revert to and the title thereof shall vest in the board of education making the conveyance thereof hereunder.

2. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 448

AN ACT concerning community residences for developmentally disabled persons and providing for their development, licensing and regulation.

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

C. 30:11B-1 Legislature's findings.

1. The Legislature finds that many developmentally disabled persons who are now housed in large institutions can be better cared for and given training for independent living in small community residences. Such persons have a right to the fuller, more normal life that care in such residences brings, and it is, therefore, the intention of the Legislature, through this act, to encourage the development of community residences for the developmentally disabled and to provide for the licensing and regulation of such residences by the Department of Human Services.

C. 30:11B-2 Definitions.

2. "Community residence for the developmentally disabled" means any community residential facility housing up to 16 developmentally disabled persons which provides food, shelter and personal guidance for developmentally disabled persons who require assistance, temporarily or permanently, in order to live independently in the community. Such residence shall not be considered health care facilities within the meaning of the "Health

Care Facilities Planning Act,'' P. L. 1971, c. 136 (C. 26:2H–1 et seq.) and shall include, but not be limited to, group homes, halfway houses, supervised apartment living arrangements and hostels.

''Developmentally disabled'' means experiencing a disability which originates before 18 years of age, which has continued or is expected to continue indefinitely, which constitutes a substantial handicap, and which is attributable to mental retardation, cerebral palsy, epilepsy, autism or other conditions found by the Commissioner of Human Services to give rise to an extended need for similar services.

C. 30:11B-3 Community residence; assistance to persons admitted.

3. Every community residence for the developmentally disabled shall provide to every person admitted assistance in maintaining a basic level of self-care and in developing the potential to live independently in the community.

C. 30:11B-4 License to residences; regulations.

4. All such residences which are operated by any individual or individuals, corporation, partnership, society or association, whether public or private, whether incorporated or unincorporated, whether for profit or nonprofit, shall be licensed by the Department of Human Services under appropriate regulations promulgated by the commissioner. Such regulations shall govern the operation and maintenance of residences, and prescribe conditions for admission and discharge of residents. The regulations shall assure that essential life-safety, health and comfort conditions exist in a home-like atmosphere.

C. 30:11B-5 Monitoring geographic location of residences.

5. The geographic location of community residences for the developmentally disabled shall be monitored by the Department of Human Services. Through the granting or withholding of licenses the department shall insure that such residences are available throughout the State, without unnecessary concentration in any area.

C. 30:11B-6 Residents deemed residents of municipality and county.

6. All residents of community residences for the developmentally disabled in any municipality and county of the State shall be deemed residents of such municipality and county for all purposes, and shall be entitled to the use and benefit of all health, education, vocational and other facilities of such municipality and county in the same manner and extent as any other persons living in such municipality and county.

C. 30:11B-7 Fiscal audit and analysis; review; report.

7. One year after the effective date of this act and annually thereafter the Office of Fiscal Affairs shall conduct a fiscal audit and analysis of the operation of community residences for the developmentally disabled and shall report its findings to the Legislature. One year after the effective date of this act and annually thereafter, the Senate and Assembly standing committees on Institutions, Health and Welfare shall jointly conduct a review of the operation and effectiveness of community residences for the developmentally disabled and report its findings to the Legislature with any recommendations it may have.

8. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 449

AN ACT to amend the "New Jersey Mortgage Finance Agency Law," approved May 4, 1970 (P. L. 1970, c. 38).

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

1. Section 4 of P. L. 1970, c. 38 (C. 17:1B–7) is amended to read as follows:

C. 17:1B-7 New Jersey mortgage finance agency; membership; appointment; terms; vacancies; removal; oath; officers; quorum; bond; compensation; dissolution.

4. (a) There is hereby established in the Department of Banking a public body corporate and politic, with corporate succession, to be known as the "New Jersey Mortgage Finance Agency." The agency is hereby constituted as an instrumentality exercising public and essential governmental functions, and the exercise by the agency of the powers conferred by the act shall be deemed and held to be an essential governmental function of the State.

(b) The agency shall consist of the Commissioner of Banking, the Commissioner of Community Affairs and the State Treasurer, who shall be members ex officio, and two members appointed by the Governor with the advice and consent of the Senate for terms of 3 years, provided that the two members appointed by the Governor shall be residents of the State and shall have been qualified

electors therein for at least 1 year next preceding the time of appointment, and provided further that the members first appointed by the Governor shall serve for terms of 2 years and 3 years, respectively. Each member shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

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

(d) The Commissioner of Community Affairs shall be the chairman and chief executive officer of the agency and the members shall elect one of their number as vice-chairman thereof. The agency 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 agency shall be vested in the members thereof in office from time to time and three members of the agency shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the agency at any meeting thereof by the affirmative vote of at least three members of the agency, no less than two of whom shall be members ex officio. No vacancy in the membership of the agency shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the agency.

(e) Before the issuance of any bonds or notes, each member of the agency shall execute a surety bond in the penal sum of $25,000.00 and the treasurer of the agency shall execute a surety bond in the penal sum of $50,000.00, each such surety bond to be conditioned upon the faithful performance of the duties of the office of such member or treasurer, as the case may be, to be executed by a surety company authorized to transact business in the State of New Jersey as surety and to be approved by the Attorney General and filed in the office of the Secretary of State. At all times after the issuance of any bonds or notes by the agency each member of the agency shall maintain such surety bonds in full force and effect. All costs of such surety bonds shall be borne by the agency.

(f) The members of the agency shall serve without compensation, but the agency 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 member of the agency or his services therein.

(g) Each ex-officio member of the agency may designate an officer or employee of his department to represent him at meetings of the agency, 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 agency and shall continue in effect until revoked or amended by writing delivered to the agency.

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

2. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 450

Note: In approving the following act certain items, designated by *, were deleted or reduced by the Governor. See Statement appended following the text of the act.

AN ACT appropriating funds from the Clean Waters Fund and from the Water Conservation Fund for the purposes of researching, planning, acquiring, developing, constructing and maintaining water supply, wastewater treatment and water quality plans, facilities and programs; and providing for procedures and regulations relating to the expenditure of such funds.

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

1. There is hereby appropriated to the Department of Environmental Protection, from the Clean Waters Fund created pursuant to the "Clean Waters Bond Act of 1976" (P. L. 1976, c. 92), the sum of $64,793,832.00 for the purpose of providing grants to the following authorities and municipalities in the amount of 8% of approved local sewerage project costs which qualify for Federal assistance, pursuant to the provisions of the "State Public Sanitary Sewerage Facilities Assistance Act of 1965," P. L. 1965, c. 121 (C. 26:2E–1 et seq.):

Federal I.D. No.	Municipality or Authority	Amount of State Grant
405-01	Atlantic County Sewerage Authority	$48,872.00
518-01	Atlantic County Sewerage Authority	11,600.00
519-01	Atlantic Highlands-Highlands Sewerage Authority	8,880.00
590-01	Bay Head Borough	2,456.00
493-01	Beachwood Sewerage Authority	483,880.00
386-01	Bergen County Sewer Authority	4,853,264.00
667-01	Bergen County Sewer Authority	56,000.00
634-01	Bloomingdale Borough	2,864.00
597-01	Bridgewater Township	215,381.00
496-01	Brielle Borough	338,728.00
569-01	Byram Township	1,022.00
523-01	Caldwell Borough	11,200.00
678-01	Camden City	137,591.00
387-01	Cape May County Municipal Utilities Authority	416,543.00
451-01	Carteret Borough	15,600.00
506-01	Cranbury Township	105,752.00
550-01	Cumberland County Sewerage Authority	117,187.00
466-01	Denville Township	5,600.00
589-01	Eagleswood Township	1,000.00
463-01	Evesham Municipal Utilities Authority	18,255.00
629-01	Evesham Township	2,253.00
391-01	Ewing-Lawrence Sewerage Authority	19,180.00
391-02	Ewing-Lawrence Sewerage Authority	75,342.00
511-01	Franklin Borough	4,000.00
562-01	Galloway Township Municipal Utilities Authority	1,600.00
545-01	Glassboro Borough	520.00

Federal I.D. No.	Municipality or Authority	Amount of State Grant
526-01	Gloucester County Sewerage Authority	$22,898.00
515-01	Hamburg Borough	2,000.00
383-02	Hamilton Township	1,714,024.00
539-01	Hanover Sewerage Authority	10,128.00
643-01	Hanover Sewerage Authority	18,611.00
635-01	Hoboken City	46,356.00
441-01	Hopewell Borough	171,112.00
648-01	Hopewell Township Municipal Utilities Authority	3,160.00
399-01	Hudson County Sewerage Authority	77,814.00
581-01	Hudson County Sewerage Authority	48,204.00
582-01	Hudson County Sewerage Authority	51,088.00
340-02	Joint Meeting—Essex and Union Counties	272,000.00
487-01	Kinnelon Borough	1,717.00
461-01	Landis Sewerage Authority	78,946.00
686-01	Joint Meeting—Essex and Union Counties	24,000.00
610-01	Landis Sewerage Authority	5,724.00
682-01	Linden-Roselle Sewerage Authority	22,080.00
579-01	Little Egg Harbor Municipal Utilities Authority	3,114.00
422-01	Madison Township Sewerage Authority	8,000.00
398-01	Manasquan River Regional Sewerage Authority	27,698.00
578-01	Manville Borough	7,720.00
540-01	Matawan Borough	42,728.00
637-01	Middlesex County Sewerage Authority	9,320,000.00
680-01	Middlesex County Sewerage Authority	64,000.00
685-01	Middlesex Township Sewerage Authority	3,800.00
471-01	Mt. Lakes Borough	40,136.00
471-02	Mt. Lakes Borough	513,078.00
384-01	Musconetcong Sewerage Authority	15,504.00
684-01	Northeast Monmouth Regional Sewerage Authority	7,600.00
607-01	Northern Burlington County Regional Sewerage Authority	35,465.00
486-01	North Haledon Borough	3,855.00
530-01	North Hunterdon Joint Sewerage Assembly	7,948.00
372-03	Ocean County Sewerage Authority	6,163,216.00
372-04	Ocean County Sewerage Authority	578,521.00

Federal I.D. No.	Municipality or Authority	Amount of State Grant
542-01	Ocean Gate Borough	$7,840.00
412-01	Ocean Township Sewerage Authority	22,400.00
572-01	Ogdensburg Borough	2,000.00
584-01	Old Tappan Borough	960.00
333-03	Parsippany-Troy Hills Township	2,163,680.00
587-02	Parsippany-Troy Hills Township	802,490.00
369-02	Passaic Valley Sewerage Commissioners	31,023,114.00
683-01	Passaic Valley Sewerage Commissioners	70,400.00
586-01	Paterson City	5,886.00
502-01	Penns Grove Sewerage Authority	16,300.00
435-01	Perth Amboy City	17,580.00
681-01	Rahway Valley Sewerage Authority	12,800.00
632-01	Randolph Township Municipal Utilities Authority	3,908.00
485-01	Raritan Regional Utilities Authority	9,160.00
639-01	Ridgewood Village	22,000.00
389-01	Rockaway Valley Regional Sewerage Authority	1,939,420.00
548-01	Roxbury Township	2,000.00
326-01	Sayreville-South Amboy	10,000.00
529-01	Somerset County Board of Chosen Freeholders	23,707.00
495-01	Sparta Township	1,696.00
585-01	Stafford Municipal Utilities Authority	4,684.00
504-01	Stanhope Borough	89,561.00
449-01	Sussex County Municipal Utilities Authority	7,080.00
503-01	Sussex County Municipal Utilities Authority	3,376.00
644-01	Sussex County Municipal Utilities Authority	4,840.00
416-02	Trenton City	211,924.00
416-03	Trenton City	141,068.00
620-01	Union Township	11,466.00
570-01	Upper Deerfield Township	4,048.00
536-01	Upper Millstone Water Management Study Group	25,912.00
390-01	Wanaque Valley Regional Sewerage Authority	22,693.00

Federal I.D. No.	Municipality or Authority	Amount of State Grant
580-01	Warren County-Lopatcong Creek Sewerage Authority	$10,480.00
454-01	Warren County-Pequest River Sewerage Authority	6,200.00
537-01	Washington Township Municipal Utilities Authority	8,296.00
365-01	Wayne Township	3,708.00
380-02	Western Monmouth Utilities Authority	339,200.00
560-01	Western Monmouth Utilities Authority	355,461.00
491-01	West Windsor Township	456,219.00
482-01	Wyckoff Township	563,460.00
		$64,793,832.00

2. There is hereby appropriated to the Department of Environmental Protection from the Clean Waters Fund the sum of $3,800,000.00 for the following water quality planning and water supply construction and rehabilitation projects:

Areawide Water Quality Planning	$500,000.00
Delaware and Raritan Canal—Rehabilitation and Improvement	1,300,000.00
Raritan Confluence Reservoir—Force Main and Pumping Station Engineering	2,000,000.00
	$3,800,000.00

3. There is hereby appropriated to the Department of Environmental Protection from the Clean Waters Fund the sum of $16,400,000.00 for the purpose of providing grants to the following authorities and municipalities in an amount of up to 20% of the costs of the following water quality and treatment projects, with such State aid not to exceed the following amounts:

North Jersey District Water Supply Commission Water Filtration Plant	$5,800,000.00
City of Newark Water Filtration Plant	4,200,000.00
City of Jersey City Water Filtration Plant	6,000,000.00
City of Trenton reservoir cover	400,000.00
	$16,400,000.00

4. *

5. There is hereby appropriated to the Department of Environmental Protection from the Water Conservation Fund created pursuant to the "Water Conservation Bond Act" (P. L. 1969, c. 127), the sum of $7,921,766.00 for the purpose of providing grants to the following authorities and municipalities in the amount of 8% of approved local sewerage project costs which qualify for Federal assistance, pursuant to the provisions of the "State Public Sanitary Sewerage Facilities Assistance Act of 1965," P. L. 1965, c. 121 (C. 26:2E–1 et seq.):

Federal I.D. No.	Municipality or Authority	Amount of State Grant
484-01	Ramsey Borough	$580,700.00
372-06	Ocean County Sewerage Authority	771,400.00
387-02	Cape May County Municipal Utilities Authority	76,493.00
467-01	Montville Township Municipal Utilities Authority	4,752.00
447-01	Elizabeth City	95,664.00
365-02	Wayne Township	41,956.00
478-01	Rockaway Township	12,006.00
621-01	Wall Township	455,210.00
527-01	Lambertville Sewerage Authority	18,762.00
492-01	Lacey Municipal Utilities Authority	1,333,153.00
393-02	Wayne Township	47,446.00
299-02	Linden-Roselle Sewerage Authority	2,162.00
625-01	West New York Town	6,798.00
563-01	Ocean Township Municipal Utilities Authority	311,284.00
592-01	Mahwah Township	432,020.00
657-01	Wayne Township	194,833.00
354-02	Pequannock, Lincoln Park & Fairfield Sewerage Authority	927,152.00
345-01	Secaucus Town	769,353.00
251-01	Mount Holly Sewerage Authority	1,079,205.00
649-01	Pemberton Township Municipal Utilities Authority	2,953.00
476-01	Dover Sewerage Authority	758,464.00
		$7,921,766.00

6. The appropriations made pursuant to this act shall be subject to the provisions of P. L. 1976, c. 92 and P. L. 1977, c. 119 and of P. L. 1969, c. 127.

7. This act shall take effect immediately.

Approved March 2, 1978.

STATEMENT ON SENATE BILL No. 3408 (OCR)

Pursuant to Article V, Section I, Paragraph 15 of the Constitution, I am appending to Senate Bill No. 3408 (OCR) at the time of signing it, this statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

This bill appropriates moneys from the Clean Waters Bond Act of 1976 for needed sewage treatment and water supply facilities.

These projects will greatly enhance the State's program to combat water pollution and to ensure safe drinking water supplies.

I have deleted the appropriation of $600,000.00 provided to the Gloucester County Sewerage Authority for the renovation of a sludge treatment unit and expansion of plant capacity through an amendment to this bill. I am advised that this appropriation is not supported by the Department of Environmental Protection and would give this Authority a share of available State funding which is not proportionate to that provided other authorities for similar projects. I recognize that the legislators from Gloucester County have attempted to serve the needs of their constituents by adding this appropriation to the bill, but it would not be fair to other authorities to approve this special funding.

Page 5, section 4, lines 1-6: Delete "$600,000.00."

Respectfully,

/s/ BRENDAN T. BYRNE,
Governor.

[SEAL]
Attest:
/s/ ROBERT E. MULCAHY, III,
Chief of Staff-Secretary.

CHAPTER 451

AN ACT concerning damages and amending section 19 of P. L. 1971, c. 183.

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

1. Section 19 of P. L. 1971, c. 183 (C. 52:13C–36) is amended to read as follows:

C. 52:13C-36 Powers of attorney general.

19. a. When it shall appear to the Attorney General that a person required to file any statement under this act has failed to file such required statement, or has filed a statement false, inaccurate or incomplete in any material matter, or has otherwise violated the provisions of this act; or when the Attorney General believes it to be in the public interest that an investigation should be made to ascertain whether a person has in fact violated any of the provisions of this act, he may apply to the Superior Court for an order or orders directing.

(1) That any such person or persons to make available to his inspection, or to the inspection of any of his authorized deputies or agents, such records as are required to be kept by that person pursuant to section 7 of this act; or

(2) That any such person file a statement or report in writing under oath concerning the facts and circumstances upon which the Attorney General's belief in the necessity of an investigation is based; or

(3) That any person submit to examination under oath by the Attorney General in connection with said circumstances, and produce any and all records, books and other documents which may be specified by order of the court; or

(4) That the Attorney General may impound any record, book or other documents specified by order of the court.

b. Such application by the Attorney General shall set forth all the facts and circumstances upon which his belief in the necessity of an investigation is based. The court may proceed on such application in a summary manner; and if the court determines that from the evidence submitted it appears that a person required to file any statement under this act has failed to file such statement, or has filed a statement false, inaccurate or incomplete in any material

respect, or has otherwise violated any of the provisions of this act, or that it is in the public interest that an investigation be held to determine whether such violation has occurred, the court shall issue such order pursuant to subsection a. of this section as it may deem necessary and proper.

c. The Attorney General shall hold as confidential all statements, books, records, testimony and other information or sources of information coming into his possession or knowledge as a result of an investigation pursuant to this section; and he shall not disclose or divulge any such materials or information to anyone except the court under whose order such material or information comes into his knowledge or possession, unless the court shall order its disclosure to a grand jury of this State or other appropriate authorities for the purposes of enforcing the provisions of this act or any other law.

d. If any person shall refuse to testify or produce any book, paper or other document in any proceeding under this section as ordered by the court on the grounds that the testimony or evidence, documentary or otherwise, which is required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper or document, he shall comply with such direction. A person who is entitled by law to assert such privilege, and does so assert, and thereafter complies with such direction, shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury on false swearing committed by him in giving such testimony.

e. In any action brought under this section, the court may award to the State all costs of investigation and trial, including a reasonable attorney's fee to be fixed by the court. If costs are awarded in such an action brought against a legislative agent, the judgment may be awarded against the legislative agent, and the legislative agent's employer or employers joined as defendants, jointly, severally, or both. If the defendant prevails, he shall be awarded all costs of trial, and may be awarded a reasonable attorney's fee to be fixed by the court and paid by the State of New Jersey.

2. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 452

AN ACT concerning county pension funds of State employees paid by counties of the first class having a population of less than 800,000 and supplementing article 1 of chapter 10 of Title 43 of the Revised Statutes.

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

C. 43:10-1.7 Reinstatement to county pension fund of State employees.

1. a. Notwithstanding the provisions of any law with respect to reinstatement to a county pension fund of State employees paid by counties of the first class having a population of less than 800,000 to the contrary, a State employee paid by a county of the first class having a population of less than 800,000 who shall have served in such employment for a period of 15 years and has completed 15 years of service for which credit has been established in the county pension fund, and who was separated voluntarily from the service, and not by removal for cause or charges of misconduct or delinquency, shall, upon reentering the employ of the State and paid by a county of the first class within 5 years after such separation, be reinstated automatically to the county pension fund; provided, however, that such employee shall not be entitled to receive credit for pension purposes for the time elapsing during such separation period.

2. This act shall take effect immediately and shall be retroactive to 1973.

Approved March 2, 1978.

CHAPTER 453

AN ACT concerning payment of compensation for damage to certain bodies and supplies of water caused by State highway projects in certain cases, amending section 1 of P. L. 1942, c. 22 and repealing section 2 thereof.

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

1. Section 1 of P. L. 1942, c. 22 (C. 27:7–21.1) is amended to read as follows:

C. 27:7-21.1 Destruction or contamination of water store or supply during construction or maintenance of State highway.

1. Whenever the construction or maintenance undertaken by the Department of Transportation of a State highway shall result in the destruction or contamination of a well, spring, pond, reservoir or other like collection, body, store or supply of water which is necessary for the use or enjoyment of private property or public, and whenever the State Highway Engineer shall determine that the construction or maintenance by the Department of Transportation with respect to the said State highway, was the primary cause of said destruction or contamination and shall evidence such determination by a proper certificate so stating, the Commissioner of the Department of Transportation, in order to relieve the owner of a serious hardship, is authorized to compensate said owner for said destruction or contamination, or, where the collection, body, store or supply of water is used for potable water supply, to pay such part of the cost of constructing a new, or providing a substitute, potable water supply as, in the opinion of the Commissioner of the Department of Transportation, the principles of right and justice may require. The Commissioner of the Department of Transportation is authorized to make such payment only in the event that a new or substitute potable water supply is actually constructed or otherwise secured and under no circumstance shall he authorize any payment in excess of the actual cost of construction or otherwise securing a substitute potable water supply.

The State Highway Engineer shall make said determination and certification to the commissioner within 45 days, and the commissioner shall make said determination as to construction or compensation within 90 days, of the receipt of a complaint. If the commissioner fails to make a determination within the said 90 days, the claim for compensation shall be deemed to be approved and shall constitute an obligation of the commissioner to pay such claim.

If the Commissioner of the Department of Transportation denies a claim for compensation, the Commissioner of Environmental Protection, upon request of the owner, shall cause a geological investigation to be made by the State Geologist. The Commissioner of Environmental Protection shall certify the results of said investigation to the Commissioner of the Department of Transportation, and if it is certified that the State highway construction

caused damage to the collection, body, store or supply of water, the Commissioner of the Department of Transportation shall make such payment of compensation.

If municipal or private water companies have water facilities and water mains within a reasonable distance from the property affected by reason of the destruction of a potable water supply so that the cost of extending the water mains to the property so affected would be less or substantially equal to the cost of constructing a new potable water supply, the Commissioner of the Department of Transportation, in lieu of constructing a new potable water supply, may pay the cost of extending such water main to the property so affected.

Any funds heretofore or hereafter appropriated to the Department of Transportation for the purpose of acquiring right-of-way may be used to make payments under this act. When several potable water supplies have been destroyed by the same State highway construction or maintenance by the Department of Transportation and the Commissioner of the Department of Transportation deems it to be in the best interests of the State, the Commissioner of the Department of Transportation is authorized to enter into a contract or contracts for the purpose of actually constructing new, or providing substitute, potable water supplies or for the purpose of extending the water facilities or laterals for the property or properties affected. Chapter 34 of Title 52 of the Revised Statutes shall apply to any contracts which may be let for any construction referred to herein or the cost of extending the water mains together with the lateral under this act unless immediate relief is required to abate a nuisance or condition detrimental to the health of the persons utilizing said potable water supplies in which case the contract may be awarded.

Repealer.

2. Section 2 of P. L. 1942, c. 22 (C. 27:7–21.2) is repealed.

3. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 454

AN ACT concerning the compensation paid to the mayor and members of the governing body in certain towns, and supplementing Title 40 of the Revised Statutes.

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

C. 40:132-1.4 Towns in counties with population in excess of 11,500 but less than 40,000; salaries of mayor or members of governing body.

1. In any town in any county of the first class with a population in excess of 11,500 but less than 40,000 according to the 1970 Federal Census, the governing body may by ordinance fix the compensation of the mayor at a sum not to exceed $2,500.00 per annum, and fix the compensation of each member of the governing body at a sum not to exceed $1,500.00 per annum. This act shall not be construed so as to reduce the compensation of the mayor or members of the governing body of any town nor shall it prevent the governing body of any town from proceeding to fix compensation pursuant to any other applicable law.

2. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 455

AN ACT concerning legal aid to members and officers of county park police departments and amending N. J. S. 40A:14–117.

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

1. N. J. S. 40A:14–117 is amended to read as follows:

Defense for members or officers in legal proceedings arising out of or incidental to performance of duties.

40A:14–117. Whenever a member or officer of a county police, or county park police, department or force is a defendant in any action or legal proceeding arising out of or incidental to the performance of his duties, the governing body of the county, or county

park commission, as the case may be, shall provide said member or officer with necessary means for the defense of such action or proceeding, other than for his defense in a disciplinary proceeding instituted against him by the county or park commission, or in a criminal proceeding instituted as a result of a complaint on behalf of the county or park commission. If any such disciplinary or criminal proceeding instituted by or on complaint of the county or park commission shall be dismissed or finally determined in favor of the member or officer, he shall be reimbursed for the expense of his defense.

2. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 456

AN ACT concerning rights of blind persons, amending and supplementing the "Law Against Discrimination," approved April 16, 1945 (P. L. 1945, c. 169) and amending P. L. 1971, c. 130 (C. 10:5–29 et seq.).

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

1. Section 5 of P. L. 1945, c. 169 (C. 10:5–5) is amended to read as follows:

C. 10:5-5 Definitions.

5. As used in this act, unless a different meaning clearly appears from the context:

a. "Person" includes one or more individuals, partnerships, associations, organizations, labor organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and fiduciaries.

b. "Employment agency" includes any person undertaking to procure employees or opportunities for others to work.

c. "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

d. "Unlawful employment practice" and "unlawful discrimination" includes only those unlawful practices and acts specified in section 11 of this act.

e. "Employer" does not include a club exclusively social or a fraternal, charitable, educational or religious association or corporation, if such club, association or corporation is not organized and operated for private profit.

f. "Employee" does not include any individual employed by his parents, spouse or child, or in the domestic service of any person.

g. "Liability for service in the Armed Forces of the United States" means subject to being ordered as an individual or member of an organized unit into active service in the Armed Forces of the United States by reason of membership in the National Guard, naval militia or a reserve component of the Armed Forces of the United States, or subject to being inducted into such armed forces through a system of national selective service.

h. "Division" means the "Division on Civil Rights" created by this act.

i. "Attorney General" means the Attorney General of the State of New Jersey or his representative or designee.

j. "Commission" means the Commission on Civil Rights created by this act.

k. "Director" means the Director of the Division on Civil Rights.

l. "A place of public accommodation" shall include, but not be limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer camp, day camp, or resort camp, whether for entertainment of transient guests or accommodation of those seeking health, recreation or rest; any producer, manufacturer, wholesaler, distributor, retail shop, store, establishment, or concession dealing with goods or services of any kind; any restaurant, eating house, or place where food is sold for consumption on the premises; any place maintained for the sale of ice cream, ice and fruit preparations or their derivatives, soda water or confections, or where any beverages of any kind are retailed for consumption on the premises; any garage, any public conveyance operated on land or water, or in the air, any stations and terminals thereof; any bathhouse, boardwalk, or seashore accommodation; any auditorium, meeting place, or hall; any theatre, motion-picture house, music hall, roof garden, skating rink, swimming pool, amusement and recreation park, fair, bowling alley, gymnasium, shooting gallery, billiard and pool parlor, or other place of amusement; any comfort station; any dispensary,

clinic or hospital; any public library; any kindergarten, primary and secondary school, trade or business school, high school, academy, college and university, or any educational institution under the supervision of the State Board of Education, or the Commissioner of Education of the State of New Jersey. Nothing herein contained shall be construed to include or to apply to any institution, bona fide club, or place of accommodation, which is in its nature distinctly private; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution, and the right of a natural parent or one in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed; nor shall anything herein contained be construed to bar any private secondary or post-secondary school from using in good faith criteria other than race, creed, color, national origin or ancestry, in the admission of students.

m. "A publicly assisted housing accommodation" shall include all housing built with public funds or public assistance pursuant to P. L. 1949, c. 300, P. L. 1941, c. 213, P. L. 1944, c. 169, P. L. 1949, c. 303, P. L. 1938, c. 19, P. L. 1938, c. 20, P. L. 1946, c. 52, and P. L. 1949, c. 184, and all housing financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the Federal Government or any agency thereof.

n. The term "real property" includes real estate, lands, tenements and hereditaments, corporeal, and incorporeal, and leaseholds, provided however, that, except as to publicly assisted housing accommodations, the provisions of this act shall not apply to the rental: (1) of a single apartment or flat in a two-family dwelling, the other occupancy unit of which is occupied by the owner as his residence or the household of his family at the time of such rental; or (2) of a room or rooms to another person or persons by the owner or occupant of a one-family dwelling occupied by him as his residence or the household of his family at the time of such rental. Nothing herein contained shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, in the sale, lease or rental of real property, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

o. "Real estate broker" includes a person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase, or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate, or solicits for prospective purchasers or assists or directs in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the sale, exchange, leasing, renting or auctioning of any real estate, or negotiates, or offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon or transfer of any real estate for others; or any person who, for pecuniary gain or expectation of pecuniary gain conducts a public or private competitive sale of lands or any interest in lands. In the sale of lots, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

p. "Real estate salesman" includes any person who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of a licensed real estate broker to sell or offer to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real estate, or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate, or to lease or rent, or offer to lease or rent any real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell real estate, or any parts thereof, in lots or other parcels.

q. "Physical handicap" means any physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of

physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a seeing eye or guide dog, wheelchair, or other remedial appliance or device.

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 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 a dog as an aid to personal travel, and has been trained by an organization generally recognized by agencies involved in the rehabilitation of the blind as reputable and competent to provide dogs with training of this type.

t. "Guide dog trainer" means any person who is employed by an organization generally recognized by agencies involved in the rehabilitation of the blind 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.

2. Section 1 of P. L. 1971, c. 130 (C. 10:5–29) is amended to read as follows:

C. 10:5-29 Use of public facilities by blind person accompanied by guide dog; conditions.

1. Any blind person accompanied by a guide dog trained by a recognized training agency or school is entitled, with his dog, to the full and equal enjoyment, advantages, facilities and privileges of all public facilities, subject only to the following conditions:

a. A blind person, if accompanied by a guide dog, shall keep such dog in his immediate custody at all times;

b. A blind person accompanied by a guide dog shall not be charged any extra fee or payment for admission to or use of any public facility;

c. A blind person who has a guide dog in his possession shall be liable for any damages done to the premises of a public facility by such dog;

d. A blind person who, after being duly warned of a danger unique to such person's use of a particular public facility, is injured in using such facility and is injured because of a danger of the type about which warning was given, shall be deemed to have assumed the risk of using the public facility.

C. 10:5-29.1 Unlawful employment practice.

3. (New section) Unless it can be clearly shown that a person's blindness would prevent such person from performing a particular job, it is an unlawful employment practice to deny to an otherwise qualified blind person the opportunity to obtain or maintain employment, or to advance in position in his job, solely because such person is blind or because such blind person is accompanied by a guide dog.

C. 10:5-29.2 Entitlement to housing accommodations.

4. (New section) A blind person is entitled to rent, lease or purchase, as other members of the general public, all housing accommodations offered for rent, lease or compensation in this State, subject to the conditions and limitations established by law and applicable alike to all persons. Nothing in this section shall require any person renting, leasing or providing for compensation real property, to modify such property in any way to provide a higher degree of care for a blind person than for any other person. A blind person who has a guide dog, or who obtains a guide dog, shall be entitled to full and equal access to all housing accommodations and shall not be required to pay extra compensation for such guide dog, but shall be liable for any damages done to the premises by such dog. Any provision in any lease or rental agreement prohibiting maintenance of a pet or pets on or in the premises shall not be applicable to a guide dog owned by a blind tenant.

C. 10:5-29.3 Rights and privileges of guide dog trainer.

5. (New section) A guide dog trainer, while engaged in the actual training process and activities of guide dogs, shall have the same rights and privileges with respect to access to public

facilities, and the same responsibilities as are applicable to a blind person.

C. 10:5-29.4 Right-of-way.

6. (New section) A blind person accompanied by a guide dog shall have the right-of-way over vehicles while crossing a highway or any intersection thereof, as provided in P. L. 1939, c. 274 (C. 39:4–37.1).

C. 10:5-29.5 Violation of act; fine.

7. (New section) Any person who violates the provisions of this act, or who fits a dog with a harness of the type commonly used by blind persons in order to represent that such dog is a guide dog when training of the type that guide dogs normally receive has not in fact, been provided, shall be fined not less than $100.00 and not more than $500.00.

8. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 457

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, 1978, and regulating the disbursement thereof," (now pending before the Legislature as Senate No. 3200 of 1977), approved ....., 1977 (P. L. 1977, c. .....).

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

1. The following additional sum is hereby appropriated out of the General State Fund for the purpose herein specified:

DEPARTMENT OF LABOR AND INDUSTRY

INCOME SECURITY AND HUMAN RESOURCE DEVELOPMENT

52240-380. Manpower Development and Employment Assistance.
Extraordinary:
Sheltered Workshop Support $225,000

2. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 458

AN ACT to provide for the relief of Elsie B. Pangburn.

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

1. In the case of Elsie B. Pangburn a resident of Millville in the County of Cumberland who has sustained inconvenience and property damages in the amount of $662.65 as a result of her vehicle being stolen and damaged by Kenneth Coleman, an inmate who escaped from the Leesburg Prison Farm on February 25, 1975, she shall be entitled to be reimbursed for same, notwithstanding any law to the contrary.

2. The sum of $662.65 is hereby appropriated from the General State Fund to effectuate the purposes of this act.

3. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 459

A SUPPLEMENT to "An act making appropriations for the support of State Government and the several purposes for the fiscal year ending June 30, 1978 and regulating the disbursement thereof," approved June 30, 1977 (P. L. 1977, c. 137).

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

1. The amount of State aid appropriated pursuant to P. L. 1977, c. 137, to the Department of Education for the purpose of non-public handicapped aid subject to the enactment of Assembly Bill No. 2293 or similar legislation (P. L. 1977, c. 193) shall be reduced by $1,000,000.00 from $2,000,000.00 to $1,000,000.00.

2. The following sum is hereby appropriated out of the General State Fund for the purpose herein specified:

DEPARTMENT OF EDUCATION

31200. Special Assistance to Local Education Agencies—State Aid
31210-500. Non-Public School Aid
Grants in Aid:
Non-Public auxiliary services pursuant to P. L. 1977, c. 192 ..... $1,635,000.00

3. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 460

AN ACT to appropriate funds to the New Jersey Economic Development Authority for the purpose of urban economic development.

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

1. It is hereby declared to be in the public interest and to be the policy of the State to foster and promote the economy of the State, to increase opportunities for gainful employment and improve living conditions, to assist in the economic development and redevelopment of political subdivisions within the State, and otherwise to contribute to the prosperity, health and general welfare of the State and its inhabitants by inducing manufacturing, industrial, commercial and other employment-promoting enterprises by making available financial assistance to locate, remain, or expand within the State. It is the purpose and object of this act to further and implement such policy by appropriating funds to be utilized for the acquisition, clearance, construction, and redevelopment of industrial and commercial centers in urban areas within New Jersey in order to induce private business to invest in employment-generating facilities in such areas.

2. The legislature hereby finds and determines that:

a. There exists in the State in many of its municipalities conditions of substantial and persistent unemployment; that many existing residential, industrial, commercial and manufacturing facilities within many municipalities are either obsolete, inefficient or dilapidated or are located without regard to the master plans of such municipalities; that the obsolescence and abandonment of

existing facilities will increase with technological advances, the provision of modern, efficient facilities in other states and the difficulty which many municipalities have in attracting and holding new facilities; and that many existing and planned employment-promoting facilities are far from or not easily accessible to the places of residence of substantial numbers of unemployed and underemployed persons.

b. Such conditions combined with the existence in many municipalities within the State of residential, non-residential, commercial, industrial, vacant or predominantly vacant areas which are blighted because of substandard, unsanitary, deteriorated or deteriorating conditions which accelerate the decline of population in such municipalities, retard sound economic growth and physical development, erode the financial position of such municipalities and their residents by shrinking their tax base, increasing the share of the tax burden which each taxpayer must bear and reducing the incentive for investment in such municipalities, and adversely affect the health, safety, welfare and prosperity of the State and more particularly the people of such municipalities.

c. By virtue of their architectural and cultural heritage, their positions as principal centers of communication and transportation and their concentration of productive and energy-efficient facilities, many municipalities are capable of ameliorating the conditions of deterioration which impede sound community growth and development; that building a proper balance of housing, industrial and commercial facilities and increasing the attractiveness of such municipalities to persons of all income levels are essential to restoring such municipalities as desirable places to live, work, shop and enjoy life's amenities; that the accomplishment of these objectives is beyond remedy solely by the regulatory process in the exercise of the policy power and cannot be dealt with effectively by the ordinary operations of private enterprise without the powers provided herein, and that the exercise of the powers herein provided is critical to continuing the process of revitalizing such municipalities and will serve an urgent public use and purpose.

d. The provision of improved and prepared industrial and commercial parks within urban areas, on which can be constructed modern and efficient industrial and commercial facilities can serve, attract and retain private business investment in urban areas, thereby creating and maintaining employment and tax ratables in such areas and assisting in the economic development and redevelopment of such areas.

e. The New Jersey Economic Development Authority established pursuant to P. L. 1974, c. 80, (C. 34:1B–1 et seq.) has been empowered to construct, acquire, finance, sell and lease manufacturing, industrial, commercial, and other employment-promoting facilities and projects to foster and promote the economy of the State, increase opportunities for gainful employment and improve living conditions, assist in the economic development and redevelopment of political subdivisions within the State, and otherwise contribute to the prosperity, health and general welfare of the State and its inhabitants; has undertaken a program for the planning and development of large-scale urban industrial and commercial projects designed to maintain and attract business investment in such areas; and has determined that the availability of financial assistance by the State will be a critical element in the successful undertaking, financing, and completion of such projects.

3. There is hereby appropriated the sum of $3,000,000.00 from the unemployment compensation auxiliary fund established pursuant to R. S. 43:21–4 (g) to the economic development fund of the New Jersey Economic Development Authority, for the purpose of paying or financing the costs of projects undertaken by the authority, including the acquisition, preparation, clearance, and improvement of land, and which the authority determines will assist in the maintenance and expansion of employment-generating facilities and enterprises within a municipality. Such moneys shall be deposited in the economic development fund and shall be subject to all terms and conditions of "The New Jersey Economic Development Authority Act," P. L. 1974, c. 80 (C. 34:1B–1 et seq.), provided that for the first three projects approved for assistance pursuant to this appropriation, all of the funds hereby appropriated shall be designated by the authority for projects located in municipalities receiving assistance pursuant to the provisions of P. L. 1971, c. 64, as amended and supplemented, hereinafter referred to as "urban aid" municipalities; provided further, that for projects thereafter approved for assistance pursuant to this appropriation, no more than 50% of the funds available for project financing pursuant to this appropriation shall be designated by the authority for projects located in "urban aid" municipalities, with the balance of such available funds to be designated by the authority for projects located in municipalities which do not qualify as "urban aid" municipalities, but which nevertheless the authority, after consulting with the Department of Labor and Industry, determines is in a labor market area which has a season-

ally adjusted unemployment rate which for the most recent 12-month period for which data is available, is in excess of the State unemployment rate.

4. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 461

AN ACT to appropriate funds to the Department of Labor and Industry for the purpose of customized training for newly locating and expanding business firms.

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

1. There is hereby appropriated from the Unemployment Compensation Auxiliary Fund the sum of $1,000,000.00 to the Department of Labor and Industry for the purpose of financing programs administered by the Office of Customized Training in the Division of Economic Development for newly locating and expanding business firms.

2. The Director of the Division of Economic Development shall report annually to the Legislature and the labor committees thereof on the progress of and achievements resulting from the programs financed by the appropriation herein.

3. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 462

AN ACT to amend "An act authorizing the appointment of additional magistrates of the municipal courts of certain municipalities and supplementing chapter 8 of Title 2A of the New Jersey Statutes," approved March 3, 1976 (P. L. 1975, c. 395).

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

1. Section 1 of P. L. 1975, c. 395 (C. 2A:8–6.3) is amended to read as follows:

C. 2A:8-6.3 Appointment of additional magistrates in certain municipalities.

1. The governing body of every municipality having a population of not less than 75,000 nor more than 103,000 inhabitants in a county of the second-class may provide for the appointment, as the need may appear, of two additional magistrates of the municipal court of such municipality; provided, however, that this provision shall not limit the appointment of additional magistrates in municipalities included within the provisions of any other law.

2. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 463

AN ACT concerning agreements between municipalities for the sharing of certain revenues and expenses related to New Jersey Economic Development Authority projects and supplementing "The New Jersey Economic Development Authority Act," approved August 7, 1974 (P. L. 1974, c. 80; C. 34:1B–1 et seq.).

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

C. 34:1B-15.1 Agreements for sharing of payments and revenues.

1. The governing bodies of any two contiguous municipalities within which is located or is to be located a New Jersey Economic Development Authority project situated in part within each municipality, may by reciprocal ordinances enter into agreements with each other to share all tax revenues, payments in lieu of taxes or other revenues as shall be derived from the entire project, and to which they are by law entitled, in such proportion as they deem proper.

C. 34:1B-15.2 Apportionment of costs; specification of services.

2. Any agreement entered into pursuant to section 1 of this act for the sharing of payments and revenues derived from a project shall also set forth the manner in which the costs of municipal services to such project are to be apportioned and specify the services to be supplied by each municipality in sufficient detail so

as to permit the owners, occupants and users of property within the project to determine the responsibilities of each participating municipality.

3. This act shall take effect immediately.

Approved March 2, 1978.

CHAPTER 464

AN ACT concerning custodians of school moneys and amending N. J. S. 18A:17–31.

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

1. N. J. S. 18A:17–31 is amended to read as follows:

Custodian of school moneys.

18A:17–31. The custodian of school moneys of each school district which does not contain more than one municipality shall be the custodian of the moneys of the municipality unless the board of education shall designate the tax collector of the municipality; provided, however, that if both the custodian of moneys of the municipality and the tax collector of the municipality submit written notifications to the board that they do not wish to serve as custodian of school moneys, the board shall appoint any other suitable person except a member or employee of the board, with a term of office fixed by the board as such custodian. If the school district contains more than one municipality, the person designated by law as the custodian of the moneys of the constituent municipality having the largest amount of taxable property shall be custodian of the school moneys of the district unless and until the board shall appoint any other suitable person except a member or employee of the board and fix his term of office. Any municipal officer acting or designated as custodian of school moneys who ceases to be such officer shall thereupon cease to be such custodian.

2. This act shall take effect immediately.

Approved March 3, 1978.

CHAPTER 465

AN ACT to amend the "Sales and Use Tax Act," approved April 27, 1966 (P. L. 1966, c. 30).

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

1. Section 8 of P. L. 1966, c. 30 (C. 54:32B–8) is amended to read as follows:

C. 54:32B-8 Exempt sales.

8. Exempt sales. Receipts from the following shall be exempt from the tax on retail sales imposed under subsection (a) of section 3 and the use tax imposed under section 6:

(a) Sales of medicines and drugs sold pursuant to a doctor's prescription for human use; crutches, artificial limbs, artificial eyes, artificial hearing devices, corrective eyeglasses, prosthetic aids, artificial teeth or dentures, braces, tampons or like products, orthopedic appliances and artificial devices designed to correct or alleviate physical incapacity, medical oxygen, human blood and its derivatives when sold for human use, wheel chairs, and replacement parts for any of the foregoing;

(b) Sales of food, food products, beverages except alcoholic beverages, excluding draught beer sold by the barrel, as defined in the Alcoholic Beverage Tax Law, dietary foods and health supplements, sold for human consumption off the premises where sold but not including (i) candy and confectionery, and (ii) carbonated soft drinks and beverages all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form. Nothing herein shall be construed as exempting food or drink from the tax imposed under subsection (c) of section 3;

(c) Sales of food sold in an elementary or secondary school cafeteria, sales of food sold in an institution of higher education or in a fraternity, sorority or eating club operated in connection therewith, to students of such an institution;

(d) Sales of articles of clothing and footwear for human use except articles made of fur on the hide or pelt of an animal or animals where such fur is the component material of chief value of the article. "Clothing" as used herein, shall also mean and include sales to noncommercial purchasers of common wearing apparel materials intended to be incorporated into wearing apparel as a

constituent part thereof, such as fabrics, thread, knitting yarn, buttons and zippers. The director shall prescribe regulations to carry out the provisions of this subsection;

(e) Sales of newspapers, magazines and periodicals;

(f) Casual sales except as to sales of motor vehicles, whether for use on the highways or otherwise, and except as to sales of boats or vessels registered or subject to registration under the New Jersey Boat Act of 1962 (P. L. 1962, c. 73 and all amendments thereto);

(g) Sales of gas, water, steam, fuel, electricity, telephone or telegraph services delivered to consumers through mains, lines, pipe, or in containers or bulk;

(h) Sales of motor fuels as motor fuels are defined for purposes of the New Jersey Motor Fuel Tax Law; and sales of fuel to an airline for use in its airplanes or to a railroad for use in its locomotives;

(i) Tangible personal property sold through coin-operated vending machines at $0.10 or less, provided the retailer is primarily engaged in making such sales and maintains records satisfactory to the director;

(j) Sales not within the taxing power of this State under the Constitution of the United States;

(k) The transportation of persons or property;

(l) Sales, repairs, alterations or conversion of commercial ships, barges and other vessels of 50-ton burden or over, primarily engaged in interstate or foreign commerce, and of governmentally-owned ships, barges and other vessels and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance and repairs (other than articles purchased for the original equipping of a new ship);

(m) (1) (Deleted by amendment.) P. L. 1970, c. 7, s. 5.

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

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

(4) The exemptions granted under this subsection shall not be construed to apply to sales, otherwise taxable, of machinery, equip-

ment or apparatus whose use is incidental to the activities described in paragraphs (2) and (3) of this subsection;

(5) The exemptions granted in this subsection (m) shall not apply to motor vehicles or to parts with a useful life of 1 year or less or tools or supplies used in connection with the machinery, equipment or apparatus described in this subsection;

(n) Sales of tangible personal property purchased for use or consumption directly and exclusively in research and development in the experimental or laboratory sense. Such research and development shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects;

(o) Sales or use of wrapping paper, wrapping twine, bags, cartons, tape, rope, labels, nonreturnable containers, reusable milk containers and all other wrapping supplies when such use is incidental to the delivery of any personal property;

(p) Sales of tangible personal property (except automobiles, trucks, trailers, and truck-trailer combinations, and except property incorporated in a building or structure) for use and consumption directly and exclusively in the production for sale of tangible personal property on farms, including stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, ranches, nurseries, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards;

(q) Sales of tangible personal property sold by a mortician, undertaker or funeral director. However, all tangible personal property sold to a mortician, undertaker or funeral director for use in the conducting of funerals shall not be deemed a sale for resale and shall not be exempt from the tax imposed by this act;

(r) Sales of films, records, tapes or any type of visual or sound transcriptions to, or produced for exhibition in or use through the medium of, theatres and radio and television broadcasting stations or networks, and not used for advertising purposes;

(s) Sales of tangible personal property and services taxable under any municipal ordinance heretofore adopted pursuant to P. L. 1947, c. 71, which is in effect on April 27, 1966, but only to the extent such sales are taxable under said ordinance;

(t) Sales of materials, such as chemicals and catalysts, used to induce or cause a refining or chemical process, where such materials

are an integral or essential part of the processing operation, but do not become a component part of the finished product;

(u) Sales of school textbooks for use by students in a school, college, university or other educational institution, approved as such by the Department of Education or by the Department of Higher Education, when the educational institution, upon forms and pursuant to regulations prescribed by the director, has declared the books are required for school purposes and the purchaser has supplied the vendor with the form at the time of the sale;

(v) (Deleted by amendment.) P. L. 1970, c. 7, s. 5.

(w) Sales made to contractors, subcontractors or repairmen of materials, supplies or services for exclusive use in erecting structures, or building on, or otherwise improving, altering or repairing real property of organizations described in subsections (a) and (b) of section 9 of this act, provided any person seeking to qualify for this exemption shall do so pursuant to such rules and regulations and upon such forms as shall be prescribed by the director;

(x) The renting, leasing, licensing or interchanging of trucks, tractors, trailers or semitrailers by persons not engaged in a regular trade or business offering such renting, leasing, licensing or interchanging to the public, provided, that such renting, leasing, licensing or interchanging is carried on with persons engaged in a regular trade or business involving carriage of freight by such vehicles, and further provided, that in the case of any such motor vehicle acquired by the owner or first used by the owner in this State on or after July 1, 1966, any tax presumptively imposed by this act on such acquisition or use shall have been paid at the time of such acquisition or use without claim for exemption;

(y) Sales of cigarettes subject to tax under the Cigarette Tax Act;

(z) Sales of the Bible or similar sacred scripture of a bona fide church or religious denomination;

(aa) Sales of the flag of the United States of America and of the flag of the State of New Jersey;

(bb) Sales of locomotives, railroad cars and other railroad rolling stock, including repair and replacement parts therefor, to a railroad whose rates are regulated by the Interstate Commerce Commission or by the Board of Public Utility Commissioners of New Jersey;

(cc) Sales of buses for public passenger transportation, including repair and replacement parts therefor, to bus companies whose rates are regulated by the Interstate Commerce Commission or the

Board of Public Utility Commissioners of New Jersey or to an affiliate of said bus companies or to common or contract carriers for their use in the transportation of children to and from school. For the purposes of this subsection "affiliate" shall mean a corporation whose stock is wholly owned by the regulated bus company or whose stock is wholly owned by the same persons who own all of the stock of the regulated bus company.

(dd) (Deleted by amendment.) P. L. 1970, c. 7, s. 5.

(ee) The sale of advertising to be published in a newspaper.

(ff) Sales of solar energy devices or systems designed to provide heating or cooling, or electrical or mechanical power by collecting and transferring solar-generated energy and including mechanical or chemical devices for storing solar-generated energy. The Director of the Division of Energy Planning and Conservation in the Department of Energy shall establish standards with respect to the technical sufficiency of solar energy systems for purposes of qualification for exemption.

2. This act shall take effect July 1 next following enactment.

Approved March 3, 1978.

CHAPTER 466

AN ACT to authorize the town of Newton in the county of Sussex to make permanent the appointment of Steven W. Mills to the police department of the town of Newton.

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

1. Pursuant to the provisions of P. L. 1948, chapter 199 (C. 1:6–10 et seq.), under which a petition for a special law has been filed with the Legislature, the town of Newton, in the county of Sussex is authorized to make permanent the appointment of Steven W. Mills to the police department of the town of Newton by virtue of a lateral transfer from the Newton board of education to the town of Newton, notwithstanding R. S. 11:21–1 et seq. and the rules and regulations promulgated thereunder in the New Jersey Administrative Code.

2. The board of trustees of the Police and Firemen's Retirement System of New Jersey shall accept as a member of the retirement system any policeman, otherwise eligible for membership, appointed pursuant to this act provided there is paid into the retirement system, in such manner as the board shall prescribe, the contribution deemed due and payable from the date of original appointment.

3. This act shall take effect upon due adoption of an ordinance of the town of Newton for the purpose of adopting same.

Approved March 3, 1978.

CHAPTER 467

AN ACT to provide for a new home warranty and for security programs in connection therewith, and for the registration of builders of new homes.

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

C. 46:3B-1 Short title.

1. This act shall be known and may be cited as "The New Home Warranty and Builders' Registration Act."

C. 46:3B-2 Definitions.

2. As used in this act:

a. "Department" means the Department of Community Affairs;

b. "Commissioner" means the Commissioner of the Department of Community Affairs;

c. "Warranty" means the warranty prescribed by the commissioner pursuant to this act;

d. "New home" means any dwelling unit not previously occupied, excluding dwelling units constructed solely for lease;

e. "Owner" means any person for whom the new home is built or to whom the home is sold for occupation by him or his family as a home and his successors in title to the home or mortgagee in possession. Owner does not mean any development company, association or subsidiary company of the builder or any person or organization to whom the home may be sold or otherwise conveyed by the builder for subsequent resale, letting or other purpose;

f. "Builder" means any individual corporation, partnership or other business organizations engaged in the construction of new homes.

g. "Major construction defect" means any actual damage to the load bearing portion of the home including damage due to subsidence, expansion or lateral movement of the soil (excluding movement caused by flood or earthquake) which affects its load bearing function and which vitally affects or is imminently likely to vitally affect use of the home for residential purposes.

h. "Warranty date" means the first occupation or settlement date, whichever is sooner.

C. 46:3B-3 New home warranty; time periods.

3. a. The commissioner is hereby authorized and directed to prescribe by rule or regulation a new home warranty and procedures for the implementation and processing of claims against the new home warranty security fund as provided for in section 7a. of this act. Such warranty shall include standards for construction and of quality for the structural elements and components of a new home with an indication, where appropriate, of what degree of noncompliance with such standards shall constitute a defect. Such rule or regulation shall be adopted, and may be supplemented, amended or repealed in accordance with the Administrative Procedures Act (P. L. 1968, c. 410, C. 52:14B–1 et seq.), provided, however, that a hearing shall be required prior to the adoption, supplement, amendment or repeal of such rule or regulation.

b. The time periods of warranties established pursuant to this act are as follows: (1) One year from and after the warranty date the dwelling shall be free from defects caused by faulty workmanship and defective materials due to noncompliance with the building standards as approved by the commissioner pursuant to paragraph 3a. of this act except as set forth in section 3b. (2) and (3).

(2) Two years from and after the warranty date the dwelling shall be free from defects caused by faulty installation of plumbing, electrical, heating and cooling delivery systems; however, in the case of appliances, no warranty shall exceed the length and scope of the warranty offered by the manufacturer.

(3) Ten years from and after the warranty date for major construction defects as defined in this act.

(4) However, any alternate program as provided for in section 8 of this act submitted for approval, subsequent to the effective date of this act, may contain warranties and time periods greater than provided for in section 3b. (1), (2), and (3) of this act.

C. 46:3B-4 Liability of builder.

4. A builder of a new home shall be liable to any owner thereof during the time period when the new home warranty, prescribed by the commissioner pursuant to this act, is applicable to the home for any defect therein which is covered by the warranty in accordance with its terms and conditions. The liability of a builder under the new home warranty shall be limited to the purchase price of the home in the first good faith sale thereof or the fair market value of the home on its completion date if there is no good faith sale.

C. 46:3B-5 Registration with department; application; fee; issuance of certificate; validity; condition for registration.

5. No builder shall engage in the business of constructing new homes unless he is registered with the department. The department shall provide application forms for such registration and shall prescribe the information to be included therein. Each application shall be accompanied by a reasonable fee, prescribed by the commissioner, and proof, satisfactory to the commissioner, of participation in the new home warranty security fund or an approved alternate new home warranty security program. Upon receipt of the above, the department shall issue a certificate of registration.

Each certificate of registration shall be valid for a period of 2 years from the date of issue and may be renewed for additional 2-year periods.

As a condition for the registration, a builder shall be required to participate in the new home warranty security fund or an approved alternate new home warranty security program.

No corporation, partnership or other business organization shall be entitled to registration hereunder, nor shall they engage in the construction of new homes unless a stockholder, director, officer, partner, or employee thereof, as the case may be, shall be a registered builder.

C. 46:3B-6 Investigation by commissioner; hearings; denial; suspension or revocation of certificate; grounds.

6. a. The commissioner, upon the complaint of an aggrieved person, may conduct investigations into the allegations made against any builder required to be registered under this act. In pursuit of such investigations, the commissioner shall be authorized to hold hearings in accordance with the provisions of the Administrative Procedure Act (P. L. 1968, c. 410, C. 52:14B–1 et seq.) applicable to contested cases, to subpena witnesses and

compel their attendance, to require the production of papers, records or documents, administer oaths or affirmations to witnesses, to inspect such relevant books, papers, records or documents of such builder at his place of business during business hours, and to conduct inspections of new home construction sites owned by a builder or in which a builder has an ownership interest.

b. The commissioner may deny, suspend or revoke any certificate of registration, after affording the registrant or applicant the opportunity for a hearing in accordance with the provisions of the Administrative Procedure Act (P. L. 1968, c. 410, C. 52:14B–1 et seq.) applicable to contested cases, if the registrant or applicant has:

(1) Willfully made a misstatement of a material fact in his application for registration or renewal;

(2) Willfully committed fraud in the practice of his occupation;

(3) Practiced his occupation in a grossly negligent manner;

(4) Willfully violated any applicable building code to substantial degree;

(5) Failed to continue his participation in the new home warranty security fund or an approved alternate new home warranty security program after proper notice from the commissioner in writing by certified mail; or

(6) Violated any provision of this act or any rule or regulation adopted pursuant thereto, after proper notice from the commissioner in writing by certified mail.

C. 46:3B-7 New home warranty security fund; purpose; investment and reinvestment of moneys; claims; hearing; review through conciliation or arbitration procedure; replenishment of fund.

7. a. There is hereby established a new home warranty security fund to be maintained by the State Treasurer and administered by the commissioner. The purpose of the fund is to provide moneys sufficient to pay claims by owners against builders participating in the fund for defects in new homes covered by the new home warranty. The amounts payable by participating builders shall be established and may be changed from time to time, as the experience of the fund shall require, by the commissioner, and shall be sufficient to cover anticipated claims, to provide a reasonable reserve and to cover the costs of administering the fund. Amounts paid by participating builders shall be forwarded to the State Treasurer and shall be accounted for and credited by him to the new home warranty security fund.

b. The State Treasurer shall hold, manage and, through the Division of Investment, invest and reinvest moneys in the fund and credit all income earned thereon to the fund in the same manner as provided by law for the investment of pension and retirement funds administered by the State. The department shall keep the State Treasurer advised of anticipated cash demands for payment of claims against the fund.

c. Prior to making a claim against the fund for defects covered by the warranty, an owner shall notify the builder of such defects and allow a reasonable time period for their repair. If the repairs are not made within a reasonable time or are not satisfactory to the owner, he may file a claim against the fund in the form and manner prescribed by the commissioner. The commissioner shall investigate each claim to determine the validity thereof, and the amount of the award that shall be made thereon, and shall hold a hearing if requested by either party, in accordance with the provisions of the Administrative Procedure Act (P. L. 1968, c. 410, C. 52:14B–1 et seq.) applicable to contested cases. Reasonable hearing fees shall be assessed against the unsuccessful party. The amount of the award shall be sufficient to cover the reasonable costs necessary to correct any defect or defects covered under the warranty, but the total amount of awards from the fund for any new home shall not exceed the purchase price of the home in the first good faith sale thereof or the fair market value on the home on its completion date if there is no good faith sale. All claims submitted by an owner shall first be reviewed through a conciliation or arbitration procedure by the department, and in the event that the owner is found to be in the right, then the builder shall be required to correct such claims as determined through the conciliation or arbitration procedure. If a builder is unable or willfully refuses to correct such deficiency, then an amount sufficient to cure the problem shall be paid from the fund to the owner. In such cases, the commissioner may then proceed against the builder in accordance with section 6b of this act. Upon certification from the commissioner of the amount of an award, the State Treasurer shall make payment to the claimant from the fund.

d. If at any time the moneys available in the fund are insufficient to satisfy outstanding awards and anticipated awards for the succeeding year, the commissioner shall, by regulation and after public hearing upon reasonable notice to all interested parties, require participating builders to pay additional amounts to replenish the fund. The commissioner may also provide for sur-

charges against those participating builders who are responsible for a significant number of awards against the fund, and may discontinue the participation in the fund of any builder who is responsible for an excessive number of awards against the fund after a hearing in accordance with the provisions of the Administrative Procedure Act (P. L. 1968, c. 410, C. 52:14B–1 et seq.) applicable to contested cases. At no time shall the State be required to contribute any moneys to the fund, nor shall the State have any liability to any person having any right to or claim against the fund over and above the amount therein.

C. 46:3B-8 Review and approval of alternate new home warranty security programs.

8. The commissioner is authorized and directed to review and approve alternate new home warranty security programs which provide for payment of claims against builders for defects covered under the new home warranty and financial security adequate to cover the total amount of claims that may be reasonably anticipated against participating builders at least equivalent to that provided by the new home warranty security fund. However, any new home warranty insurance program approved by the Commissioner of Insurance prior to the adoption of this act shall: (1) Constitute an approved alternate new home warranty security program and shall be deemed in accordance with this section and in compliance with this act in the form and substance heretofore approved by the Commissioner of Insurance, (2) not be subject to any rules and regulations adopted by the Commissioner of the Department of Community Affairs pursuant to this act when such rules and regulations are in conflict with said previously approved new home warranty program. Any person desiring approval of a new home warranty security program shall make application to the commissioner in such form and manner as he shall prescribe. He may establish and charge reasonable fees to cover the costs incurred in reviewing and approving such applications. The commissioner shall review each application and conduct any investigation he deems necessary with respect to an application. The commissioner may, and if an applicant so requests, he shall, hold a hearing on an application in accordance with the provisions of the Administrative Procedure Act (P. L. 1968, c. 410, C. 52:14B–1 et seq.) applicable to contested cases. If the commissioner finds that a new home warranty security program provides coverage and financial security at least equivalent to the new home warranty security fund, he shall approve the program. The com-

missioner may revoke or suspend the approval for such a program after a hearing in accordance with the same procedures applicable to hearings on applications if he finds that the program no longer provides coverage and financial security equivalent to the new home warranty security fund.

C. 46:3B-9 Rights and remedies available to owner.

9. Nothing contained herein shall affect other rights and remedies available to the owner. The owner shall have the opportunity to pursue any remedy legally available to the owner. However, initiation of procedures to enforce a remedy shall constitute an election which shall bar the owner from all other remedies. Nothing contained herein shall be deemed to limit the owner's right of appeal as applicable to the remedy elected.

C. 46:3B-10 Rules and regulations.

10. The commissioner shall promulgate such rules and regulations as may be necessary to carry out the provisions of this act.

C. 46:3B-11 Act to supersede municipal ordinance or regulation.

11. This act shall supersede any municipal ordinance or regulation which provides for the licensing or registration of builders or for the protection by bonds or warranties required to be supplied by builders, exclusive of those required by water, sewer, utilities, or land use requirements.

C. 46:3B-12 Failure to register; penalty.

12. Any builder who fails to register as required hereunder shall be subject to a penalty not to exceed $2,000.00 for each offense to be enforced and collected by the commissioner in the name of the State in a summary proceeding in accordance with the Penalty Enforcement Law (N. J. S. 2A:58–1 et seq.).

13. This act shall take effect 6 months after enactment.

Approved March 3, 1978.

JOINT RESOLUTIONS

(1627)

Joint Resolutions

JOINT RESOLUTION No. 1

A JOINT RESOLUTION designating the week of February 6 to 12, 1977 as Catholic Schools Week.

WHEREAS, The Catholic schools of the State of New Jersey will be celebrating Catholic Schools Week in the State during the period February 6-12, 1977; and

WHEREAS, The Catholic schools in the State of New Jersey have had over a century of service educating millions of Jerseyans in preparation for their responsibilities as citizens of this State and as members of society; and

WHEREAS, Parents who send their children to nonpublic schools assist the State in reducing the rising costs of public education; and

WHEREAS, The 600 Catholic schools in the State currently provide over 216,000 students with a well-rounded educational program in moral values and community services; and

WHEREAS, The welfare of the State requires that this and future generations of school-age children be assured ample opportunity to develop to the fullest their intellectual capacities; and that in the exercise of their constitutional rights to choose nonpublic education for their children, parents who support such education make a major contribution to the public welfare; now, therefore,

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

1. That the week of February 6-12, 1977 is designated as Catholic Schools Week in the State of New Jersey to be recognized as such by State and municipal agencies throughout New Jersey.

2. That the Governor and the Legislature of the State of New Jersey hereby call on all of the citizens of the State to recognize the contribution Catholic schools make to education in the State and

commend their faculties, students and parents for their dedication and devotion to the quality education furnished the future citizens of this State.

3. This joint resolution shall take effect immediately.

Approved February 9, 1977.

JOINT RESOLUTION No. 2

A JOINT RESOLUTION creating a commission to study and review the motor vehicle inspection system.

WHEREAS, The Division of Motor Vehicles is required by statute to carry on the inspection of motor vehicles in this State; and

WHEREAS, Issues have been raised as to the efficiency of the present inspection system in relation to cost, as to the undue inconvenience this system may impose upon motorists, and as to the system's effectiveness in maintaining safe motor vehicles on this State's highways, improving air quality and providing for an adequate check on motor vehicle registration and insurance documentation; and

WHEREAS, The present system of motor vehicle inspection has undergone few changes since its inception in 1938 so that a comprehensive review of this system is needed to insure that a plan be developed to achieve the ends set forth in this resolution; and

WHEREAS, The future of the reinspection system in this State needs to be evaluated, in view of the fact that the private garage reinspection law expires in 1977; now, therefore,

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

1. There is hereby created a commission to consist of the following seventeen members: two members of the Senate, appointed by the President thereof, two members of the General Assembly, appointed by the Speaker thereof, the Director of the Division of Motor Vehicles, the Deputy Director of the Division of Motor Vehicles, and eleven public members appointed by the Governor.

2. The Governor shall designate a chairman. The chairman shall appoint a secretary who need not be a member of the commission.

3. The commission shall meet at the call of the Director of the Division of Motor Vehicles as soon as practicable after the appointment of its members.

4. The members of the commission shall serve without compensation but may be reimbursed for expenses incidental to their responsibilities and duties.

5. The duties of the commission shall be:

a. To review and evaluate the motor vehicle inspection system, including the reinspection system, of this State.

b. To review and evaluate alternative methods of inspection.

c. To evaluate the cost-effectiveness of motor vehicle inspection and the cost and safety benefits of inspection to the public.

d. To examine the relationship of motor vehicle inspection to accident causation and air quality.

e. To consider, in fulfilling its other duties, the standards set forth by the National Highway Traffic Safety Administration and the Federal Environmental Protection Agency.

f. To make recommendations after study and review carried out pursuant to this resolution.

6. The commission shall be entitled to call to its assistance and avail itself of the services of such employees of the State as it may require and as may be available to it for said purpose, and to employ such professional, stenographic, and clerical assistants and incur such traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for said purposes.

7. The commission shall render to the Governor and Legislature such interim reports as it may deem appropriate or as the Governor and Legislature may request and shall render a full report of its findings and recommendations upon the completion of its work, which shall be completed as soon as practicable but in any event not later than February 15, 1977; the final report shall be accompanied by any legislative bills which it may desire to recommend for adoption by the Legislature.

8. This joint resolution shall take effect immediately.

Approved February 16, 1977.

JOINT RESOLUTION No. 3

AN ASSEMBLY JOINT RESOLUTION creating a commission to study problems of restrictive zoning regulations, financing and taxation of mobile homes within the State of New Jersey.

WHEREAS, The State of New Jersey now faces a critical shortage of clean, decent and moderate-priced housing, especially for senior citizens and newly married couples; and

WHEREAS, The mobile home provides a source of supply of moderate-priced housing available for occupancy within a relatively short period of time; and

WHEREAS, Many municipalities in the State of New Jersey presently have zoning ordinances which prohibit or restrict the development of mobile home parks; and

WHEREAS, The use of mobile homes, a partial answer to the critical housing problem in the State of New Jersey is presently deterred by New Jersey tax laws which impose a sales tax on the purchase of a mobile home and thereafter impose real estate taxes on the owners of mobile home parks which taxes are then passed on to the mobile home residents as a part of their monthly rental charges and in addition some communities also charge a yearly space fee to the mobile home park owner which is passed on to the mobile home resident; and

WHEREAS, The financing of mobile homes is now either unregulated or regulated only by laws governing the purchase of automobiles, allowing interest rates to be charged in excess of the interest rates allowable in connection with mortgage loans on single-family dwelling units; now, therefore,

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

1. There is hereby created a commission to be comprised of 12 members, of whom two shall be appointed by the President of the Senate from among the members of the Senate and shall not be of the same political party; two shall be appointed by the Speaker of the General Assembly from among the members of the General Assembly and shall not be of the same political party; two shall

be citizens of this State to be appointed by the President of the Senate, no more than one of whom shall be of the same political party; two shall be citizens of this State to be appointed by the Speaker of the General Assembly, no more than one of whom shall be of the same political party; and four shall be citizens of this State to be appointed by the Governor, no more than two of whom shall be of the same political party. The eight citizen members shall include at least two representatives who are members of the New Jersey Mobile Homeowners Association, two representatives who are members of the New Jersey Mobile Home Association, one representative of the banking industry, and one attorney-at-law of the State of New Jersey who specializes in the field of municipal planning and zoning.

2. The commission shall organize as soon as may be after the appointment of its members and shall select a chairman from among its members and a secretary who need not be a member of the commission.

3. It shall be the duty of the commission to examine into municipal zoning prohibition and restrictions against the construction of mobile home parks, and the structure of the tax law of the State of New Jersey with respect to the acquisition and ownership of mobile homes and the adequacy and fairness of existing statutory and administrative regulations governing the financing of mobile homes in the State of New Jersey, and to make recommendations with respect to legislative and administrative changes necessary or desirable to promote the availability and use of the mobile home as a partial solution to the housing shortage in the State of New Jersey.

4. The commission shall be entitled to call to its assistance and avail itself of the services of such employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for said purpose, and to employ such stenographic and clerical assistants and incur such traveling and other miscellaneous expenses as it may deem necessary, in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for said purposes.

5. The commission may meet and hold hearings at such place or places as it shall designate during the sessions or recesses of the Legislature and shall report its findings and recommendations to the Governor and the Legislature within 2 years of the effective date of this resolution, or so long as may be necessary to complete

its work; provided, however, that in no event shall such time exceed 2 years and 6 months from the effective date of this resolution, accompanying the same with any legislative bills which it may desire to recommend for adoption by the Legislature.

6. This joint resolution shall take effect immediately and shall expire upon the submission by the commission of its report pursuant to section 5 hereof.

Approved October 19, 1977.

JOINT RESOLUTION NO. 4

A JOINT RESOLUTION reconstituting and continuing the U. S. S. New Jersey Battleship Commission to investigate the feasibility and practicability of obtaining the battleship from the Navy Department and operating it as a naval museum and memorial, created by Senate Joint Resolution No. 6 of 1975.

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

1. The U. S. S. New Jersey Battleship Commission to investigate the feasibility and practicability of obtaining the battleship from the Navy Department and operating it as a naval museum and memorial, created by Senate Joint Resolution, No. 6 of 1975, is hereby reconstituted and continued with the same membership, powers and duties as heretofore provided.

2. This joint resolution shall take effect immedately.

Approved November 30, 1977.

EXECUTIVE ORDERS

Executive Orders

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 48

WHEREAS, Severe weather conditions have created a critical shortage of natural gas and other energy supplies;

WHEREAS, The shortage of energy supplies endangers the health, safety, and resources of the residents of the State and is beyond the capabilities of county or local authorities;

WHEREAS, The shortage of natural gas and other energy resources requires that extraordinary measures be taken to conserve existing supplies for protection of the public health, safety and resources;

Now, THEREFORE, I, Brendan T. Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and laws of this State, App. A:9:30 et seq., hereby order, proclaim and direct:

1. A state of emergency exists in the State. The Governor's Advisory Council for Emergency Services, composed of the Attorney General, the Chief of Staff of the Department of Defense, the Commissioner of the Department of Community Affairs, the Commissioner of the Department of Environmental Protection, the Commissioner of the Department of Transportation, and the President of the Public Utility Commission, is directed to review the current situation and advise the Governor on planning and relief measures for the duration of the emergency.

2. (a) Temperatures within public buildings of State, county, local governments, and school boards, including educational institutions, shall be set as 65 degrees Fahrenheit during working hours and at 50 degrees Fahrenheit during non-working hours;

(b) Portable space heaters and threshold heaters used as supplementary heating sources are strictly prohibited;

(c) Window draperies and blinds shall be used to cut down heat losses by setting them to the closed position during nighttime hours and on cold, cloudy days, and setting them to the open position during periods of sunshine;

(d) Thermostat control devices for hot water shall be set to maintain a maximum temperature of no more than 110 degrees Fahrenheit;

(e) Steps shall be taken to eliminate heating in all unused and seldom used areas such as stairwells;

(f) During working hours, overhead lighting shall be reduced to fifty-foot candles at work stations, thirty-foot candles in work areas, and ten-foot candles (but at least one light) in non-working areas.

(g) Illumination levels at the center of corridor walking surfaces, and equidistant between two lighting fixtures, shall be maintained at one-foot candle. Lights provided in tandem to guard against darkened stairways upon failure of a light, and emergency lights are exempted from this provision;

(h) Off-hour and exterior lighting except for essential safety and security purposes shall be eliminated;

(i) Lights in work areas shall be turned off when these areas are not in use such as during lunch hours;

(j) Outside air intake shall be reduced to the greatest possible extent. Under most conditions, a ten percent outside air intake shall be adequate for general office space;

(k) All aesthetic, ornamental lights or signs shall be extinguished.

3. The regulations provided in paragraph two shall not apply to hospitals, hospital units, nursing homes or any other building or class of building which demonstrates to the satisfaction of the Council the need for an exemption to protect the public health, safety or welfare.

4. The Department of Community Affairs is directed to require that temperatures in multiple dwellings or other buildings subject to its regulation be set at 65 degrees from 6 a.m. to 11 p.m. and at 55 degrees from 11 p.m. to 6 a.m. The Commissioner of the Department is authorized to grant exemptions from those standards to protect the public health, safety or welfare.

5. The Department of Public Utilities is directed to expedite formulation of an energy allocation plan during the emergency.

6. All private persons are urged to comply with the above standards. Any State, local government or health board rule or regulation which prevents compliance with these standards by public or private interests is hereby rescinded for the duration of the emergency.

7. This Executive Order shall take effect immediately.

[SEAL] Given, under my hand and seal this 27th day of January in the year of Our Lord, one thousand nine hundred and seventy-seven of the Independence of the United States the two hundredth and first.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 49

WHEREAS, In Executive Order No. 48 dated January 27, 1977 I have previously declared a state of emergency as a result of severe weather conditions and shortage of fuel supplies;

WHEREAS, The continuing severe weather and fuel shortages endanger the health, safety and resources of the residents of the State so that additional extraordinary measures are needed to conserve existing supplies for the protection of the public;

NOW, THEREFORE, I, Brendan T. Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and the laws of this State, hereby order, proclaim and direct:

1. All retail and business establishments, including stores, offices, restaurants, bars and recreational facilities, and all educational institutions, except the residential accommodations therein, regardless of the type of heating fuel utilized, shall close for the full day of Sunday, January 30, 1977, unless heating is restricted

to a maintenance level of 50 degrees or such lower or higher temperature required to avoid permanent damage to equipment or property.

2. Temperatures shall be set in all single and multiple family dwellings at no higher than 65 degrees from 6:00 a.m. to 11:00 p.m., and at no higher than 60 degrees from 11:00 p.m. to 6:00 a.m., regardless of the type of heating fuel utilized. This paragraph shall amend paragraph 4 in Executive Order No. 48.

3. All retail and business establishments, including stores, offices, restaurants, bars and recreational facilities, shall be open for business purposes not more than 40 hours per week commencing 12:01 a.m., Monday, January 31 until further notice, regardless of the type of heating fuel utilized. Temperatures within such establishments during working hours shall be set at no higher than 65 degrees, and during non-working hours shall be restricted to a maintenance level of 50 degrees or such lower or higher temperature required to avoid permanent damage to equipment or property.

4. The Public Service Electric and Gas Company is ordered to supply to the New Jersey Natural Gas Company sufficient gas required to avoid curtailment of gas supplies to residential users of New Jersey Natural Gas Company. This order shall remain in effect only as long as such reallocations will not result in curtailments to residential and other Priority I users supplied by Public Service Electric and Gas Company.

5. State, County and local law enforcement agencies are directed to enforce the provisions of this Order and of Executive Order No. 48. Any person who violates any provision of this Order or of Executive Order No. 48 shall be subject to such penalties as are provided by law (App. A:9–30).

6. The President of the New Jersey Board of Public Utility Commissioners, or his designee, is authorized to grant exemptions from the above standards to protect the public health, safety or welfare except as to multiple dwellings or other buildings subject to the regulation of the Department of Community Affairs.

7. This Executive Order shall take effect immediately.

Given, under my hand and seal this 29th day of January in the year of Our Lord, one thousand nine hundred

[SEAL]

and seventy-seven of the Independence of the United States the two hundredth and first.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 50

WHEREAS, The Division of Motor Vehicles is required by statute to carry on the inspection of motor vehicles in this State; and

WHEREAS, Issues have been raised as to the efficiency of the present inspection system in relation to cost, as to the undue inconvenience this system may impose upon motorists, and as to the system's effectiveness in maintaining safe motor vehicles on this State's highways, improving air quality and providing for an adequate check on motor vehicle registration and insurance documentation; and

WHEREAS, The present system of motor vehicle inspection has undergone few changes since its inception in 1938 so that a comprehensive review of this system is needed to insure that a plan be developed to achieve the ends set forth in this resolution; and

WHEREAS, The future of the reinspection system in this State needs to be evaluated, in view of the fact that the private garage reinspection law expires in 1977; and

WHEREAS, The Legislature has by Assembly Joint Resolution No. 28 indicated its intention to establish a commission to study and review the motor vehicle inspection system; and

WHEREAS, Assembly Joint Resolution No. 28 has been signed into law;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and Statutes of his State, do hereby Order and Direct:

1. The commission created by Assembly Joint Resolution No. 28 to study and review the motor vehicle inspection system in New Jersey shall continue to convene beyond February 15, 1977.

2. The membership, duties and authority of the commission shall continue as constituted under Assembly Joint Resolution No. 28.

3. The commission shall file an interim report to the Governor and Legislature no later than September 15, 1977 with reference to the motor vehicle private garage reinspection system (N. J. S. A. 39:8–11 et seq.) and such other reports as may thereafter be appropriate. Such reports shall be accompanied by any legislative bills which the commission may desire to recommend for adoption by the Legislature.

4. This order shall take effect immediately.

[SEAL] Given, under my hand and seal this 15th day of February in the year of Our Lord, one thousand nine hundred and seventy-seven of the Independence of the United States, the two hundredth and first.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 51

WHEREAS, Legislative amendments to the New Jersey Gross Income Tax Act have created understandable confusion concerning the deadlines for filing claims for homestead rebates authorized by law; and

WHEREAS, P. L. 1977, c. 17, will permit persons who were not previously eligible to file claims for homestead rebates to submit such claims on or before April 1, 1977; and

WHEREAS, The director of the Division of Taxation has advised that he believes that good cause has been shown for the exercise of his authority pursuant to P. L. 1976, c. 72 to extend the time for all applicants to file claims for homestead rebates:

Now, THEREFORE, I, Brendan T. Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and laws of this State, hereby order, proclaim and direct:

1. The director of the Division of Taxation is directed to extend the time for all applicants for homestead exemptions to file claims on or before April 1, 1977.

2. This Executive Order shall take effect immediately.

Given, under my hand and seal this 15th day of March
[SEAL] in the year of Our Lord, one thousand nine hundred and seventy-seven of the Independence of the United States the two hundredth and first.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 52

WHEREAS, In Executive Order No. 48 a state of emergency has been declared because of severe weather conditions and shortages of energy supplies; and

WHEREAS, The conservation of energy supplies in accordance with the standards of these Executive Orders and more temperate weather conditions have eased the conditions threatening the public health, safety and welfare; and

WHEREAS, There remains a continuing need for the conservation of energy supplies by all citizens;

Now, THEREFORE, I, Brendan T. Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and laws of this State, hereby order, proclaim and direct:

1. The state of emergency declared by Executive Order No. 48 is hereby terminated.

2. Executive Orders Nos. 48 and 49 are hereby rescinded.

3. All laws or regulations suspended by Executive Order Nos. 48 and 49 are hereby reinstated.

4. Energy Conservation measures imposed by Executive Order No. 13 on State-owned or State-leased buildings shall remain in effect.

5. All citizens are urged to continue conservation of energy supplies. During the air-conditioning season, I urge all New Jersey residents to keep air-conditioning thermostats at settings no lower than 78° Fahrenheit during occupied periods and at higher settings during unoccupied periods.

6. This Executive Order shall take effect immediately.

Given, under my hand and seal this 4th day of April
[SEAL] in the year of Our Lord, one thousand nine hundred and seventy-seven of the Independence of the United States the two hundredth and first.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 53

WHEREAS, The development of Liberty State Park presents an opportunity for New Jersey to create a unique urban, environmental, recreational and commercial resource for the citizens of New Jersey and the Nation; and

WHEREAS, The development of Liberty State Park must be based on sound planning and financing consistent with the public interest; and

WHEREAS, The analysis of planning and development alernatives should be undertaken by citizens representing a wide range of interests;

Now, THEREFORE, I, Brendan Byrne, 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 commission to be known as the Liberty State Park Study and Planning Commission (hereinafter referred to as the "Commission") to be appointed by and serve at the pleasure of the Governor. The members of the Commission shall be appointed by the Governor from a broad spectrum of the citizenry of the State. The members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties subject to the availability of funds therefor.

2. The Governor shall designate a chairman and vice-chairman of the Commission from among the members of the Commission. The chairman shall preside over the meetings and affairs of the Commission and shall create such subcommittees as he deems appropriate to carry out the functions of the Commission. The chairman shall have such further powers and duties as may be conferred upon him by the Governor. In the absence of the chairman, the vice-chairman shall have all the powers and duties of the chairman. The Commission may retain or designate an executive director.

3. (a) The Commission shall conduct a thorough study and investigation of the various alternatives for the planning, design and development of Liberty State Park. In conducting the study, the Commission shall fully consider the following:

(1) environmental, social and economic impact of the various alternatives;

(2) impact of the various alternatives on existing transportation systems and requisite improvements that the various alternatives will require;

(3) capital costs of the various alternatives;

(4) operating costs of the various alternatives;

(5) sources of funds available for capital and operating costs;

(6) phasing of the development of the various alternatives;

(7) compatibility with concerns of local governments and residents; and

(8) such other factors as the Commission shall deem relevant.

(b) In conducting its study and investigation, the Commission shall review the reports and studies already prepared or presently being prepared in connection with Liberty State Park. The Commission may conduct such further studies and hire such additional consultants as it shall deem necessary to fulfill its duties hereunder, subject to approval of financing arrangements by the Treasurer and the availability of funds.

(c) In conducting its study and investigation, the Commission shall fully consider the feasibility of developing a park which utilizes private investment to enhance the potential of the Park and the redevelopment of adjacent areas.

4. The Commission shall proceed promptly with its study and investigation and upon completion of its work the Commission shall render to the Governor a full report of its findings and recommendations. Said findings and recommendations shall be made as soon as practicable consistent with the nature of the study and investigation to be undertaken.

5. In order to carry out its functions, the Commission shall conduct public meetings and hearings and solicit information from the public and any other source as it deems appropriate. Notice of public hearings shall be given in such manner as the chairman may direct to provide an opportunity for interested members of the public to be heard.

6. (a) The Commission is authorized to call upon any department, office, division or agency of the State to supply such data, program reports, and other information, personnel or assistance as it deems necessary to discharge its responsibilities under this Order.

(b) Each department, office, division or agency of the State is authorized and directed, to the extent not inconsistent with law, to cooperate with the Commission and to furnish it with such informa-

tion, personnel and assistance as necessary to accomplish the purposes of this Order.

7. This Order shall take effect immediately.

[SEAL] Given, under my hand and seal this 13th day of April in the year of Our Lord, one thousdand nine hundred and seventy-seven, of the Independence of the United States the two hundredth and first.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 54

WHEREAS, Boards, commissions, committees and councils are frequently established without provision for their termination upon achievement of their purpose; and

WHEREAS, The number of boards, commissions, committees and councils are proliferating needlessly; and

WHEREAS, A program should be established to provide for periodic review to end this proliferation of boards, commissions, committees and councils;

Now, THEREFORE, I, Brendan T. Byrne, 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. Each department of this State shall during the month of December of each calendar year, report to the Office of Governor's Counsel, as to whether or not those boards within its jurisdiction should be continued, with the justification set forth for such continuation.

2. Where a board has a roster of current members, the board shall be requested by the department within which it is located to comment upon the need for its continued existence.

3. On or before February 15, the Office of Governor's Counsel shall issue a report to the Governor and Legislature on the activities of each board, together with legislation to repeal or amend the authorization, duties, or composition of any board for which such action is necessary.

4. Such legislation shall be offered for introduction by Governor's Counsel no later than March 1 of each calendar year.

5. Any board established by executive order shall terminate on the first day of the third March following its establishment unless otherwise indicated in the executive order or unless renewed by executive order.

6. This Order shall take effect immediately.

Given, under my hand and seal this 20th day of April
[SEAL] in the year of Our Lord, one thousand nine hundred and seventy-seven of the Independence of the United States the two hundredth and first.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 55

WHEREAS, There exists a continuing need for the review and analysis of the fiscal position of State and local government; and

WHEREAS, The passage of significant legislation reforming the State's tax structure and imposing mandatory limits on increases in government spending creates new challenges and opportunities for government at all levels; and

WHEREAS, The present tax program will self-destruct on July 1, 1978; and

WHEREAS, School districts will begin preparing school budgets in the fall of 1977 and are presently relying upon one billion 260 million dollars of school aid, which will expire with this program; and

WHEREAS, Municipal governments will begin preparing municipal budgets in December of 1977 and are presently relying upon $689 million of aid, which will expire with the program; and

WHEREAS, The State budget must be submitted in February 1978 and must provide appropriations for the above-named purposes and revenues to support such appropriations, and must reflect the future disposition of homestead rebate payments amounting to $266 million, and revenues to support such appropriations; and

WHEREAS, The future continuity of a business tax reform package must be provided for, one way or another, in the State budget; and

WHEREAS, Municipal, school, county, and State budgets must be prepared within spending limitations (caps) or without such limitations, depending upon the future of the program; and

WHEREAS, A lack of information about any part of the program, or a delay in addressing the problems of this program or devising an alternative course, or an uninformed judgment about the consequences of one or another courses of action could unsettle the administration of government at all levels in the State of New Jersey; and

WHEREAS, A comprehensive and thorough review of projected revenues and expenditures will assist State and local governments in planning to meet public needs in the most efficient and effective manner;

NOW, THEREFORE, I, Brendan T. Byrne, 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 commission to be known as the Commission on Government Costs and Tax Policy (the "Commission") composed of 17 members, appointed by and serving at the pleasure of the Governor. The members shall serve without com-

pensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties subject to the availability of funds.

2. The Governor shall designate a chairman and vice-chairman of the Commission from among the members of the Commission. The chairman shall preside over the meetings and affairs of the Commission and shall create such subcommittees as he deems appropriate to carry out the functions of the Commission. The chairman shall have such further powers and duties as may be conferred upon him by the Governor. In the absence of the chairman, the vice-chairman shall have all the powers and duties of the chairman. The Commission may retain or designate an executive director, and a staff subject to the approval of arrangements for compensation by the Treasurer.

3. (a) The Commission shall conduct a thorough study and investigation of the costs and funding sources of State, county and local government. In conducting the study, the Commission shall consider, report and make recommendations concerning the following:

(1) social and economic impact of current tax legislation and limitations on the growth of government expenditures;

(2) nature and level of projected expenditures of State, county and local government and the demands for new programs;

(3) nature and level of projected revenues for State, county and local governments;

(4) analysis of the adequacy of projected revenues to meet expenditures;

(5) review of the equity of current and alternative tax legislation on various income groups;

(6) compatibility with concerns of county and local governments;

(7) effect of current tax and spending limitation legislation on education objectives and policy;

(8) implications of current and alternative financing sources on credit standing of State government;

(9) alternatives to current tax and spending limitation programs and their effects;

(10) such other factors as the Commission shall deem relevant to its objectives.

(b) In conducting its study and investigation, the Commission shall review the reports and studies already prepared or presently being prepared by State, county, local governments or other public or private agencies. The Commission may conduct further studies and retain additional consultants necessary to fulfill its duties, subject to approval of financing arrangements by the Treasurer.

4. The Commission shall proceed promptly with its study and investigation. The Commission shall render to the Governor a full report of its findings and recommendations by December 1, 1977.

5. The Commission shall conduct public meetings or hearings and solicit information from the public and any other appropriate source. Notice of public meetings or hearings shall be given in such manner as the chairman may direct to provide an opportunity for interested members of the public to be heard.

6. (a) The Commission is authorized to call upon any department, office, division or agency of the State to supply such data, program reports, and other information, personnel or assistance as it deems necessary to discharge its responsibilities under this Order.

(b) Each department, office, division or agency of the State is authorized and directed, to the extent not inconsistent with law, to cooperate with the Commission and to furnish it with such information, personnel and assistance necessary to accomplish the purposes of this Order.

7. This Order shall take effect immediately.

[SEAL] Given, under my hand and seal this 18th day of May in the year of Our Lord, one thousand nine hundred and seventy-seven of the Independence of the United States the two hundredth and first.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 56

WHEREAS, The New Jersey Pinelands is an area of special environmental, scenic, recreational, educational, historic and agricultural interest; and

WHEREAS, The Pinelands provides a habitat for the preservation of wildlife in forests, streams and wetlands and contains vast surface and ground water supplies; and

WHEREAS, The Pinelands is vital to the agricultural resources of the State through extensive cultivation of blueberries, cranberries and other agricultural products; and

WHEREAS, Existing State law recognizes the special environmental, scenic, recreational, educational, historic and agricultural resources of the Pinelands; and

WHEREAS, The protection of the unique resources of the Pinelands is in the interest of the State and Nation which requires the planning and coordination of State actions affecting such resources;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the statutes of this State, do hereby Order and Direct:

1. (a) There is hereby established a Pinelands Review Committee ("the Committee") consisting of the Commissioner of the Department of Environmental Protection, the Commissioner of the Department of Community Affairs, and the Secretary of Agriculture, or their designated representatives, and such citizens who may be appointed by and shall serve at the pleasure of the Governor. The Governor shall designate the chairman of the Committee. The Division of State and Regional Planning in the Department of Community Affairs shall serve as staff to the Committee.

(b) The Committee shall review all major State activities significantly affecting the special and unique environmental resources of the Pinelands. Consistent with Federal and State law, the Committee shall approve only projects consistent with the protection of the unique resources of the Pinelands.

(c) All State departments and agencies shall submit for review to the Committee pending or proposed major State actions significantly affecting the Pinelands. These actions shall include, without limitation, State capital construction projects, construction regulations, soil erosion standards, environmental quality regulations, acquisition of open space lands and all public or private actions requiring State review or funding.

(d) Within 90 days of the date of this Order, all State departments and agencies shall submit to the Committee an inventory of all pending or proposed projects, programs or regulations administered by the department or agency which may affect the Pinelands. The Committee shall review the inventory, and may approve or propose plans, guidelines or standards necessary to make departmental plans consistent with the purposes of this Order. The Committee shall develop a plan and program to guide and control State actions affecting the Pinelands. The Committee may approve departmental plans, guidelines or standards for the administration of programs affecting the Pinelands, and authorize the department to review particular projects or regulations consistent with such approved plans.

(e) The Committee shall advise the Governor if it determines that any action would be inconsistent with the protection of the unique resources of the Pinelands.

2. Within 90 days of the date of this Order, the Division of State and Regional Planning shall submit to the Committee a report outlining the options for delineation of the Pinelands; this report may designate areas within the Pinelands which require special treatment or strategies to achieve the purposes of this Order. The Committee shall review this report, and hold a public hearing to receive comments concerning the report. The Committee shall recommend to the Governor a delineation of the Pinelands needed to accomplish the purposes of this Order. Upon approval by the Governor, the recommendation shall be utilized to define the Pinelands for purposes of this Order. Until a revised delineation is approved, the Pinelands shall be defined as the area included in P. L. 1971, c. 417 (C. 13:18–6).

3. Within one year of the date of this Order, the Division of State and Regional Planning shall submit to the Committee a plan for approval which shall guide State actions affecting the Pinelands. This plan shall be developed after public hearing and consultation with relevant public and private agencies and groups, in-

cluding county and local governing bodies, planning boards, agricultural, environmental and sportsmen groups. The plan shall have the following primary objectives:

(a) The preservation of the unique environmental resources of the Pinelands;

(b) The promotion of agricultural, forestry and recreational uses compatible with the protection of the environment;

(c) The encouragement of needed commercial, residential or other development within existing developed areas or other areas which may be developed compatible with preservation of unique environmental resources;

(d) The discouragement of scattered and piecemeal development in open space areas.

4. The Committee shall review the effect of all State actions on private property rights and values. It shall prepare a report summarizing these effects and analyzing the justification and options for compensation of private property owners, including direct payments, tax credits or adjustments and the use of development rights or other land-use concepts. The report shall also review the effect of all State actions on county and municipal tax revenues and analyze the feasibility of financial or other assistance to counties or municipalities which incur substantial revenue losses as a result of State actions to protect the Pinelands. In preparing this report, the Committee shall consult with and be assisted by the Treasurer, the Attorney General, the Director of the Division of Local Government Services and other relevant State officials.

5. The Department of Environmental Protection shall, after receiving public comments and consultation with interested officials, groups and individuals:

(a) Adopt water quality standards and regulations for the rivers and waters in the Pinelands required to maintain and protect the purity of these waters;

(b) Designate the Pinelands as a critical area for sewerage purposes, and develop regulations for the approval and control of all sewage and septic systems;

(c) Review existing State-owned lands in the Pinelands and designate appropriate "natural areas" pursuant to the Natural Areas Systems Act, P. L. 1975, c. 363 (C. 13:1B–15.12a et seq.);

(d) Identify potential sites eligible for designation as historic preservation areas.

6. Within 90 days of the date of this Order, the Department of Agriculture shall review and identify agricultural activities and uses within the Pinelands and submit to the Committee a report recommending methods and actions to preserve and strengthen agricultural activities and uses consistent with the protection of other resources.

7. The Department of Education and the Department of Higher Education shall promote appropriate educational and research activities involving the Pinelands with an emphasis on bringing urban primary and secondary school students to the region for ecological education.

8. This Order shall take effect immediately.

[SEAL] Given, under my hand and seal this 28th day of May in the year of Our Lord, one thousand nine hundred and seventy-seven, and of the Independence of the United States, the two hundredth and first.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 57

WHEREAS, The support of new construction in New Jersey is a continuing and important need vital to the public health, safety and welfare;

WHEREAS, The promotion of new construction requires prompt and efficient administration by the State government of permit application and review procedures;

WHEREAS, The objective of the State government should be to consolidate and simplify application procedures and forms in order to serve the public interest;

WHEREAS, The State has successfully implemented a program for the review of construction permits by the Department of Environmental Protection within 90 days from submission of the application;

WHEREAS, The success of this program indicates that additional efforts should be made to expand the expeditious processing of construction permit applications to other agencies within the State government;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and the Laws of this State, do hereby Order and Direct that:

1. There is hereby created a Cabinet Committee on Permit Coordination ("the Committee"). The members of the Committee shall be the Commissioners of the Departments of Community Affairs, Environmental Protection, Labor and Industry, Transportation, Office of Business Advocacy, the State Treasurer and the Director of the Division of Budget and Accounting or their designated representatives. The Chief of the Office of Business Advocacy shall be secretary to the Committee, and shall provide staff from his Office to assist the Committee at its request. The members of the Committee shall each serve in rotation as chairperson for intervals directed by the Committee, with the Commissioner of the Department of Labor and Industry serving as the first chairperson. The Committee may also obtain the assistance of other personnel of State departments and agencies. All departments and agencies are authorized and directed to cooperate with the Committee's requests for personnel.

2. The Committee shall compile with the assistance of the Division of State and Regional Planning in the Department of Community Affairs an inventory of all construction permits issued by State departments or agencies. The Committee shall publish a handbook to assist the public in the application and processing of construction permits.

3. All State departments shall approve, condition or disapprove an application for a construction permit within 90 days following the date that application is complete, except that the time period may be extended by mutual consent of the applicant and the department. Each State department shall file a periodic report as the Committee may direct which identifies those construction permit

applications which are pending review for periods in excess of 90 days from submission. The report shall provide (a) the status of the permit review, (b) the type of project, (c) the reasons for delays or extensions in the time for review, (d) the estimated additional time needed to complete review of the application and (e) any additional information requested by the Committee. The Committee may request additional information from the department of particular applications which in its judgment are pending review for excessive periods of time, or which require special review or procedures. The Committee shall advise the Governor of types of permit reviews which are consistently exceeding 90 days, and recommend any appropriate actions. At the request of a department head, the Committee may exempt for good cause types of permits or individual permit applications from any of the provisions of this Order.

4. Any person proposing to commence a construction project in excess of $500,000 in construction costs may request the Committee to coordinate the review of the project. The Committee or its representative may meet with the applicant to discuss methods to assist the prompt and efficient processing of permit applications. After review of the nature of the project, the Committee shall designate a single State employee as the "expediter" for the project. The expediter shall (a) advise the applicant of all State permits necessary for the construction of the project, (b) coordinate contacts with relevant agencies reviewing the permits, (c) discuss with State departments and agencies the feasibility of consolidating hearings, documentation or other matters pertaining to the project, (d) advise the Committee of problems or delays experienced in the review and (e) assist the applicant and the Committee in completing the expeditious review of permit applications.

5. The Committee shall obtain from all State departments copies of application forms and other documents required in the submission and processing of permits. The Committee shall review these forms and documents, and propose methods by which the forms may be consolidated or simplified. The Committee shall provide its recommendations to the Governor concerning the consolidation or simplification of these forms and documents within 120 days from the date of this Order.

6. The Committee shall review relevant legislation concerning construction permit applications and review requirements and pro-

cedures. The Committee shall advise the Governor on possible legislative revisions which would consolidate, simplify or expedite present procedures.

The Committee or its representatives shall meet with county and local government officials and other interested public and private persons to discuss possible coordination and consolidation of State and local permit application and review procedures. The Committee shall advise the Governor of possible legislative or other actions required to implement its recommendations.

8. There is hereby created a Citizen Committee on Permit Coordination composed of citizens of the State appointed by and serving at the pleasure of the Governor. The Citizens Committee may include persons from the construction industry, labor union representatives, developers, real estate interests, environmental organizations, academic community and others interested in construction in the State and the efficient administration of permit procedures. The Citizens Committee shall advise the Committee on any matter relevant to the purposes of this Order, and may advise the Committee and applicants for construction permits of methods and procedures for the most expeditious processing of permits.

9. The Committee is authorized to adopt rules or establish procedures necessary to achieve the purposes of this Order. The Committee may revise the amount of construction costs or adopt other criteria for projects eligible for the assistance provided pursuant to paragraph 4.

10. This Order shall take effect immediately.

Given, under my hand and seal this 5th day of July,
[SEAL] in the year of Our Lord, one thousand nine hundred and seventy-seven of the Independence of the United States, the two hundredth and second.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 58

WHEREAS, The adoption by Congress of Federal legislation, popularly referred to as the "Health Professions Education Assistance Act," (P. L. 94–484), hereinafter referred to as the Federal Act, will sharply curtail the immigration of foreign nationals, trained as physicians, hereinafter referred to as FMG's, to serve in residency training programs in New Jersey; and,

WHEREAS, 55% of the approximately 1,600 residency training positions in New Jersey hospitals are filled by FMG's, in contrast to a national percentage of 29%; and

WHEREAS, It is foreseeable that there exists an impending crisis of major proportions for New Jersey hospitals, which will find themselves suddenly without sufficient house staff to provide needed patient services; and

WHEREAS, Other states will face similar crises so that New Jersey cannot hope to compensate for the loss of FMG's by resorting to physicians from other states, and may, in fact, lose a greater percentage of its graduates from the College of Medicine and Dentistry to other states because of this impending crisis; and

WHEREAS, The decrease in available hospital physicians will almost certainly lead to a reduction in health manpower statewide;

NOW, THEREFORE, it is Ordered:

1. That there be created a Commission on Professional Health Services, hereinafter referred to as the "Commission."

2. (a) The Commission shall consist of five members to be appointed by the Governor to serve at the pleasure of the Governor.

(b) The members shall be individuals broadly representative of the citizens of this State who will be affected by the impending reduction in the availability of FMG's.

(c) The Governor shall appoint from among those named to the Commission a chairperson to serve as such at the pleasure of the Governor.

3. The Commission shall explore and evaluate all feasible means of dealing with the crisis caused by the impending unavailability of FMG's, including but not limited to:

(a) Increased utilization of services provided by existing health care professionals;

(b) Development of new types of health care professional roles;

(c) Retention of a greater number of graduates from the College of Medicine and Dentistry in New Jersey;

(d) Providing more attractive opportunities for out-of-state medical school graduates to settle in New Jersey; and

(e) Review of existing prerequisites to licensure and hospital residency in New Jersey.

4. The Commission may call upon any of the State departments for such assistance as may be required from such departments, and, in particular, from the Departments of Health and Higher Education. The Commission may also call upon the assistance of the College of Medicine and Dentistry.

5. In carrying out its study, the Commission shall seek the advice and recommendations of the following groups and shall consider such advice and recommendations in preparing its final report:

(a) The New Jersey Medical Society;

(b) The New Jersey Osteopathic Society;

(c) The New Jersey Hospital Association;

(d) The State Nurses Association;

(e) The State Health Coordinating Council;

(f) Any other groups which may provide health services in this State and which, in the judgment of the Commission, may be affected by the crisis caused by the impending unavailabilty of FMG's and by the solutions offered by this Commission to meet this crisis.

6. The Commission shall issue an interim report no later than December 15, 1977, with its recommendations and with such draft legislation as it may propose.

7. This Order shall take effect immediately.

[SEAL] Given, under my hand and seal this 14th day of July, in the year of Our Lord, one thousand nine hundred and seventy-seven of the Independence of the United States, the two hundredth and second.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 59

WHEREAS, The marine fisheries resources of this State supply a valuable part of New Jersey's natural resources, recreational activity and food supply and are essential to the promotion of the public health, safety and welfare; and

WHEREAS, Those resources support industries important to the economy of this State; and

WHEREAS, The "Fishery Conservation and Management Act of 1976" (the 200-Mile Legislation) requires each state to provide for the conservation and management of its marine fisheries; and

WHEREAS, Comprehensive management programs and policies for New Jersey's marine fisheries will aid in the maintenance and expansion of the State's commercial and recreational fishing industries; and

WHEREAS, Various State agencies are presently involved in the development and implementation of new programs to aid and protect marine fisheries resources and industries which require the input and assistance of interested citizens.

NOW, THEREFORE, I, Brendan Byrne, 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 Commission on Marine Fisheries comprised of citizens and residents of the State appointed by and serving at the pleasure of the Governor, including the heads of the Department of Environmental Protection, Agriculture and Labor and Industry, or their designated representatives, and the Director of the Division of Fish, Game and Shellfisheries who shall serve as members of the Commission ex officio. The members shall serve without compensation. The Governor shall designate a Chairman who shall preside over meetings.

2. It shall be the duty of the Commission to:

(a) Examine, review and study any matter relevant to the conservation and management of the marine fisheries resources of the State;

(b) Review, draft and recommend legislation that will provide the State authority for the conservation and management of the State's marine fisheries resources;

(c) Review and recommend management regulations of the matters of the conservation of marine fisheries resources and to recommend any other action that should be taken by the State;

(d) Advise the State on its policies, programs and objectives in the area of marine fisheries resources; and

(e) Assist and advise State agencies in the development and implementation of new programs to protect, promote and expand marine fisheries resources and industries.

3. The Director of the Division of Fish, Game and Shellfisheries shall provide the Commission with the information, staff and resources necessary for the performance of its duties subject to the availability of funds.

4. The Commission is authorized to conduct such public hearings and to solicit such information from the public and from any other source as is necessary for the performance of its duties and the carrying out of its functions. Notice of public hearings shall be given in such manner as the Chairman may direct in order to provide an opportunity for interested members of the public to be heard.

5. Each department, office, division or agency of the State is authorized and directed, to the extent not inconsistent with law and the purposes of this Order, to cooperate with the Commission and to furnish it with such information and assistance as it may find necessary in the discharge of its responsibilities.

6. Within 180 days from the effective date of this Order, the Commission shall conclude all its work and submit to the Governor a final report detailing its findings and recommendations.

7. Within the limits of funds therefor, the Commission shall be authorized to incur such expenses as may be necessary to exercise the powers and perform the duties imposed by this Order.

8. This Order shall take effect immediately.

Given, under my hand and seal this 3rd day of
[SEAL] September, in the year of Our Lord, one thousand nine hundred and seventy-seven of the Independence of the United States, the two hundredth and second.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 60

WHEREAS, It has been the policy of the Administration to maximize the investment return on all State funds; and

WHEREAS, The State Treasurer, as the chief financial officer of the State, has been responsible for implementing that policy by insuring prompt deposit of all investable funds and by seeking the highest interest return consistent with safety of principal; and

WHEREAS, Certain State agencies and officials are custodians, by statute or long-standing practice, of trust funds which are not directly controlled by the State Treasurer and not administered with his expert advice;

Now, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and laws of this State, hereby Order and Direct:

1. The State Treasurer shall issue guidelines and regulations dealing with the administration of such funds and, consistent with appropriate statutes, shall provide for the deposit, investment, and accounting of those funds.

2. This Order shall take effect immediately.

[SEAL] Given, under my hand and seal this 23rd day of September, in the year of Our Lord, one thousand nine hundred and seventy-seven of the Independence of the United States, the two hundredth and second.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 61

WHEREAS, The Executive Branch of State Government recognizes that the employment of minorities, physically handicapped persons and women serves to increase the effectiveness of State Government and that fair and nondiscriminatory treatment for all its employees promotes the merit principle, encourages career employment and results in greater efficiency in the operation of State Government; and

WHEREAS, The State is required to comply with Title VII of the Civil Rights Act of 1964, P. L. 88-352 (1964), as amended by the Equal Opportunity Act of 1972, P. L. 92-261 (1972), Presidential Order No. 11246, 30 F.R. 12319 (1965), and Presidential Order No. 11375, 32 F.R. 14303 (1966), Federal guidelines appearing in 41 CFR 60 (1972) as amended, and The Rehabilitation Act of 1973, P. L. 93-112 (1973); and

WHEREAS, Equal employment opportunity regardless of race, creed, color, national origin, age, sex, and physical handicap has been the law of this State at least since passage of the New Jersey Law Against Discrimination, N. J. S. 10:5–1 et seq. (1945); and

WHEREAS, Executive Order No. 21, issued June 24, 1965, by Governor Richard J. Hughes, established this State's goal of eliminating discrimination in State employment, facilites, and services; and

WHEREAS, Executive Order No. 14, issued December 23, 1974, delegated formal executive leadership to the Department of Civil Service to obtain compliance with Federal Equal Employment Opportunity Commission guidelines and provided the impetus to begin to correct deficiencies and to increase the utilization of minorities, women, and physically handicapped persons at all levels of responsibility;

NOW, THEREFORE, I, Brendan T. Byrne, 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. This Order extends to all departments in the Executive Branch and all appointees of the Governor in the Executive Branch and their staff. As used in this Order, "departments and agencies", shall include each of the principal departments in the executive branch of the State Government, and all boards, commissions, agencies, departments, councils, authorities, now existing or hereafter established.

2. The head of each department and agency to which this Order applies shall ensure equality of opportunity for all of its employees and for all applicants seeking employment within its jurisdiction. Equal employment opportunity includes, but is not necessarily limited to, the following areas: recruitment, selection, hiring, training, promotion, transfer, layoff, return from layoff, compensation and fringe benefits. It includes policies, procedures, and programs for recruitment, employment, training, promotion, and retention of minority and physically handicapped persons and women. The head of each department and agency to which this Order applies is required to explore innovative personnel policies in order to enhance these efforts and where appropriate shall implement them to the full extent of his or her authority. Where the implementation of such innovative personnel policies is not within the authority of an agency or department head he or she shall recommend implementation to the appropriate State agency.

As used in this Order, the head of a department or agency refers to the individual representing the highest authority within any department and agency, included in section 1 of this Order.

3. The Commissioner of the Department of Civil Service shall maintain an Equal Employment Opportunity and Affirmative Action Division in the Department of Civil Service which shall develop, implement, and administer a statewide Equal Employment Opportunity and Affirmative Action Program for all departments and agencies subject to this Order. Such a program shall take into consideration the particular personnel requirements, reasonably related to job performance, of each department and agency. The Director of that Divison ("Director") shall ensure that affirmative action and equal employment goals of each department and agency for protected classes shall be reasonably related to their population in the relevant surrounding Labor Market Area. The Director shall be responsible to the Governor and to the President of the Department of Civil Service and, in accordance with applicable Federal and State guidelines shall:

a. Ensure each department's or agency's compliance with all laws and regulations, and this Order in all areas relating to equal employment opportunity, and seek correction of discriminatory practices and procedures;

b. Recommend appropriate sanctions to the Governor and to the President of the Civil Service Commission for non-compliance. The President of the Civil Service Commission with the concurrence of the Governor, shall have authority to implement those sanctions recommended by the Director;

c. Review State personnel policies and procedures, inclusive of recruitment, selection, and promotion in order to identify and facilitate the elimination of artificial barriers to equal employment opportunity;

d. Act as liaison with Federal, State, and local enforcement agencies;

e. Recommend any necessary legislation and perform other actions deemed necessary by the Governor and the President of the Civil Service Commission to implement this Order.

4. The Department of Civil Service shall establish reasonable equal employment and affirmative action goals for departments and agencies in the form of Civil Service regulations pursuant to N. J. S. 11:17–1.

5. The Department of Civil Service, through the Divison of Equal Employment Opportunity and Affirmative Action, shall:

a. Ensure that the pool of applicants for all vacant provisional, temporary, and permanent classified and unclassified positions in all departments or agencies includes both minorities, the handicapped, and women to the end that affirmative action goals are attainable through agency selection decisions on such applicants;

b. Undertake a comprehensive review of its regulations and testing procedures in order to amend or eliminate those which serve to discriminate against minorities, the physically handicapped, and women;

c. Ensure that selection devices are validated as significant predictors of successful job performance;

d. Analyze job specifications to isolate and eliminate prerequisites that are not legitimate occupational qualifications;

e. Review all Title VII discrimination complaints; evaluate trends, and recommend appropriate policy changes;

f. Receive, analyze, and transmit to the Governor at least semi-annually progress reports on affirmative action in all State agencies; and

g. Make available to the public statistics relating to affirmative action progress.

6. The head of each department or agency shall appoint at least one individual with the full-time responsibility of equal employment opportunity, as the Affirmative Action Officer who shall be responsible to the head of the agency.

7. The head of each State department and agency shall be held accountable to the Governor for achieving and maintaining agency compliance in the Affirmative Action Program.

a. Each department and agency shall submit an affirmative action plan complete with goals and timetables, plus quarterly and annual affirmative action reports to the Director. Each affirmative action plan shall identify existing inequities in hiring, promotion, and all other conditions of employment and provide specific remedies for such inequities and establish the time periods for the accomplishment of remedial action. Each department and agency shall make good faith efforts to meet its goals and timetables;

b. In the event of failure to achieve agency goals, or to demonstrate good faith efforts, appropriate sanctions and penalties may be applied by the Civil Service Commission in accordance with Federal and State regulations subject to the concurrence of the Governor and the President of the Civil Service Commission. Such sanctions may include, but would not be limited to placing a moratorium on departmental personnel actions in both the unclassified and classified services, and such other sanctions as may be allowed by law.

c. Agencies which achieve outstanding affirmative action results shall be cited by the Governor for their efforts.

8. There is hereby created an Equal Employment Opportunity Advisory Commission which shall advise the Division of Equal Employment Opportunity and Affirmative Action and recommend improvements in the State's affirmative action efforts:

a. The Commission shall consist of 11 members appointed by the Governor at least 6 of whom shall be Blacks, Hispanics, physically handicapped, women and other minority persons. Consideration shall be given to appropriate representation of each group. The remaining members of the Commission may be comprised of State agency heads or their designated representatives. All members of

the Commission shall be residents of the State and appointed by the Governor. The members shall be appointed for terms of 4 years, except that of the members first appointed, two shall be appointed for a term of 1 year, three for a term of 2 years, three for a term of 3 years, and three for a term of 4 years, commencing as of the date of their appointment by the Governor. The term of each of the members first appointed shall be designated by the Governor. Each member shall hold office for the term of the appointment and until a successor shall have been appointed. Members will not be permitted to serve more than two consecutive terms. A vacancy in the Commission shall be filled by appointment by the Governor for the remainder of the term.

b. The Director of the Divison of Equal Employment Opportunity and Affirmative Action shall serve as Executive Secretary;

c. The Commission shall meet at least quarterly to review implementation of this Executive Order.

9. Although the State Affirmative Action Program is specifically directed toward the active promotion of equality of employment opportunity for women, minority persons, and the physically handicapped, it is also the policy of State Government to avoid any discrimination on the basis of all other factors unrelated to the performance of job responsibilities.

10. In order to ensure maximum effectiveness of this Order I am hereby directing the Division of Equal Employment Opportunity and Affirmative Action to prepare procedural recommendations for the full implementation of the provisions of this Order and to promulgate such provisions in the State Personnel Manual.

11. Executive Order No. 14, issued on December 23, 1974 is hereby superseded.

Given, under my hand and seal this 12th day of
[SEAL] October, in the year of Our Lord, one thousand nine hundred and seventy-seven of the Independence of the United States, the two hundred and second.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 62

WHEREAS, It is necessary to determine whether November 25, 1977, the day following Thanksgiving, will be a work day; and

WHEREAS, It is necessary to determine work schedules for the purpose of effective State operations;

NOW, THEREFORE, I, Brendan T. Byrne, 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 that:

1. a. November 25, 1977, the day following Thanksgiving, shall be granted as a day off to employees who work in the Executive Department of the State Government and who are paid from State funds, whose functions, in the opinion of their Appointing Authority, permit such absence.

b. An alternative day off shall be granted to the aforementioned category of employee whose functions, in the opinion of their Appointing Authority, preclude such absence on November 25, 1977.

2. This Order shall take effect immediately.

[SEAL] Given, under my hand and seal this 12th day of November, in the year of Our Lord, one thousand nine hundred and seventy-seven of the Independence of the United States, the two hundredth and second.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ HENRY N. LUTHER III,
Executive Secretary to the Governor.

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Unlawful employment practices, exemption for certain qualifications required by social and religious organizations, amends C. 10:5–5 et al., Ch. 122.

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Commission on Efficiency and Economy in State Gov't., constituted under S.C.R. 141 of 1976, $100,000.00, Ch. 77.
Corporation Law Revision Commission, reconstituted, C. 1:14–9 et seq., Ch. 66.
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Mobile homes, study problems of restrictive zoning regulations, financing and taxation, J. R. 3.
Motor vehicle inspection system, study and review, J. R. 2.
N. J. Casino Control Commission, established, C. 5:12–1 et seq., Ch. 110.
Temporary Commission on Individual Liberty and Personal Privacy, created, Ch. 226.
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Mortgage Finance Agency, chairmanship transferred from Commissioner of Banking, amends C. 17:1B–7, Ch. 449.

CONSUMER AFFAIRS
Motor vehicle franchisor, liability for warranty, supplements Franchise Practices Act, C. 56:10–13 et seq., Ch. 84.

CORPORATIONS
Corporate names, use, words "blind" or "handicapped" as part thereof, prohibited, C. 14A:2–2.2, ch. 8.
Corporation Law Revision Commission, reconstituted, C. 1:14–9 et seq., Ch. 66.
Employee stock plans, certain, excluded from requirement of shareholders' consent, amends N. J. S. 14A:8–2, Ch. 334.
Medical service, authorized, provide and insure dental services, amends C. 17:48A–1 et al., Ch. 95.
"New Jersey Corporation Takeover Bid Disclosure Law," C. 49:5–1 et seq., Ch. 76.
Newly incorporated required to indicate as part of corporate name, that it is a corporation, C. 14A:2-2a and C. 14A:2-2b, Ch. 59.
Registered office, limitation on change of location, eliminated, amend N. J. S. 14A:4–3 et al., Ch. 34.

COUNTIES
Acquisition of property for police departments, repeals N. J. S. 40A:14–119 et al., Ch. 175.
Appropriate funds, for treatment, etc., of burn victims, authorized, C. 40:23–8.23 et seq., Ch. 14.
Board of chosen freeholders, annual organizational meeting, Sunday, if authorized by resolution, amends R. S. 40:20–75, Ch. 394.
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Contributions, National Burn Victim Foundation, authorized, in annual budget, C. 40:23–8.22, Ch. 13.
Corporation bank taxes, distribution, July 10, 1977 and annually thereafter, amends C. 54:10A–33, Ch. 142.
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County court judges, 2 additional, Essex, Bergen and Ocean counties, amends N. J. S. 2A:3-13, Ch. 227.
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"County Environmental Health Act," C. 26:3A2-21 et seq., Ch. 443.
"County Flood Control Financing Law," C. 40:23-34 et seq., Ch. 333.
County improvement authorities, authorized, sale of revenue bonds at ongoing market rate, calculation of payments in lieu of taxes, amends C. 40:37A-60 et al., Ch. 80.
County improvement authorities, mortgage real and personal property, amends C. 40:37A-55 et al., Ch. 291.
County improvement authorities, payment in lieu of taxes, certain amounts authorized, new facilities, amends C. 40:37A-83, Ch. 109.
County park police, legal aid, amends N. J. S. 40A:14-117, Ch. 455.
County recording officer, notification of subdivisions to municipal tax assessor, C. 40:55D-54.1, Ch. 174.
County sewer district authorities, authorized, vary rates charged, amends C. 40:36A-18 et al., Ch. 378.
Detectives, certain 2nd class counties, deputy chief and 3 additional captains, authorized, amends N. J. S. 2A:157-4, Ch. 79.
District court constables and sergeants-at-arms, fees, amends N. J. S. 22A:2-38, Ch. 203.
Drainage improvement projects, railroad property, authorized, without compensation to railroad, C. 40:23-6.50, Ch. 71.
Eminent domain powers, counties operating under County Solid Waste Disposal Financing Law, procedure for "taking" prescribed, C. 40:66A-31.4a, Ch. 319.
Expenditures limit act, certain contractual costs, exempt from cap, amends C. 40A:4-45.4, Ch. 10.
Fire District 1, established, Dover Twp., Ocean Co., Ch. 52.
Improvement authorities, certain counties of third class authorized as common carriers, amends C. 40:37A-90, Ch. 154.
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Land sales, nonprofit cemetery organization, authorized, amends C. 40A:12-21, Ch. 87.
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Local Budget Law, certain contracts, terms exceeding fiscal year, amends N. J. S. 40A:4-57, Ch. 164.
Memorial buildings, raising of funds authorized, compliance Local Public Contracts Law, transfer of interest or title authorized, amends R. S. 40:10-5, Ch. 432.
Municipal and county utilities authorities, authorized, construct and operate solid waste facilities, amends C. 40:14B-1 et al., Ch. 384.
Municipal Utilities Authorities, connection and tapping fees, authorized, amends C. 40:14B-21, Ch. 441.
N. J. Association of Counties, contributions authorized, amends R. S. 40:23-6, Ch. 134.
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Public contracts, corporate and partnership bidders, disclosure of owners of 10% or more interest therein, C. 52:25–24.2, Ch. 33.
Public housing assistance programs, participation authorized, C. 40:32A–1 et seq., Ch. 93.
Railroad freight line services, appropriation of funds, authorized, amends C. 40:9C–1, Ch. 411.
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Transfer of cases, counties reimbursed, changes effective date of P. L. 1973, c. 271 (C. 2A:11–5.1 et seq.), to December 1, 1971, Ch. 48.

CRIMES
Bribery and corruption, public officials, penalties increased, amends N. J. S. 2A:85-6 et al., Ch. 214.
Juveniles, age of responsibility, lowered to 14 years, amends N. J. S. 2A:85–4 et al., Ch. 364.
Sexual exploitation of children, photographs and films, high misdemeanor, C. 2A:142A–1 et seq., Ch. 329.

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Littering and polluting coastal waters, owner of vessel liable, amends C. 2A:170–69.1, Ch. 111.
Littering and polluting fresh waters, owner of vessel liable, amends C. 2A:170–69.1a, Ch. 112.

DRUGS
Amygdalin (Laetrile), dispensing by certain persons, upon written request of patient, authorized, C. 24:6F–1 et seq., Ch. 318.
Controlled dangerous substance, 10 days' supply, possession in other than original container, authorized, certain conditions, amends C. 24:21–18, Ch. 428.
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Boards of education, certain school districts, authorized, convey certain lands to nonprofit child care service organization, amends N. J. S. 18A:20–9, Ch. 447.
Board of education, procedure, contesting validity of affidavits, pupils attending schools outside their district, amends N. J. S. 18A:38–1, Ch. 373.
Boards of education, procedures for filling vacancies, amends N. J. S. 18A:12–15, Ch. 324.
Custodian of school moneys, appointment, certain cases, authorized, amends N. J. S. 18A:17–31, Ch. 464.
Defray cost civil action defense, school board employee assigned for professional pre-teaching field experience, amends N. J. S. 18A:16-6, Ch. 216.
Dept. of Education, Technology for Children program, appropriates $124,229.00, Ch. 148.
Division of State Library Archives and History, supervision, Assistant Commissioner, State Librarian, amends N. J. S. 18A:4–32 et al., Ch. 322.
Educational Improvement Centers, regional, established, C. 18A:6–92 et seq., Ch. 120.
"Garden State Scholarship Act of 1977", C. 18A:71–26.1 et seq., Ch. 345.
Graduate Medical Education program, established, C. 18A:64H–1 et seq., Ch. 390.
Handicapped pupils, classification, prior consultation with parent or guardian required, amends N. J. S. 18A:46–8, Ch. 415.
Handicapped children, "resource room" program, additional State aid, Ch. 41.
Independent Colleges and Universities Utilization Act, enrollment requirement reduced from 500 to 350, amends C. 18A:72B–3, Ch. 271.
"Institution of Higher Education Educational Loan Act," C. 18A:68–11.1 et seq., Ch. 123.
Institutions of higher education, qualification as lenders, amends N. J. S. 18A:72–2 et al., Ch. 191.
Limited purpose regional school district, withdrawal procedure, amends C. 18A:13–52 and C. 18A:13–53, Ch. 279.
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"N. J. Educational Research and Museum Development Act," C. 18A:73–44 et seq., Ch. 399.
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"Public School Contracts Law," N. J. S. 18A:18A–1 et seq., Ch. 114.
Public School Education Act of 1975, State categorical aid, resource room programs, amends C. 18A:7A–20, Ch. 445.
Pupil records, disclosure to parents authorized, amends N. J. S. 18A:36–19, Ch. 346.
Regional boards of education, membership, procedure for staggered terms, amends 18A:13–9, Ch. 327.
Remedial services for handicapped in nonpublic schools, provided, C. 18A:46–19.1 et seq., Ch. 193.
School aid allocation, $178.9 million tax relief, refund to property owners, certain school districts, Ch. 15.
School boards, deficits in teacher summer payment plans, authorization to use current appropriations, C. 18A:29–3.1 et seq., Ch. 152.
School election officers, increase rate of compensation, not to exceed $4.00 per hour, amends N. J. S. 18A:14–8, Ch. 325.
Schools of Optometry, contractual agreemnts, acceptance of N. J. students, authorized, C. 18A:63B–1 et seq., Ch. 420.
Special State aid, certain school districts, loss of tuition due to establishment of new regional district, C. 18A:58–11.1 et seq., Ch. 72.
State aid, distribution to county vocational school districts, certain counties, amends C. 18A:7A–24, Ch. 149.
State aid to county colleges for operational costs, increased, amends N. J. S. 18A:64A–22, Ch. 133.
Student Assistance Board, created, coordinate and administer scholarship and tuition aid programs, C. 18A:71–15.1 et al., Ch. 330.
Task Force on Business Efficiency of the Public Schools, extends reporting date, amends P. L. 1975, c. 212, Ch. 194.
Transportation subsidies, nonpublic school pupils, increased from $200.00 to $250.00, amends N. J. S. 18A:39–1, Ch. 206.
Tuition Aid Grants, higher education, changes eligibility requirements and limits, amends C. 18A:71–43 et al., Ch. 344.
Vocational schools, private, contracts for courses, authorized, C. 18A:54–10.1 et seq., Ch. 290.

ELECTIONS
Absentee Voting Law, amends C. 19:57–2 et al., Ch. 47.
Assistance in polling booth, disabled voter, choose own assistant, amends R. S. 19:50–3, Ch. 304.
Ballot position, drawing date, changed, amends R. S. 19:14–12 et al., Ch. 431.
Intradistrict change of residence, vote by affidavit, within 2 years, amends R. S. 19:31–11, Ch. 89.
Municipal commission candidates, filing method, amends R. S. 40:75–3, Ch. 103.
Polling places, selection, accessible to elderly and physically disabled persons, amends R. S. 19:8–3, Ch. 326.

ELECTIONS (Continued)
Primary, 1st, exempt, filing political party affiliation form, amends R. S. 19:23–45 et al., Ch. 97.
State party platforms, time for completion extended, amends R. S. 19:5–6, Ch. 145.

EMINENT DOMAIN
Counties, operating under County Solid Waste Disposal Financing Law, procedures for "taking" prescribed, C. 40:66A–31.4a, Ch. 319.

ENVIRONMENT
Conservation officers vested with police powers, C. 13:1A–6.1 et al., Ch. 167.
"County Environmental Health Act," C. 26:3A2–21 et seq., Ch. 443.
"County Flood Control Financing Law," C. 40:23–34 et seq., Ch. 333.
"Economic and Environmental Impact Statement Act of 1976," C. 52:13F-1 et seq., Ch. 247.
Green Acres, Comprehensive Master Plan, Commissioner to develop and maintain, C. 13:8A–55, Ch. 348.
Island Beach State Park, maintain present state, C. 13:6–2 et seq., Ch. 105.
"N. J. Wild and Scenic Rivers Act", C. 13:8-45 et seq., Ch. 236.
Soil conservation districts, equality of representation; boundaries reaffirmed, amends R. S. 4:24-18 et al., Ch. 264.
Sludge, processing or land disposal, pursuant to solid waste management district and State plans, C. 13:1E–43 et seq., Ch. 328.
Water Policy and Supply Council, hearings, conduct by 1 or more members, amends R. S. 58:1-8, Ch. 269.
"Water Pollution Control Act," C. 58:10A–1 et seq., Ch. 74.
"Water Quality Planning Act," C. 58:11A–1 et seq., Ch. 75.

ENVIRONMENTAL PROTECTION
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Sandy Hook State Park, transferred to U. S. Govt., part of Gateway National Recreational Area, Ch. 294.

FIREMEN
Exempt firemen certificates, age requirement, reduced to 18 years, amends N. J. S. 40A:14-56, Ch. 248.
Labor disputes, compulsory arbitration, C. 34:13A–14 et seq., Ch. 85.
Leaves of absence, certain State or National Conventions, C. 40A:14–177, Ch. 347.
Police and Firemen's Retirement System, certain overage firemen, temporarily eligible, Ch. 20.
Police and Firemen's Retirement System, reenrollment, certain former members, authorized, Ch. 58.
Short-wave radio receivers, authorized, without permit, amends N. J. S. 2A:127–4, Ch. 426.
Special license plates, authorized, C. 39:3–27.8 et seq., Ch. 369.

FISH AND GAME
Conservation officers vested with police powers, C. 13:1A–6.1 et al., Ch. 167.
Lobsters, taking certain, research project, amends R. S. 23:5–9, Ch. 11.
Trapping license, course of instruction on trapping methods, required, C. 23:3–7.8 et seq., Ch. 320.

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Horse race meetings, additional day as "Charity Racing Day for the Developmentally Disabled," C. 5:5–44.2 et seq., Ch. 200.
Horse racing, distribution of certain moneys collected, local municipal services, certain municipalities, C. 5:5–48.1, Ch. 313.
State lottery, disbursement of prizes by lottery agents, amends C. 5:9–7, Ch. 169.

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"Handicapped Person's Recreational Opportunities Act of 1978," C. 52:27D–170 et seq., Ch. 379.
Pupils, classification, prior consultation with parent or guardian required, amends N. J. S. 18A:46–8, Ch. 415.

HEALTH
Amygdalin (Laetrile), dispensing by certain persons, upon written request of patient, authorized, C. 24:6F–1 et seq., Ch. 318.
Cancer incidence registry, establishment and maintenance required, C. 26:2-104 et seq., Ch. 266.
Community Health Services, State aid, $2,425,824.00, Ch. 277.

HEALTH (Continued)
County board of health, amends C. 26:3A2-4, Ch. 258.
"County Environmental Health Act," C. 26:3A2–21 et seq., Ch. 443.
Funeral directors, death notices, certain cases, first class mail, amends R. S. 26:6–6, Ch. 147.
Group health insurance, inclusion of benefits, treatment of alcoholism, C. 17B:27–46.1, Ch. 116.
Health benefits program extended, State employees retired on or after July 1, 1964, amends C. 52:14–17.32, Ch. 136.
Health Care Facilities, bio-analytical laboratory, redefined, private long-term health care facility, defined, amends C. 26:2H–2, Ch. 354.
Health care facilities, certain deficient in standards and services, temporary receivership, C. 26:2H-36 et seq., Ch. 238.
Health insurance, inclusion of benefits, treatment of alcoholism, C. 17B:26–2.1, Ch. 118.
Home health care, coverage required, group health insurance contracts, C. 17B:27–51.2 et seq., Ch. 99.
Home health care, coverage required, health insurance contracts, C. 17B:26–39 et seq., Ch. 98.
Hospital service corporations, inclusion of benefits, treatment of alcoholism, C. 17:48–6a, Ch. 115.
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Meat inspection, law governing State inspection services, repealed, C. 24:16B–11 et seq., Ch. 162.
Medical service corporations, authorized, provide and insure dental services, amends C. 17:48A–1 et al., Ch. 95.
Medical service corporations, inclusion of benefits, treatment of alcoholism, C. 17:48A–7a, Ch. 117.
Newborn infants, program and testing, hypothyroidism, C. 26:2–110 and C. 26:2–111, Ch. 321.
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Nursing care facilities, certain, centralized, coordinated system of discharge planning, required, amends C. 26:2H-12, Ch. 250.
Nursing care facilities, provide assistance, residents, certain circumstances, C. 26:2H–47 et seq., Ch. 387.
Nursing homes, disclosure of interests, required, C. 26:2H-32 et seq., Ch. 237.
Office of the Ombudsman for the Institutionalized Elderly, established, Dept. of Community Affairs, C. 52:27G-1 et seq., Ch. 239.
Pharmaceutical assistance to the aged, costs paid by State, less $1.00 co-payment, amends C. 30:4D-22 et al., Ch. 268.
"Prescription Drug Price and Quality Stabilization Act," C. 24:6E-1 et seq., Ch. 240.
"Public General Hospital Assistance Act," C. 30:9–12.29 et seq., Ch. 289.
Private long-term health care facility, defined, amends C. 26:2H-2 et al., Ch. 251.
"Public Health Priority Funding Act of 1977," amends C. 26:2F–1 et seq., Ch. 332.
Radioactive materials, storage, transportation and handling, regulated, C. 26:2D-18 et seq., Ch. 233.
State Mosquito Control Commission, created, Dept. of Environmental Protection, amends C. 26:9–12.3 et al., Ch. 366.
Tuberculosis treatment and prevention, revision of statutes pertaining thereto, amends N. J. S. 18A:40–11 et al., Ch. 63.

HEALTH (Continued)
Vital statistics, issuance new birth certificates, certain foreign born children, authorized, amends C. 26:8–40.10, Ch. 288.

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Bidding and payment procedures, State highway projects, revised, amends R. S. 27:7–29 et al., Ch. 67.
Garden State Parkway panel and pickup trucks allowed on northern sections, amends C. 27:12B–20, Ch. 196.
Projects, damages to water supplies, State to compensate, certain circumstances, amends C. 27:7–21.1, Ch. 453.
State aid, roads, width limitation, eliminated, C. 27:13–1a, Ch. 442.
State highway system, new route added, Ch. 405.
Trucks, authorized to travel Garden State Parkway, up to proposed interchange with Rt. 18, amends C. 27:12B–20, Ch. 129.
Turnpike toll increase, public hearing required, C. 27:23-5.10 and C. 27:23-5.11, Ch. 230.

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HOSPITALS
Nursing care facilities, certain, centralized, coordinated system of discharge planning, required, amends C. 26:2H-12, Ch. 250.
Private long-term health care facility, defined, 3rd floor occupancy permitted, certain cases, amends C. 26:2H-2 et al., Ch. 251.
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HOUSING
Assistance programs, authorized, certain counties, C. 40:32A–1 et seq., Ch. 93.
Mortgage Assistance Fund, additional $1,000,000.00 authorized, Northgate II project in Camden, amends C. 55:14J–46, Ch. 104.
Projects for redevelopment, renewal or rehabilitation, "holder of a mortgage loan," definition corrected, amends C. 55:17–9, Ch. 368.

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Community residences for developmentally disabled persons, provides for development, licensing and regulation, C. 30:11B–1 et seq., Ch. 448.

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N. J. Economic Development Authority, authorized, development of new industrial and commercial centers, urban areas, amends C. 34:1B–2 et al., Ch. 393.
N. J. Economic Development Authority, certain motion picture and T.V. loans authorized, amends C. 34:1B–3, Ch. 43.

INSTITUTIONS AND AGENCIES
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INSURANCE
Companies, certain, exempt, keeping investment securities issued and guaranteed by Fed. Govt. on deposit in N. J., amends R. S. 17:24–12, Ch. 351.
Credit life and credit health insurance, option husband or wife as debtor, amends C 17:48A–1 et al., Ch. 296.

INSURANCE (Continued)
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Group health insurance, inclusion of benefits, treatment of alcoholism, C. 17B:27–46.1, Ch. 116.
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Home health care, coverage required, group health insurance contracts, C. 17B:27–51.2 et seq., Ch. 99.
Home health care, coverage required, health insurance contracts, C. 17B:26–39 et seq., Ch. 98.
Hospital service corporations, inclusion of benefits, treatment of alcoholism, C. 17:48–6a, Ch. 115.
Joint Underwriting Assoc., authorized, certain insolvent insurance companies, amends C 17:30B–2 and C 17:30B–10, Ch. 278.
Life insurance, investment return assurance, C. 17B:28A–1 et seq., Ch. 374.
Life, variable, separate accounts, certain, amends N. J. S. 17B:28–1 et al., Ch. 37.
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"Division of Travel and Tourism Act," established, C. 34:1A-45 et seq., Ch. 225.
Division of Workers' Compensation, director and judges, salary increases, amends R. S. 34:15–49, Ch. 314.
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Business personal property, machinery and equipment, acquired on or after January 1, 1977, exempt, C. 54:11A–3.1, Ch. 4.
Cigarette Tax Act, possession of unstamped cigarettes, penalties, amends C. 54:40A–28 et al., Ch. 188.
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Property tax exemptions, widows, certain veterans, extended, amends C. 54:4–3.30 et seq., Ch. 107.
Property tax rebates or credits, residential tenants, amends C. 54:4–6.3 et seq., Ch. 81.
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Real property, tax exemption, widows, DAV, certain circumstances, amends C. 54:4–3.30 et al., Ch. 377.
Residential property, rezoned as commercial, assessment to remain residential, if owner occupies as residence, amends C. 54:4–23.24, Ch. 434.
Sales and Use Tax, business machinery and equipment, exempt on and after January 1, 1978, amends C. 54:32B–8, Ch. 18.
Sales and use tax, certain commercial motor vehicles, exempt, amends C. 54:32B-8, Ch. 217, effective 1/1/78.
Sales and Use Tax, exempt, certain sales of gold or silver, amends C. 54:32B–8, Ch. 305.
Sales and Use Tax, solar energy devices or systems, exempt July 1, 1978, amends C. 54:32B–8, Ch. 465.
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Commuter Operating Agency, contracts with motor bus carriers, extended through June 30, 1978, amends P. L. 1976, C. 119, s. 6, Ch. 143.
Commuter Operating Agency, property income, collected and expended, public transportation purposes, amends C. 27:1A–25 et al., Ch. 383.
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VETERANS (Continued)
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