

2A:102-19

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1999 **CHAPTER:** 193

NJSA: 2A:102-19 (prepaid funerals)

BILL NO: S1223 (Substituted for A2202)

SPONSOR(S): Kyrillos

DATE INTRODUCED: June 22, 1998

COMMITTEE: **ASSEMBLY:** Appropriations

SENATE: Senior Citizens, Veterans' Affairs & Human Services

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 10, 1999

SENATE: June 21, 1999

DATE OF APPROVAL: August 31, 1999

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: Senate Committee Substitute (1R)
(Amendments during passage denoted by superscript numbers)

S1223

SPONSORS STATEMENT: (Begins on page 7 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: [Yes](#)

A2202

SPONSORS STATEMENT: (Begins on page 7 of original bill) [Yes](#)

Bill and Sponsor Statement identical to S1223

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#) [12-3-98 \(Health\)](#)

Identical to Senate Committee Statement for S1223

[Yes](#) [3-18-99 \(Appropriations\)](#)
Identical to Assembly Committee Statement for S1223

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: [Yes](#)

Identical to Legislative Fiscal Estimate to S1223

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

P.L. 1999, CHAPTER 193, *approved August 31, 1999*
Senate Committee Substitute (*First Reprint*) for
Senate, No. 1223

1 AN ACT concerning prepaid funeral agreements, amending P.L.1993,
2 c.147 and supplementing Title 2A of the New Jersey Statutes.

3

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

6

7 1. (New section) An aged, blind or disabled applicant for, or
8 recipient of, benefits under the Supplemental Security Income program
9 established pursuant to Title XVI of the federal Social Security Act,
10 Pub.L.92-603 (42 U.S.C. s.1381 et seq.), or an applicant for, or
11 recipient of, benefits under the Medicaid program established pursuant
12 to P.L.1968, c.413 (C.30:4D-1 et seq.), the Work First New Jersey
13 program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.)
14 or the "Work First New Jersey General Public Assistance Act,"
15 P.L.1947, c.156 (C.44:8-107 et seq.), or any successor program
16 thereof, shall have excluded from resource consideration, in
17 determining eligibility for benefits, any moneys of the applicant,
18 applicant's spouse and any other member of his immediate family, as
19 defined in N.J.A.C.10:71-4.4, in an irrevocable funeral trust or
20 irrevocably assigned newly issued funeral insurance policy, as those
21 terms are defined in section 19 of P.L.1993, c.147 (C.2A:102-18), that
22 are equivalent to the fair market value of funeral and burial goods and
23 services selected and contracted for that are intended for the use of the
24 applicant, applicant's spouse and any other member of his immediate
25 family. All income paid to the irrevocable funeral trust or any increase
26 in the face value or death benefit attributable to the irrevocably
27 assigned newly issued funeral insurance policy, shall inure to the value
28 or benefit of the irrevocable funeral trust or irrevocably assigned newly
29 issued funeral insurance policy and shall not be countable as income
30 for continuing eligibility.

31

32 2. (New section) Notwithstanding any provision of law to the
33 contrary, any moneys remaining in an irrevocable funeral trust or
34 irrevocably assigned newly issued funeral insurance policy that are the
35 result of a difference between the price of funeral and burial goods and
36 services actually provided to the intended funeral recipient, as defined
37 in section 19 of P.L.1993, c.147 (C.2A:102-18), upon that person's

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted March 18, 1999.

1 death, and the accumulated value of the irrevocable funeral trust or
2 irrevocably assigned newly issued funeral insurance policy, shall be
3 paid over to the State according to the provisions of this act if, at the
4 time of death, the intended funeral recipient was receiving benefits
5 pursuant to section 1 of this act, and the moneys that established the
6 irrevocable funeral trust or the irrevocably assigned newly issued
7 funeral insurance policy were those of the intended funeral recipient
8 or the intended funeral recipient's spouse.

9
10 3. (New section) a. If the intended funeral recipient is under the
11 care and guardianship of the Office of the Public Guardian for Elderly
12 Adults, established pursuant to section 4 of P.L.1985, c.298
13 (C.52:27G-23), in the creation of an irrevocable funeral trust fund or
14 the purchase of an irrevocably assigned newly issued funeral insurance
15 policy, or upon taking charge of such assets, the Office of the Public
16 Guardian for Elderly Adults shall name itself as purchaser, as defined
17 in section 19 of P.L.1993, c.147 (C.2A:102-18), or sole beneficiary,
18 as appropriate. In the case of an irrevocably assigned newly issued
19 funeral insurance policy that provides for a settlement of proceeds, the
20 Office of the Public Guardian for Elderly Adults may, as an alternative
21 to being named beneficiary, be named as payee of the balance of any
22 remaining moneys subsequent to the delivery, as defined in section 19
23 of P.L.1993, c.147 (C.2A:102-18) of funeral and burial goods and
24 services, but with a claim superior to any beneficial interest.

25 b. Any moneys remaining thereafter shall be paid to the Division
26 of Medical Assistance and Health Services in the Department of
27 Human Services, by the Office of the Public Guardian for Elderly
28 Adults, in accordance with an order of the Superior Court discharging
29 the Public Guardian for Elderly Adults as guardian of the decedent.

30
31 4. (New section) a. In the case of an irrevocable funeral trust of
32 a decedent who is not under the care and guardianship of the Office of
33 the Public Guardian for Elderly Adults, the entire remainder after the
34 payment of funeral and burial goods and services shall be paid to the
35 Division of Medical Assistance and Health Services in the Department
36 of Human Services, as though the division were the purchaser of the
37 trust.

38 b. In the case of an irrevocably assigned newly issued funeral
39 insurance policy of a decedent who is not under the care and
40 guardianship of the Office of the Public Guardian for Elderly Adults,
41 the policy shall not be excluded as a resource pursuant to section 1 of
42 this act unless the Division of Medical Assistance and Health Services
43 in the Department of Human Services is named the sole beneficiary of
44 the policy, either at the time of issue or during the time that the
45 insured was an applicant for or recipient of benefits of programs
46 specified in section 1 of this act. In the case of an irrevocably assigned

1 newly issued funeral insurance policy that provides for a settlement of
2 proceeds, the Division of Medical Assistance and Health Services in
3 the Department of Human Services may, as an alternative to being
4 named beneficiary, be named as a payee of the balance of any
5 remaining moneys subsequent to the delivery of funeral and burial
6 goods and services, but with a claim superior to any beneficial interest.
7

8 5. (New section) The Division of Medical Assistance and Health
9 Services in the Department of Human Services shall establish a
10 dedicated bank account into which a pooled trust, depository
11 institution or insurance company shall deposit, by means of electronic
12 funds transfer, any moneys to which the State is entitled under the
13 provisions of section 4 of this act and which are funds of decedents
14 whom the pooled trust, depository institution or insurance company
15 reasonably believes were recipients of benefits of programs specified
16 in section 1 of this act at the time of death. A pooled trust, depository
17 institution or insurance company so making deposits shall periodically,
18 but not less than once each calendar quarter, provide to the Director
19 of the Division of Medical Assistance and Health Services in the
20 Department of Human Services, or his designee, a record of the
21 deposits made along with the names and other identifying information
22 of those decedents. As the basis for the actions specified herein, the
23 pooled trust, depository institution or insurance company shall use
24 reasonable business standards of care and judgment, and is entitled to
25 rely upon a designation of an account or contract as irrevocable as
26 signifying program eligibility under section 1 of this act. A pooled
27 trust, depository institution or insurance company, as a condition of
28 offering or providing an irrevocable funeral trust or irrevocably
29 assigned newly issued funeral insurance policy within the State, shall
30 comply with the provisions of this act.
31

32 6. (New section) A prepaid funeral agreement as defined in
33 section 19 of P.L.1993, c.147 (C.2A:102-18) which is subject to the
34 provisions of this act shall include, in a conspicuous manner, the
35 following statement: "New Jersey law requires this agreement to be
36 irrevocable for applicants or recipients of public assistance programs
37 (such as the Medicaid, Supplemental Security Income (SSI), Work
38 First New Jersey and Work First New Jersey General Public
39 Assistance programs, or any successor program thereof) and for the
40 State of New Jersey to be named as beneficiary of any irrevocable
41 funeral trust or irrevocably assigned newly issued funeral insurance
42 policy purchased or created for the provision and payment of funeral
43 and burial goods and services. Any moneys remaining after the
44 provision of funeral goods and services shall be paid over to the State
45 as required by law."

1 7. (New section) A person, firm, corporation, association, funeral
2 home, pooled trust, depository institution or insurance company and
3 their employees or agents ¹], who in the exercise of reasonable
4 business care and judgment comply] that, in accordance¹ with the
5 provisions of this act, ¹][shall be immune from civil or criminal liability
6 for any error in the administration or inadvertent payment of moneys
7 to the State] pays money to the State in good faith is relieved of all
8 liability for any claim then existing or which thereafter may arise or be
9 made in respect to the money paid¹ . ¹][Upon determination by the
10 pooled trust, depository institution or insurance company that
11 payments may have been improperly made to the State, the] The¹
12 estate or personal representative of a deceased person may seek
13 restitution on behalf of the estate ¹for a payment that may have been
14 improperly made to the State¹. The pooled trust, depository
15 institution or insurance company shall ¹][function as the agent for such
16 claims]forward the claim¹, ¹][working through] together with its
17 opinion as to whether the payment was impropriety made to the State,
18 to¹ the Director of the Division of Medical Assistance and Health
19 Services in the Department of Human Services, or his designee, who
20 shall ¹review the claim and, if the claim is justified,¹ refund ¹in a timely
21 manner¹ moneys found to have been ¹][incorrectly]improperly¹ paid
22 over to the State ¹][in a timely manner]¹.

23

24 8. (New section) The Division of Medical Assistance and Health
25 Services in the Department of Human Services shall coordinate
26 between itself and the Division of Consumer Support in the
27 Department of Health and Senior Services, such inter-agency and
28 inter-governmental financial accounting as is necessary to accurately
29 identify, allocate and transfer benefit credits resulting from this act
30 between the departments on a program basis, and between them and
31 such other agencies of federal, State and local governments as may be
32 applicable.

33

34 9. Section 4 of P.L.1993, c.147 (C.45:7-85) is amended to read as
35 follows:

36 4. Every prepaid funeral agreement executed in this State shall:

37 a. Be signed by the provider, and the purchaser or the intended
38 funeral recipient or the intended funeral recipient's guardian, agent or
39 next of kin.

40 b. Include at least the following information:

41 (1) the name, address and telephone number of the mortuary to be
42 utilized;

43 (2) the name of the individual licensee acting as or on behalf of the
44 provider and the license number of that individual;

45 (3) the purchaser's name and address;

1 (4) the name of the intended funeral recipient;

2 (5) whether the agreement is a guaranteed price agreement or
3 non-guaranteed price agreement, which term, as applicable, shall be
4 defined in the agreement in accordance with section 1 of this act;

5 (6) how the agreement is to be funded; and

6 (7) a statement of funeral goods and services or, if not included as
7 part of the agreement, that a statement of funeral goods and services
8 shall be provided.

9 c. Provide that all funeral arrangements are revocable, and that all
10 funeral funding arrangements are severable from those funeral
11 arrangements by the purchaser if alive, and if not, then by the intended
12 funeral recipient, where they are different persons. Upon the death of
13 both the purchaser and the intended funeral recipient, the intended
14 funeral recipient's next of kin, in the order provided in N.J.S.8A:5-18,
15 shall have the right to revoke the funeral arrangements and to sever
16 the funeral funding arrangements from the funeral arrangements.
17 Notwithstanding the above, a prepaid funeral agreement may provide
18 that the funeral trust shall be irrevocable during the lifetime of the
19 intended funeral recipient pursuant to section 1 of P.L.1991, c.502
20 (C.2A:102-16.1) or section 1 of P.L. , c. (C.)(pending before the
21 Legislature as this bill).

22 In those instances where a revocable prepaid funeral agreement is
23 revoked, the moneys used to fund the agreement shall be paid to the
24 purchaser, if alive, and if not, then to the personal representative or
25 estate of the deceased purchaser if the agreement is funded through a
26 trust or, if the agreement is funded through a funeral insurance policy,
27 to the named beneficiaries on the insurance policy or annuity.

28 d. Provide that, unless otherwise specified therein, a prepaid
29 funeral agreement anticipates the provision of prepaid funeral goods
30 and services in the area served by the provider. The agreement shall
31 further provide that, if the intended funeral recipient's place of death
32 is in a location other than that served by the provider, alternative
33 funeral arrangements will be necessary.

34 e. Provide for the provider's substitution of any goods or services
35 to be furnished or rendered thereunder for goods of equal quality,
36 value and workmanship or services of equal quality and value in the
37 event of the unavailability of any goods or services set forth in the
38 agreement. Any changes in the price of the agreement resulting from
39 such substitution of goods or services shall be reflected in the
40 statement of funeral goods and services rendered.

41 f. Provide that, in the case of an agreement funded through a
42 funeral trust, if the purchaser predeceases the intended funeral
43 recipient where they are different persons, then the intended funeral
44 recipient shall automatically assume the legal right to administer the
45 funeral trust as purchaser, including the right to withdraw any and all
46 funds held in the funeral trust, along with all other rights formerly held

1 by the purchaser.

2 g. Provide that, upon the death of the intended funeral recipient,
3 the provider shall calculate the current retail prices of the preneed
4 funeral arrangements, and:

5 (1) in the case of a non-guaranteed prepaid funeral agreement, if
6 there are insufficient funds to pay for the current retail prices of the
7 prepaid funeral goods and services requested, the provider shall
8 consult with the appropriate representative for the supplementation of
9 the funds or the modification of the funeral arrangements set forth in
10 the agreement prior to performance under the agreement.

11 (2) in the case of an agreement funded through a funeral trust,
12 whether a guaranteed or non-guaranteed price agreement, if the
13 provider determines that the funds or proceeds available exceed the
14 current retail prices of the prepaid funeral goods and services to be
15 provided, the surplus funds shall be paid to the purchaser, if alive, and
16 if not, then to the personal representative of the estate of the deceased.

17 (3) in the case of an agreement funded through a funeral insurance
18 policy, whether a guaranteed or non-guaranteed price agreement, if the
19 provider determines that the funds or proceeds available exceed the
20 current retail prices of the prepaid funeral goods and services to be
21 provided, the surplus funds shall be paid to the named beneficiaries of
22 the funeral insurance policy.

23 h. Provide that, upon completion of performance under the
24 agreement, the provider shall present a final bill.

25 i. Provide that if a prepaid funeral agreement is a guaranteed price
26 agreement, the price guarantee is a guarantee and liability of the
27 provider and not the guarantee and liability of the insurer issuing the
28 funeral insurance policy when a funeral insurance policy is used or the
29 trust depository administering the funeral trust when a funeral trust is
30 used.

31 (cf: P.L.1993, c.147, s.4)

32

33 10. This act shall take effect 180 days from the date of enactment
34 and shall apply to irrevocable funeral trusts or irrevocably assigned
35 newly issued funeral insurance policies entered into on or after the
36 effective date.

37

38

39

40

41 Requires moneys remaining in certain prepaid funeral agreements be
42 paid to the State.

SENATE, No. 1223

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED JUNE 22, 1998

Sponsored by:

Senator JOSEPH M. KYRILLOS, JR.

District 13 (Middlesex and Monmouth)

SYNOPSIS

Requires moneys remaining in certain prepaid funeral agreements be paid to the State.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning prepaid funeral agreements, amending P.L.1993,
2 c.147 and supplementing Title 2A of the New Jersey Statutes.

3

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

6

7 1. (New section) An aged, blind or disabled applicant for, or
8 recipient of, benefits under the Supplemental Security Income program
9 established pursuant to Title XVI of the federal Social Security Act,
10 Pub.L.92-603 (42 U.S.C. s.1381 et seq.), or an applicant for, or
11 recipient of, benefits under the Medicaid program established pursuant
12 to P.L.1968, c.413 (C.30:4D-1 et seq.), the Work First New Jersey
13 program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.)
14 or the "Work First New Jersey General Public Assistance Act,"
15 P.L.1947, c.156 (C.44:8-107 et seq.), or any successor program
16 thereof, shall have excluded from resource consideration, in
17 determining eligibility for benefits, any moneys of the applicant or
18 applicant's spouse in an irrevocable funeral trust or irrevocably
19 assigned newly issued funeral insurance policy, as those terms are
20 defined in section 19 of P.L.1993, c.147 (C. 2A:102-18), that are
21 equivalent to the fair market value of funeral and burial goods and
22 services selected and contracted for that are intended for the use of the
23 applicant or applicant's spouse. All income paid to the irrevocable
24 funeral trust or any increase in the face value or death benefit
25 attributable to the irrevocably assigned newly issued funeral insurance
26 policy, shall inure to the value or benefit of the irrevocable funeral
27 trust or irrevocably assigned newly issued funeral insurance policy, as
28 appropriate, and shall not be countable as income for continuing
29 eligibility.

30

31 2. (New section) a. Notwithstanding any provision of law to the
32 contrary, any moneys remaining in an irrevocable funeral trust or
33 irrevocably assigned newly issued funeral insurance policy that are the
34 result of a difference between the price of funeral and burial goods and
35 services actually provided to the intended funeral recipient, as defined
36 in section 19 of P.L.1993, c.147 (C.2A:102-18), upon that person's
37 death, and the accumulated value of the irrevocable funeral trust or
38 irrevocably assigned newly issued funeral insurance policy, shall be
39 deemed assets of the State if, at the time of death, the intended funeral
40 recipient was receiving benefits pursuant to section 1 of this act, and
41 the moneys that established the irrevocable funeral trust or the
42 irrevocably assigned newly issued funeral insurance policy were those
43 of the intended funeral recipient or the intended funeral recipient's

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1 spouse. The remaining moneys shall be paid over to the State
2 pursuant to this section.

3 b. If the intended funeral recipient was under the care and
4 guardianship of the Office of the Public Guardian for Elderly Adults,
5 established pursuant to section 4 of P.L.1985, c.298 (C.52:27G-23),
6 the remaining moneys shall be payable to the Office of the Public
7 Guardian for Elderly Adults and shall be used to pay the final expenses
8 of the decedent pursuant to N.J.S.3B:22-2.

9 (1) Any moneys remaining thereafter shall be paid to the Division
10 of Medical Assistance and Health Services in the Department of
11 Human Services by the Office of the Public Guardian for Elderly
12 Adults, in accordance with an order of the Superior Court discharging
13 the Public Guardian for Elderly Adults as guardian of the decedent.

14 (2) In the creation of an irrevocable funeral trust fund or the
15 purchase of an irrevocably assigned newly issued funeral insurance
16 policy, or upon taking charge of such assets, the Office of the Public
17 Guardian for Elderly Adults shall name itself as purchaser, as defined
18 in section 19 of P.L.1993, c.147 (C.2A:102-18), or sole beneficiary,
19 as appropriate. In the case of an irrevocably assigned newly issued
20 funeral insurance policy that provides for a settlement of proceeds, the
21 Office of the Public Guardian for Elderly Adults may, as an alternative
22 to being named beneficiary, name itself as payee of the balance of any
23 remaining moneys subsequent to the delivery, as defined in section 19
24 of P.L.1993, c.147 (C.2A:102-18) of funeral and burial goods and
25 services, but with a claim superior to any beneficial interest.

26 c. In the case of an irrevocable funeral trust of a decedent who
27 was not under the care and guardianship of the Office of the Public
28 Guardian for Elderly Adults, the entire remainder after the payment of
29 funeral and burial goods and services shall be paid to the Division of
30 Medical Assistance and Health Services in the Department of Human
31 Services, as though the division were the purchaser of the trust.

32 d. In the case of an irrevocably assigned newly issued funeral
33 insurance policy of a decedent who was not under the care and
34 guardianship of the Office of the Public Guardian for Elderly Adults,
35 the policy shall not be excluded as a resource pursuant to section 1 of
36 this act unless the Division of Medical Assistance and Health Services
37 in the Department of Human Services is named the sole beneficiary of
38 the policy, either at the time of issue or during the time that the
39 insured was an applicant for or recipient of benefits of programs
40 specified in section 1 of this act, or as a payee of the balance of any
41 remaining moneys subsequent to the delivery of funeral and burial
42 goods and services, but with a claim superior to any beneficial interest.

43
44 3. (New section) A provider of funeral and burial goods and
45 services shall not utilize an irrevocable funeral trust or irrevocably
46 assigned newly issued funeral insurance policy for a recipient of

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1 benefits of programs specified in section 1 of this act, unless the
2 pooled trust as defined in section 19 of P.L.1993, c.147 (C.2A:102-
3 18), depository institution, or insurance company agrees to pay over
4 moneys to the State pursuant to this act, and includes in the prepaid
5 funeral agreement, as defined in section 19 of P.L.1993, c.147
6 (C.2A:102-18), contractual language providing for the paying over of
7 moneys to the State.

8
9 4. (New section) The Division of Medical Assistance and Health
10 Services in the Department of Human Services shall develop a method
11 for the periodic verification of receipt of benefits of the intended
12 funeral recipient at the time of death, based on submissions by pooled
13 trusts, depository institutions or insurance companies. The
14 submissions shall consist of the names of those decedents known to
15 have generated remaining moneys that are prospectively assets of the
16 State, and those decedents whom the pooled trust, depository
17 institution or insurance company, as appropriate, reasonably believes
18 were recipients of benefits of programs specified in section 1 of this
19 act at the time of death. As the basis for selection, the pooled trust,
20 depository institution or insurance company, as appropriate, shall use
21 reasonable business standards of data compilation and record keeping.
22 Upon verification by the State that an intended funeral recipient was
23 receiving benefits at the time of death, the pooled trust, depository
24 institution or insurance company, as appropriate, as a condition of
25 offering or providing an irrevocable funeral trust or irrevocably
26 assigned newly issued funeral insurance policy within the State, shall
27 pay over to the State any remaining moneys.

28
29 5. (New section) A prepaid funeral agreement which is covered by
30 the provisions of this act shall include, in a conspicuous manner, the
31 following statement: "New Jersey law requires this agreement to be
32 irrevocable for applicants or recipients of public assistance programs,
33 such as the Medicaid program, Supplemental Security Income (SSI)
34 program, Work First New Jersey program, Work First New Jersey
35 General Public Assistance program, or any successor program thereof.
36 Any moneys remaining after the provision and payment of funeral and
37 burial goods and services from an irrevocable funeral trust or
38 irrevocably assigned newly issued funeral insurance policy shall be paid
39 over to the State as required by law."

40
41 6. (New section) A person, firm, corporation, association, funeral
42 home, pooled trust, depository institution or insurance company and
43 their employees or agents, who in the exercise of reasonable business
44 care and judgment comply with the provisions of this act, shall be
45 immune from civil or criminal liability for any error in the
46 administration or inadvertent payment of moneys to the State. Upon

1 determination by the pooled trust, depository institution or insurance
2 company, as appropriate, that payments were improperly made to the
3 State, the estate or personal representative of a deceased person may
4 obtain restitution on behalf of the estate. The pooled trust, depository
5 institution or insurance company, as appropriate, shall submit proof of
6 improper payment to the State, and shall make restitution by debiting
7 the disputed amount against the next payment to the State and paying
8 over the disputed amount directly to the estate or personal
9 representative of the estate, as appropriate.

10
11 7. Section 4 of P.L.1993, c.147 (C.45:7-85) is amended to read as
12 follows:

13 4. Every prepaid funeral agreement executed in this State shall:

14 a. Be signed by the provider, and the purchaser or the intended
15 funeral recipient or the intended funeral recipient's guardian, agent or
16 next of kin.

17 b. Include at least the following information:

18 (1) the name, address and telephone number of the mortuary to be
19 utilized;

20 (2) the name of the individual licensee acting as or on behalf of the
21 provider and the license number of that individual;

22 (3) the purchaser's name and address;

23 (4) the name of the intended funeral recipient;

24 (5) whether the agreement is a guaranteed price agreement or
25 non-guaranteed price agreement, which term, as applicable, shall be
26 defined in the agreement in accordance with section 1 of this act;

27 (6) how the agreement is to be funded; and

28 (7) a statement of funeral goods and services or, if not included as
29 part of the agreement, that a statement of funeral goods and services
30 shall be provided.

31 c. Provide that all funeral arrangements are revocable, and that all
32 funeral funding arrangements are severable from those funeral
33 arrangements by the purchaser if alive, and if not, then by the intended
34 funeral recipient, where they are different persons. Upon the death of
35 both the purchaser and the intended funeral recipient, the intended
36 funeral recipient's next of kin, in the order provided in N.J.S.8A:5-18,
37 shall have the right to revoke the funeral arrangements and to sever
38 the funeral funding arrangements from the funeral arrangements.
39 Notwithstanding the above, a prepaid funeral agreement may provide
40 that the funeral trust shall be irrevocable during the lifetime of the
41 intended funeral recipient pursuant to section 1 of P.L.1991, c.502
42 (C.2A:102-16.1) or section 1 of P.L. , c. (C.)(pending before the
43 Legislature as this bill) .

44 In those instances where a revocable prepaid funeral agreement is
45 revoked, the moneys used to fund the agreement shall be paid to the
46 purchaser, if alive, and if not, then to the personal representative or

1 estate of the deceased purchaser if the agreement is funded through a
2 trust or, if the agreement is funded through a funeral insurance policy,
3 to the named beneficiaries on the insurance policy or annuity.

4 d. Provide that, unless otherwise specified therein, a prepaid
5 funeral agreement anticipates the provision of prepaid funeral goods
6 and services in the area served by the provider. The agreement shall
7 further provide that, if the intended funeral recipient's place of death
8 is in a location other than that served by the provider, alternative
9 funeral arrangements will be necessary.

10 e. Provide for the provider's substitution of any goods or services
11 to be furnished or rendered thereunder for goods of equal quality,
12 value and workmanship or services of equal quality and value in the
13 event of the unavailability of any goods or services set forth in the
14 agreement. Any changes in the price of the agreement resulting from
15 such substitution of goods or services shall be reflected in the
16 statement of funeral goods and services rendered.

17 f. Provide that, in the case of an agreement funded through a
18 funeral trust, if the purchaser predeceases the intended funeral
19 recipient where they are different persons, then the intended funeral
20 recipient shall automatically assume the legal right to administer the
21 funeral trust as purchaser, including the right to withdraw any and all
22 funds held in the funeral trust, along with all other rights formerly held
23 by the purchaser.

24 g. Provide that, upon the death of the intended funeral recipient,
25 the provider shall calculate the current retail prices of the preneed
26 funeral arrangements, and:

27 (1) in the case of a non-guaranteed prepaid funeral agreement, if
28 there are insufficient funds to pay for the current retail prices of the
29 prepaid funeral goods and services requested, the provider shall
30 consult with the appropriate representative for the supplementation of
31 the funds or the modification of the funeral arrangements set forth in
32 the agreement prior to performance under the agreement.

33 (2) in the case of an agreement funded through a funeral trust,
34 whether a guaranteed or non-guaranteed price agreement, if the
35 provider determines that the funds or proceeds available exceed the
36 current retail prices of the prepaid funeral goods and services to be
37 provided, the surplus funds shall be paid to the purchaser, if alive, and
38 if not, then to the personal representative of the estate of the deceased.

39 (3) in the case of an agreement funded through a funeral insurance
40 policy, whether a guaranteed or non-guaranteed price agreement, if the
41 provider determines that the funds or proceeds available exceed the
42 current retail prices of the prepaid funeral goods and services to be
43 provided, the surplus funds shall be paid to the named beneficiaries of
44 the funeral insurance policy.

45 h. Provide that, upon completion of performance under the
46 agreement, the provider shall present a final bill.

1 i. Provide that if a prepaid funeral agreement is a guaranteed price
2 agreement, the price guarantee is a guarantee and liability of the
3 provider and not the guarantee and liability of the insurer issuing the
4 funeral insurance policy when a funeral insurance policy is used or the
5 trust depository administering the funeral trust when a funeral trust is
6 used.

7 (cf: P.L.1993, c.147, s.4)

8

9 8. This act shall take effect 180 days from the date of enactment
10 and shall apply to irrevocable funeral trusts or irrevocably assigned
11 newly issued funeral insurance policies entered into on or after the
12 effective date.

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14

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STATEMENT

16

17 This bill provides that any moneys remaining in an irrevocable
18 funeral trust or irrevocably assigned newly issued funeral insurance
19 policy (as those terms are defined in N.J.S.A.2A:102-18), after
20 payment for funeral and burial goods and services, are deemed the
21 assets of the State, if at the time of death the funeral recipient was
22 receiving benefits under the Supplemental Security Income (SSI)
23 program, the Medicaid program, the Work First New Jersey program,
24 the Work First New Jersey general public assistance program, or any
25 successor programs.

26 The bill is intended to encourage public assistance recipients to rely
27 on their personal assets for the payment of their eventual funeral and
28 burial expenses prior to or at the time of public assistance eligibility,
29 as well as to give these recipients and their families the ability to select
30 funeral and burial rituals. The bill also prevents families from utilizing
31 the prepaid funeral agreements to shelter assets by requiring that
32 moneys not actually used for funeral and burial goods and services be
33 paid to the State. Except for the State's verification of the funeral
34 recipient's receipt of public assistance at the time of death, the
35 providers of the funeral and burial goods and services and the pooled
36 trusts, depository institutions and insurance companies bear the burden
37 of carrying out the provisions of the bill.

38 Under the provisions of the bill, if the intended funeral recipient was
39 under the care and guardianship of the Office of the Public Guardian
40 for Elderly Adults, the remaining moneys shall be payable to the Office
41 of the Public Guardian pursuant to N.J.S.3B:22-2. Any moneys
42 remaining thereafter shall be paid to the Division of Medical
43 Assistance and Health Services in the Department of Human Services.

44 In the case of an irrevocable funeral trust or an irrevocably assigned
45 newly issued funeral insurance policy for a decedent who was not
46 under the care and guardianship of the Office of the Public Guardian

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1 for Elderly Adults, the remaining moneys after payment for the
2 delivery of funeral and burial goods and services, shall be paid to the
3 Division of Medical Assistance and Health Services.

4 The bill requires the Division of Medical Assistance and Health
5 Services to develop a method for the periodic verification of receipt
6 of benefits at the time of death, based on submissions by pooled trusts,
7 depository institutions or insurance companies. In addition, the bill
8 provides for consumer notification of the requirement to pay any
9 remaining moneys to the State. A prepaid funeral agreement which is
10 covered by the provisions of this bill shall include, in a conspicuous
11 manner, a statement advising that any remaining moneys after the
12 payment of funeral and burial goods and services shall be paid over to
13 the State.

14 Lastly, the bill provides for immunity from civil or criminal liability
15 for a person, firm, corporation, association, funeral home, pooled
16 trust, depository institution, or insurance company and their employees
17 or agents, who in the exercise of reasonable business care and
18 judgment, comply with the provisions of the bill. Upon determination
19 by the pooled trust, depository institution or insurance company, as
20 appropriate, that payments were improperly made to the State, the
21 estate or personal representative of the estate may obtain restitution.
22 The pooled trust, depository institution or insurance company, as
23 appropriate, shall make restitution by debiting the disputed amount
24 against the next payment to the State, and paying over the disputed
25 amount directly to the estate or personal representative of the estate,
26 as appropriate.

ASSEMBLY APPROPRIATION COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1223**

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 1999

The Assembly Appropriation Committee reports favorably Senate Bill No. 1223 SCS, with committee amendments.

Senate Bill No. 1223 SCS, as amended, excludes the value of prepaid funeral arrangements from resource consideration under public assistance programs, to encourage public assistance recipients to rely on their personal assets for the payment of their eventual funeral and burial expenses. The bill also prevents public assistance recipients and their families from using prepaid funeral agreements to shelter assets, by requiring that moneys not actually used for funeral and burial goods and services of these persons be paid to the State.

The bill excludes the value of an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy from resource consideration in determining program eligibility for the Supplemental Security Income program, the Medicaid program, the Work First New Jersey program, the Work First New Jersey general public assistance program, or any successor programs.

The bill also provides that any moneys remaining in an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy after payment for funeral and burial goods and services, are to be paid over to the State, if at the time of death the funeral recipient was receiving benefits from one of the enumerated public assistance programs

The bill makes similar provisions for those under the care and guardianship of the Office of the Public Guardian for Elderly Adults. The bill requires that the Division of Medical Assistance and Health Services in the Department of Human Services be named as purchaser or sole beneficiary or payee in establishing a prepaid funeral arrangement or upon the office taking charge of those assets. Any moneys remaining after the funeral payments for those formerly under the care of the division are made shall be paid to the division.

In the case of an irrevocable funeral trust of a decedent who is not under the care and guardianship of the Office of the Public Guardian for Elderly Adults, the prepaid funeral arrangement shall not be

excluded as a resource unless the moneys remaining after the funeral payments are made shall be paid to the Division of Medical Assistance and Health Services.

The bill requires the Division of Medical Assistance and Health Services to establish a dedicated bank account into which pooled trusts, depository institutions or insurance companies must deposit any moneys to which the State is entitled under the bill. Pooled trusts, depository institutions or insurance companies shall periodically, but not less than once per quarter, provide to the Director of the Division of Medical Assistance and Health Services, or the director's designee, a record of the deposits made along with the names and other identifying information of the decedents.

The bill provides for consumer notification of the requirement to pay any remaining moneys to the State.

As amended and reported by this committee, this bill is identical to Assembly Bill No. 2202 ACS as amended and reported by this committee.

FISCAL IMPACT:

No data are available on the number of irrevocable funeral trusts or irrevocably assigned newly issued funeral insurance policies that may be established or the amount of any remaining monies which may revert to the State. In the long term, the bill is expected to affect the behavior of applicants for, and recipients of, State public assistance to discourage the sheltering of assets otherwise available for the recipients' support. While a purpose of the bill is to increase the equity of resource consideration, the fiscal impact of the bill will be to decrease net State public assistance costs.

COMMITTEE AMENDMENTS:

The amendments change the section of the act concerning the treatment of amounts improperly paid over to the State by funeral arrangement pooled trusts, depository institutions and insurance companies. Technical changes were made to provisions holding these entities harmless for improper payments to the State if the payments are (1) made in good faith and (2) made in compliance with the act. The amendments shift primary responsibility for determining whether payments are properly made from those entities to the Director of the Division of Medical Assistance and Health Services, a mechanism intended to better assist, and lower the burdens of, decedent estates.

SENATE SENIOR CITIZENS, VETERANS' AFFAIRS AND
HUMAN SERVICES COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1223

STATE OF NEW JERSEY

DATED: NOVEMBER 16, 1998

The Senate Senior Citizens, Veterans' Affairs and Human Services Committee reports favorably Senate Bill No. 1223.

This substitute provides that any moneys remaining in an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy (as those terms are defined in N.J.S.A.2A:102-18), after payment for funeral and burial goods and services, are to be paid over to the State, if at the time of death the funeral recipient was receiving benefits under the Supplemental Security Income (SSI) program, the Medicaid program, the Work First New Jersey program, the Work First New Jersey general public assistance program, or any successor programs. The bill further provides that any moneys of the applicant, applicant's spouse and any other member of his immediate family in an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy, that are equivalent to the fair market value of funeral and burial goods and services selected and contracted for, shall be excluded from resource consideration in determining program eligibility.

The substitute is intended to encourage public assistance recipients to rely on their personal assets for the payment of their eventual funeral and burial expenses prior to or at the time of public assistance eligibility, as well as to give these recipients and their families the ability to select funeral and burial rituals. The substitute also prevents families from utilizing the prepaid funeral agreements to shelter assets by requiring that moneys not actually used for funeral and burial goods and services be paid to the State. Except for the State's provision of a dedicated bank account for the deposit of excess moneys, the providers of the funeral and burial goods and services and the pooled trusts, depository institutions and insurance companies bear the burden of carrying out the provisions of the substitute using currently established business practices to facilitate payment of any excess moneys.

Under the provisions of the substitute, if the intended funeral recipient is under the care and guardianship of the Office of the Public

Guardian for Elderly Adults, in the creation of an irrevocable funeral trust fund or the purchase of an irrevocably assigned newly issued funeral insurance policy, or upon taking charge of such assets, the Office of the Public Guardian for Elderly Adults shall name itself as purchaser or sole beneficiary, as appropriate. In the case of an irrevocably assigned newly issued funeral insurance policy that provides for a settlement of proceeds, the Office of the Public Guardian for Elderly Adults may, as an alternative to being named beneficiary, be named as payee of the balance of any remaining moneys subsequent to the delivery of funeral and burial goods and services, but with a claim superior to any beneficial interest. Any moneys remaining thereafter shall be paid to the Division of Medical Assistance and Health Services in the Department of Human Services by the Office of the Public Guardian for Elderly Adults, in accordance with an order of the Superior Court discharging the Public Guardian for Elderly Adults as guardian of the decedent.

In the case of an irrevocable funeral trust of a decedent who is not under the care and guardianship of the Office of the Public Guardian for Elderly Adults, the remaining moneys after payment for the delivery of funeral and burial goods and services, shall be paid to the Division of Medical Assistance and Health Services. In the case of an irrevocably assigned newly issued funeral insurance policy for a decedent who is not under the care and guardianship of the Office of the Public Guardian for Elderly Adults, the policy shall not be excluded as a resource unless the Division of Medical Assistance and Health Services is named the sole beneficiary of the policy. In addition, for an irrevocably assigned newly issued funeral insurance policy that provides for a settlement of proceeds, the Division of Medical Assistance and Health Services may, as an alternative to being named beneficiary, be named as a payee of the balance of any remaining moneys subsequent to the delivery of funeral and burial goods and services, but with a claim superior to any beneficial interest.

The substitute requires the Division of Medical Assistance and Health Services to establish a dedicated bank account into which pooled trusts, depository institutions or insurance companies must deposit by electronic funds transfer any moneys to which the State is entitled under the substitute. Pooled trusts, depository institutions or insurance companies shall periodically, but not less than once a quarter, provide to the Director of the Division of Medical Assistance and Health Services, or his designee, a record of the deposits made along with the names and other identifying information of the decedents. In so doing, the pooled trusts, depository institutions or insurance companies shall use reasonable business standards of care and judgment and are entitled to rely upon a designation of an account or contract as irrevocable as signifying program eligibility. Also, as a condition of offering or providing an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy within the State, a pooled trust, depository institution or insurance company is

required to comply with the provisions of the substitute.

In addition, the substitute provides for consumer notification of the requirement to pay any remaining moneys to the State. A prepaid funeral agreement which is covered by the provisions of this substitute shall include, in a conspicuous manner, a statement advising that any remaining moneys after the payment of funeral and burial goods and services shall be paid over to the State.

Also, the substitute provides for immunity from civil or criminal liability for a person, firm, corporation, association, funeral home, pooled trust, depository institution, or insurance company and their employees or agents, who in the exercise of reasonable business care and judgment, comply with the provisions of the substitute. Upon determination by the pooled trust, depository institution or insurance company, that payments may have been improperly made to the State, the estate or personal representative of the estate may seek restitution. The pooled trust, depository institution or insurance company shall function as the agent for such claims, working through the Director of the Division of Medical Assistance and Health Services, or his designee, who shall refund moneys found to have been incorrectly paid over to the State in a timely manner.

Lastly, the Division of Medical Assistance and Health Services shall coordinate between itself and the Division of Consumer Support in the Department of Health and Senior Services, such inter-agency and inter-governmental financial accounting as is necessary to accurately identify, allocate and transfer benefit credits resulting from this substitute between the departments on a program basis, and between them and such other agencies of federal, State and local governments as may be applicable.

LEGISLATIVE FISCAL ESTIMATE

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1223**

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: MAY 3, 1999

Bill Summary

Senate Committee Substitute for Senate Bill No. 1223 of 1998 provides that any moneys remaining in an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy, after payment for funeral and burial goods and services, are to be paid to the State, if at the time of death the funeral recipient was a recipient of Supplemental Security Income (SSI), Medicaid, Work First New Jersey (WFNJ) or WFNJ general public assistance. Further, any moneys of the applicant, applicant's spouse and any other immediate family member placed into an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy that are equivalent to the fair market value of funeral burial goods and services selected and contracted for, are to be excluded from resource consideration in determining program eligibility. (This exclusion would not apply to SSI which is administered by the federal government.) The bill also contains certain requirements with respect to clients under the guardianship of the Office of the Public Guardian for Elderly Adults and imposes various administrative requirements on the Division of Medical Assistance and Health Services.

Agency Comments

No information has been provided by any of the affected State agencies.

Office of Legislative Services (OLS)

OLS is not able to determine the fiscal impact of the legislation. Information is not available on the number of irrevocable funeral trusts or irrevocably assigned newly issued funeral insurance policies that may be established, the fair market value of funeral and burial goods

and services or the amount of any remaining monies that may revert to the State.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 2202

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED JUNE 15, 1998

Sponsored by:

Assemblyman LEONARD LANCE
District 23 (Warren, Hunterdon and Mercer)

Co-Sponsored by:

Assemblyman Felice

SYNOPSIS

Requires moneys remaining in certain prepaid funeral agreements be paid to the State.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/4/1998)

1 AN ACT concerning prepaid funeral agreements, amending P.L.1993,
2 c.147 and supplementing Title 2A of the New Jersey Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. (New section) An aged, blind or disabled applicant for, or
8 recipient of, benefits under the Supplemental Security Income program
9 established pursuant to Title XVI of the federal Social Security Act,
10 Pub.L.92-603 (42 U.S.C.s.1381 et seq.), or an applicant for, or
11 recipient of, benefits under the Medicaid program established pursuant
12 to P.L.1968, c.413 (C.30:4D-1 et seq.), the Work First New Jersey
13 program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.)
14 or the "Work First New Jersey General Public Assistance Act,"
15 P.L.1947, c.156 (C.44:8-107 et seq.), or any successor program
16 thereof, shall have excluded from resource consideration, in
17 determining eligibility for benefits, any moneys of the applicant or
18 applicant's spouse in an irrevocable funeral trust or irrevocably
19 assigned newly issued funeral insurance policy, as those terms are
20 defined in section 19 of P.L.1993, c.147 (C.2A:102-18), that are
21 equivalent to the fair market value of funeral and burial goods and
22 services selected and contracted for that are intended for the use of the
23 applicant or applicant's spouse. All income paid to the irrevocable
24 funeral trust or any increase in the face value or death benefit
25 attributable to the irrevocably assigned newly issued funeral insurance
26 policy, shall inure to the value or benefit of the irrevocable funeral
27 trust or irrevocably assigned newly issued funeral insurance policy, as
28 appropriate, and shall not be countable as income for continuing
29 eligibility.

30
31 2. (New section) a. Notwithstanding any provision of law to the
32 contrary, any moneys remaining in an irrevocable funeral trust or
33 irrevocably assigned newly issued funeral insurance policy that are the
34 result of a difference between the price of funeral and burial goods and
35 services actually provided to the intended funeral recipient, as defined
36 in section 19 of P.L.1993, c.147 (C.2A:102-18), upon that person's
37 death, and the accumulated value of the irrevocable funeral trust or
38 irrevocably assigned newly issued funeral insurance policy, shall be
39 deemed assets of the State if, at the time of death, the intended funeral
40 recipient was receiving benefits pursuant to section 1 of this act, and
41 the moneys that established the irrevocable funeral trust or the
42 irrevocably assigned newly issued funeral insurance policy were those
43 of the intended funeral recipient or the intended funeral recipient's

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 spouse. The remaining moneys shall be paid over to the State
2 pursuant to this section.

3 b. If the intended funeral recipient was under the care and
4 guardianship of the Office of the Public Guardian for Elderly Adults,
5 established pursuant to section 4 of P.L.1985, c.298 (C.52:27G-23),
6 the remaining moneys shall be payable to the Office of the Public
7 Guardian for Elderly Adults and shall be used to pay the final expenses
8 of the decedent pursuant to N.J.S.3B:22-2.

9 (1) Any moneys remaining thereafter shall be paid to the Division
10 of Medical Assistance and Health Services in the Department of
11 Human Services by the Office of the Public Guardian for Elderly
12 Adults, in accordance with an order of the Superior Court discharging
13 the Public Guardian for Elderly Adults as guardian of the decedent.

14 (2) In the creation of an irrevocable funeral trust fund or the
15 purchase of an irrevocably assigned newly issued funeral insurance
16 policy, or upon taking charge of such assets, the Office of the Public
17 Guardian for Elderly Adults shall name itself as purchaser, as defined
18 in section 19 of P.L.1993, c.147 (C.2A:102-18), or sole beneficiary,
19 as appropriate. In the case of an irrevocably assigned newly issued
20 funeral insurance policy that provides for a settlement of proceeds, the
21 Office of the Public Guardian for Elderly Adults may, as an alternative
22 to being named beneficiary, name itself as payee of the balance of any
23 remaining moneys subsequent to the delivery, as defined in section 19
24 of P.L.1993, c.147 (C.2A:102-18) of funeral and burial goods and
25 services, but with a claim superior to any beneficial interest.

26 c. In the case of an irrevocable funeral trust of a decedent who
27 was not under the care and guardianship of the Office of the Public
28 Guardian for Elderly Adults, the entire remainder after the payment of
29 funeral and burial goods and services shall be paid to the Division of
30 Medical Assistance and Health Services in the Department of Human
31 Services, as though the division were the purchaser of the trust.

32 d. In the case of an irrevocably assigned newly issued funeral
33 insurance policy of a decedent who was not under the care and
34 guardianship of the Office of the Public Guardian for Elderly Adults,
35 the policy shall not be excluded as a resource pursuant to section 1 of
36 this act unless the Division of Medical Assistance and Health Services
37 in the Department of Human Services is named the sole beneficiary of
38 the policy, either at the time of issue or during the time that the
39 insured was an applicant for or recipient of benefits of programs
40 specified in section 1 of this act, or as a payee of the balance of any
41 remaining moneys subsequent to the delivery of funeral and burial
42 goods and services, but with a claim superior to any beneficial interest.

43
44 3. (New section) A provider of funeral and burial goods and
45 services shall not utilize an irrevocable funeral trust or irrevocably
46 assigned newly issued funeral insurance policy for a recipient of

1 benefits of programs specified in section 1 of this act, unless the
2 pooled trust as defined in section 19 of P.L.1993, c.147 (C.2A:102-
3 18), depository institution, or insurance company agrees to pay over
4 moneys to the State pursuant to this act, and includes in the prepaid
5 funeral agreement, as defined in section 19 of P.L.1993, c.147
6 (C.2A:102-18), contractual language providing for the paying over of
7 moneys to the State.

8
9 4. (New section) The Division of Medical Assistance and Health
10 Services in the Department of Human Services shall develop a method
11 for the periodic verification of receipt of benefits of the intended
12 funeral recipient at the time of death, based on submissions by pooled
13 trusts, depository institutions or insurance companies. The
14 submissions shall consist of the names of those decedents known to
15 have generated remaining moneys that are prospectively assets of the
16 State, and those decedents whom the pooled trust, depository
17 institution or insurance company, as appropriate, reasonably believes
18 were recipients of benefits of programs specified in section 1 of this
19 act at the time of death. As the basis for selection, the pooled trust,
20 depository institution or insurance company, as appropriate, shall use
21 reasonable business standards of data compilation and record keeping.
22 Upon verification by the State that an intended funeral recipient was
23 receiving benefits at the time of death, the pooled trust, depository
24 institution or insurance company, as appropriate, as a condition of
25 offering or providing an irrevocable funeral trust or irrevocably
26 assigned newly issued funeral insurance policy within the State, shall
27 pay over to the State any remaining moneys.

28
29 5. (New section) A prepaid funeral agreement which is covered by
30 the provisions of this act shall include, in a conspicuous manner, the
31 following statement: "New Jersey law requires this agreement to be
32 irrevocable for applicants or recipients of public assistance programs,
33 such as the Medicaid program, Supplemental Security Income (SSI)
34 program, Work First New Jersey program, Work First New Jersey
35 General Public Assistance program, or any successor program thereof.
36 Any moneys remaining after the provision and payment of funeral and
37 burial goods and services from an irrevocable funeral trust or
38 irrevocably assigned newly issued funeral insurance policy shall be paid
39 over to the State as required by law."

40
41 6. (New section) A person, firm, corporation, association, funeral
42 home, pooled trust, depository institution or insurance company and
43 their employees or agents, who in the exercise of reasonable business
44 care and judgment comply with the provisions of this act, shall be
45 immune from civil or criminal liability for any error in the
46 administration or inadvertent payment of moneys to the State. Upon

1 determination by the pooled trust, depository institution or insurance
2 company, as appropriate, that payments were improperly made to the
3 State, the estate or personal representative of a deceased person may
4 obtain restitution on behalf of the estate. The pooled trust, depository
5 institution or insurance company, as appropriate, shall submit proof of
6 improper payment to the State, and shall make restitution by debiting
7 the disputed amount against the next payment to the State and paying
8 over the disputed amount directly to the estate or personal
9 representative of the estate, as appropriate.

10
11 7. Section 4 of P.L.1993, c.147 (C.45:7-85) is amended to read as
12 follows:

13 4. Every prepaid funeral agreement executed in this State shall:

14 a. Be signed by the provider, and the purchaser or the intended
15 funeral recipient or the intended funeral recipient's guardian, agent or
16 next of kin.

17 b. Include at least the following information:

18 (1) the name, address and telephone number of the mortuary to be
19 utilized;

20 (2) the name of the individual licensee acting as or on behalf of the
21 provider and the license number of that individual;

22 (3) the purchaser's name and address;

23 (4) the name of the intended funeral recipient;

24 (5) whether the agreement is a guaranteed price agreement or
25 non-guaranteed price agreement, which term, as applicable, shall be
26 defined in the agreement in accordance with section 1 of this act;

27 (6) how the agreement is to be funded; and

28 (7) a statement of funeral goods and services or, if not included as
29 part of the agreement, that a statement of funeral goods and services
30 shall be provided.

31 c. Provide that all funeral arrangements are revocable, and that all
32 funeral funding arrangements are severable from those funeral
33 arrangements by the purchaser if alive, and if not, then by the intended
34 funeral recipient, where they are different persons. Upon the death of
35 both the purchaser and the intended funeral recipient, the intended
36 funeral recipient's next of kin, in the order provided in N.J.S.8A:5-18,
37 shall have the right to revoke the funeral arrangements and to sever
38 the funeral funding arrangements from the funeral arrangements.
39 Notwithstanding the above, a prepaid funeral agreement may provide
40 that the funeral trust shall be irrevocable during the lifetime of the
41 intended funeral recipient pursuant to section 1 of P.L.1991, c.502
42 (C.2A:102-16.1) or section 1 of P.L. , c. (C.)(pending before the
43 Legislature as this bill) .

44 In those instances where a revocable prepaid funeral agreement is
45 revoked, the moneys used to fund the agreement shall be paid to the
46 purchaser, if alive, and if not, then to the personal representative or

1 estate of the deceased purchaser if the agreement is funded through a
2 trust or, if the agreement is funded through a funeral insurance policy,
3 to the named beneficiaries on the insurance policy or annuity.

4 d. Provide that, unless otherwise specified therein, a prepaid
5 funeral agreement anticipates the provision of prepaid funeral goods
6 and services in the area served by the provider. The agreement shall
7 further provide that, if the intended funeral recipient's place of death
8 is in a location other than that served by the provider, alternative
9 funeral arrangements will be necessary.

10 e. Provide for the provider's substitution of any goods or services
11 to be furnished or rendered thereunder for goods of equal quality,
12 value and workmanship or services of equal quality and value in the
13 event of the unavailability of any goods or services set forth in the
14 agreement. Any changes in the price of the agreement resulting from
15 such substitution of goods or services shall be reflected in the
16 statement of funeral goods and services rendered.

17 f. Provide that, in the case of an agreement funded through a
18 funeral trust, if the purchaser predeceases the intended funeral
19 recipient where they are different persons, then the intended funeral
20 recipient shall automatically assume the legal right to administer the
21 funeral trust as purchaser, including the right to withdraw any and all
22 funds held in the funeral trust, along with all other rights formerly held
23 by the purchaser.

24 g. Provide that, upon the death of the intended funeral recipient,
25 the provider shall calculate the current retail prices of the preneed
26 funeral arrangements, and:

27 (1) in the case of a non-guaranteed prepaid funeral agreement, if
28 there are insufficient funds to pay for the current retail prices of the
29 prepaid funeral goods and services requested, the provider shall
30 consult with the appropriate representative for the supplementation of
31 the funds or the modification of the funeral arrangements set forth in
32 the agreement prior to performance under the agreement.

33 (2) in the case of an agreement funded through a funeral trust,
34 whether a guaranteed or non-guaranteed price agreement, if the
35 provider determines that the funds or proceeds available exceed the
36 current retail prices of the prepaid funeral goods and services to be
37 provided, the surplus funds shall be paid to the purchaser, if alive, and
38 if not, then to the personal representative of the estate of the deceased.

39 (3) in the case of an agreement funded through a funeral insurance
40 policy, whether a guaranteed or non-guaranteed price agreement, if the
41 provider determines that the funds or proceeds available exceed the
42 current retail prices of the prepaid funeral goods and services to be
43 provided, the surplus funds shall be paid to the named beneficiaries of
44 the funeral insurance policy.

45 h. Provide that, upon completion of performance under the
46 agreement, the provider shall present a final bill.

1 i. Provide that if a prepaid funeral agreement is a guaranteed price
2 agreement, the price guarantee is a guarantee and liability of the
3 provider and not the guarantee and liability of the insurer issuing the
4 funeral insurance policy when a funeral insurance policy is used or the
5 trust depository administering the funeral trust when a funeral trust is
6 used.

7 (cf: P.L.1993, c.147, s.4)

8

9 8. This act shall take effect 180 days from the date of enactment
10 and shall apply to irrevocable funeral trusts or irrevocably assigned
11 newly issued funeral insurance policies entered into on or after the
12 effective date.

13

14

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STATEMENT

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17 This bill provides that any moneys remaining in an irrevocable
18 funeral trust or irrevocably assigned newly issued funeral insurance
19 policy (as those terms are defined in N.J.S.A.2A:102-18), after
20 payment for funeral and burial goods and services, are deemed the
21 assets of the State, if at the time of death the funeral recipient was
22 receiving benefits under the Supplemental Security Income (SSI)
23 program, the Medicaid program, the Work First New Jersey program,
24 the Work First New Jersey general public assistance program, or any
25 successor programs.

26 The bill is intended to encourage public assistance recipients to rely
27 on their personal assets for the payment of their eventual funeral and
28 burial expenses prior to or at the time of public assistance eligibility,
29 as well as to give these recipients and their families the ability to select
30 funeral and burial rituals. The bill also prevents families from utilizing
31 the prepaid funeral agreements to shelter assets by requiring that
32 moneys not actually used for funeral and burial goods and services be
33 paid to the State. Except for the State's verification of the funeral
34 recipient's receipt of public assistance at the time of death, the
35 providers of the funeral and burial goods and services and the pooled
36 trusts, depository institutions and insurance companies bear the burden
37 of carrying out the provisions of the bill.

38 Under the provisions of the bill, if the intended funeral recipient
39 was under the care and guardianship of the Office of the Public
40 Guardian for Elderly Adults, the remaining moneys shall be payable to
41 the Office of the Public Guardian pursuant to N.J.S.3B:22-2. Any
42 moneys remaining thereafter shall be paid to the Division of Medical
43 Assistance and Health Services in the Department of Human Services.

44 In the case of an irrevocable funeral trust or an irrevocably assigned
45 newly issued funeral insurance policy for a decedent who was not
46 under the care and guardianship of the Office of the Public Guardian

1 for Elderly Adults, the remaining moneys after payment for the
2 delivery of funeral and burial goods and services, shall be paid to the
3 Division of Medical Assistance and Health Services.

4 The bill requires the Division of Medical Assistance and Health
5 Services to develop a method for the periodic verification of receipt
6 of benefits at the time of death, based on submissions by pooled trusts,
7 depository institutions or insurance companies. In addition, the bill
8 provides for consumer notification of the requirement to pay any
9 remaining moneys to the State. A prepaid funeral agreement which is
10 covered by the provisions of this bill shall include, in a conspicuous
11 manner, a statement advising that any remaining moneys after the
12 payment of funeral and burial goods and services shall be paid over to
13 the State.

14 Lastly, the bill provides for immunity from civil or criminal liability
15 for a person, firm, corporation, association, funeral home, pooled
16 trust, depository institution, or insurance company and their employees
17 or agents, who in the exercise of reasonable business care and
18 judgment, comply with the provisions of the bill. Upon determination
19 by the pooled trust, depository institution or insurance company, as
20 appropriate, that payments were improperly made to the State, the
21 estate or personal representative of the estate may obtain restitution.
22 The pooled trust, depository institution or insurance company, as
23 appropriate, shall make restitution by debiting the disputed amount
24 against the next payment to the State, and paying over the disputed
25 amount directly to the estate or personal representative of the estate,
26 as appropriate.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2202

STATE OF NEW JERSEY

DATED: DECEMBER 3, 1998

The Assembly Health Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2202.

This committee substitute provides that any moneys remaining in an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy (as those terms are defined in N.J.S.A.2A:102-18), after payment for funeral and burial goods and services, are to be paid over to the State, if at the time of death the funeral recipient was receiving benefits under the Supplemental Security Income (SSI) program, the Medicaid program, the Work First New Jersey program, the Work First New Jersey general public assistance program, or any successor programs. The substitute further provides that any moneys of the applicant, applicant's spouse and any other member of his immediate family in an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy, that are equivalent to the fair market value of funeral and burial goods and services selected and contracted for, shall be excluded from resource consideration in determining program eligibility.

The substitute is intended to encourage public assistance recipients to rely on their personal assets for the payment of their eventual funeral and burial expenses prior to or at the time of public assistance eligibility, as well as to give these recipients and their families the ability to select funeral and burial rituals. The substitute also prevents families from utilizing the prepaid funeral agreements to shelter assets by requiring that moneys not actually used for funeral and burial goods and services be paid to the State. Except for the State's provision of a dedicated bank account for the deposit of excess moneys, the providers of the funeral and burial goods and services and the pooled trusts, depository institutions and insurance companies bear the burden of carrying out the provisions of the substitute using currently established business practices to facilitate payment of any excess moneys.

Under the provisions of the substitute, if the intended funeral recipient is under the care and guardianship of the Office of the Public Guardian for Elderly Adults, in the creation of an irrevocable funeral

trust fund or the purchase of an irrevocably assigned newly issued funeral insurance policy, or upon taking charge of such assets, the Office of the Public Guardian for Elderly Adults shall name itself as purchaser or sole beneficiary, as appropriate. In the case of an irrevocably assigned newly issued funeral insurance policy that provides for a settlement of proceeds, the Office of the Public Guardian for Elderly Adults may, as an alternative to being named beneficiary, be named as payee of the balance of any remaining moneys subsequent to the delivery of funeral and burial goods and services, but with a claim superior to any beneficial interest. Any moneys remaining thereafter shall be paid to the Division of Medical Assistance and Health Services in the Department of Human Services by the Office of the Public Guardian for Elderly Adults, in accordance with an order of the Superior Court discharging the Public Guardian for Elderly Adults as guardian of the decedent.

In the case of an irrevocable funeral trust of a decedent who is not under the care and guardianship of the Office of the Public Guardian for Elderly Adults, the remaining moneys after payment for the delivery of funeral and burial goods and services, shall be paid to the Division of Medical Assistance and Health Services. In the case of an irrevocably assigned newly issued funeral insurance policy for a decedent who is not under the care and guardianship of the Office of the Public Guardian for Elderly Adults, the policy shall not be excluded as a resource unless the Division of Medical Assistance and Health Services is named the sole beneficiary of the policy. In addition, for an irrevocably assigned newly issued funeral insurance policy that provides for a settlement of proceeds, the Division of Medical Assistance and Health Services may, as an alternative to being named beneficiary, be named as a payee of the balance of any remaining moneys subsequent to the delivery of funeral and burial goods and services, but with a claim superior to any beneficial interest.

The substitute requires the Division of Medical Assistance and Health Services to establish a dedicated bank account into which pooled trusts, depository institutions or insurance companies must deposit by electronic funds transfer any moneys to which the State is entitled under the substitute. Pooled trusts, depository institutions or insurance companies shall periodically, but not less than once a quarter, provide to the Director of the Division of Medical Assistance and Health Services, or his designee, a record of the deposits made along with the names and other identifying information of the decedents. In so doing, the pooled trusts, depository institutions or insurance companies shall use reasonable business standards of care and judgment and are entitled to rely upon a designation of an account or contract as irrevocable as signifying program eligibility. Also, as a condition of offering or providing an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy within the State, a pooled trust, depository institution or insurance company is

required to comply with the provisions of the substitute.

In addition, the substitute provides for consumer notification of the requirement to pay any remaining moneys to the State. A prepaid funeral agreement which is covered by the provisions of this substitute shall include, in a conspicuous manner, a statement advising that any remaining moneys after the payment of funeral and burial goods and services shall be paid over to the State.

Also, the substitute provides for immunity from civil or criminal liability for a person, firm, corporation, association, funeral home, pooled trust, depository institution, or insurance company and their employees or agents, who in the exercise of reasonable business care and judgment, comply with the provisions of the substitute. Upon determination by the pooled trust, depository institution or insurance company, that payments may have been improperly made to the State, the estate or personal representative of the estate may seek restitution. The pooled trust, depository institution or insurance company shall function as the agent for such claims, working through the Director of the Division of Medical Assistance and Health Services, or his designee, who shall refund moneys found to have been incorrectly paid over to the State in a timely manner.

Lastly, the Division of Medical Assistance and Health Services shall coordinate between itself and the Division of Consumer Support in the Department of Health and Senior Services, such inter-agency and inter-governmental financial accounting as is necessary to accurately identify, allocate and transfer benefit credits resulting from this substitute between the departments on a program basis, and between them and such other agencies of federal, State and local governments as may be applicable.

This substitute is identical to Senate Bill No. 1223 (SCS) (Kyrillos), which is currently pending before the Senate.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2202

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 1999

The Assembly Appropriation Committee reports favorably Assembly Bill No. 2202 ACS, with committee amendments.

Assembly Bill No. 2202 ACS, as amended, excludes the value of prepaid funeral arrangements from resource consideration under public assistance programs, to encourage public assistance recipients to rely on their personal assets for the payment of their eventual funeral and burial expenses. The bill also prevents public assistance recipients and their families from using prepaid funeral agreements to shelter assets, by requiring that moneys not actually used for funeral and burial goods and services of these persons be paid to the State.

The bill excludes the value of an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy from resource consideration in determining program eligibility for the Supplemental Security Income program, the Medicaid program, the Work First New Jersey program, the Work First New Jersey general public assistance program, or any successor programs.

The bill also provides that any moneys remaining in an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy after payment for funeral and burial goods and services, are to be paid over to the State, if at the time of death the funeral recipient was receiving benefits from one of the enumerated public assistance programs

The bill makes similar provisions for those under the care and guardianship of the Office of the Public Guardian for Elderly Adults. The bill requires that the Division of Medical Assistance and Health Services in the Department of Human Services be named as purchaser or sole beneficiary or payee in establishing a prepaid funeral arrangement or upon the office taking charge of those assets. Any moneys remaining after the funeral payments for those formerly under the care of the division are made shall be paid to the division.

In the case of an irrevocable funeral trust of a decedent who is not under the care and guardianship of the Office of the Public Guardian for Elderly Adults, the prepaid funeral arrangement shall not be

excluded as a resource unless the moneys remaining after the funeral payments are made shall be paid to the Division of Medical Assistance and Health Services.

The bill requires the Division of Medical Assistance and Health Services to establish a dedicated bank account into which pooled trusts, depository institutions or insurance companies must deposit any moneys to which the State is entitled under the bill. Pooled trusts, depository institutions or insurance companies shall periodically, but not less than once per quarter, provide to the Director of the Division of Medical Assistance and Health Services, or the director's designee, a record of the deposits made along with the names and other identifying information of the decedents.

The bill provides for consumer notification of the requirement to pay any remaining moneys to the State.

This bill as amended and reported by this committee is identical to Senate Bill No. 1223 SCS as amended and reported by this committee.

FISCAL IMPACT:

No data are available on the number of irrevocable funeral trusts or irrevocably assigned newly issued funeral insurance policies that may be established or the amount of any remaining monies which may revert to the State. In the long term, the bill is expected to affect the behavior of applicants for, and recipients of, State public assistance to discourage the sheltering of assets otherwise available for the recipients' support. While a purpose of the bill is to increase the equity of resource consideration, the fiscal impact of the bill will be to decrease net State public assistance costs.

COMMITTEE AMENDMENTS:

The amendments change the section of the act concerning the treatment of amounts improperly paid over to the State by funeral arrangement pooled trusts, depository institutions and insurance companies. Technical changes were made to provisions holding these entities harmless for improper payments to the State if the payments are (1) made in good faith and (2) made in compliance with the act. The amendments shift primary responsibility for determining whether payments are properly made from those entities to the Director of the Division of Medical Assistance and Health Services, a mechanism intended to better assist, and lower the burdens of, decedent estates.

LEGISLATIVE FISCAL ESTIMATE

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2202

STATE OF NEW JERSEY 208th LEGISLATURE

DATED: MAY 3, 1999

Bill Summary

Assembly Committee Substitute for Assembly Bill No. 2202 of 1998 provides that any moneys remaining in an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy, after payment for funeral and burial goods and services, are to be paid to the State, if at the time of death the funeral recipient was a recipient of Supplemental Security Income (SSI), Medicaid, Work First New Jersey (WFNJ) or WFNJ general public assistance. Further, any moneys of the applicant, applicant's spouse and any other immediate family member placed into an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy that are equivalent to the fair market value of funeral burial goods and services selected and contracted for, are to be excluded from resource consideration in determining program eligibility. (This exclusion would not apply to SSI which is administered by the federal government.) The bill also contains certain requirements with respect to clients under the guardianship of the Office of the Public Guardian for Elderly Adults and imposes various administrative requirements on the Division of Medical Assistance and Health Services.

Agency Comments

No information has been provided by any of the affected State agencies.

Office of Legislative Services (OLS)

OLS is not able to determine the fiscal impact of the legislation. Information is not available on the number of irrevocable funeral trusts or irrevocably assigned newly issued funeral insurance policies that may be established, the fair market value of funeral and burial goods and services or the amount of any remaining monies that may revert to

the State.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

Office of the Governor
NEWS RELEASE

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RELEASE: August 31, 1999

Gov. Christie Whitman today signed the following pieces of legislation:

S-446, sponsored by Senators John A. Girgenti (D-Passaic) and William L. Gormley (R-Atlantic) and Assembly Members Nellie Pou (D- Passaic) and David C. Russo (R-Bergen/Passaic), clarifies the kidnapping statute by providing that the crime of kidnapping specifically includes the taking of a child in order to permanently deprive a parent, guardian or other lawful custodian of custody of that child. This offense, like other kidnapping offenses, is a first-degree crime that is punishable by a term of imprisonment between ten and 20 years, a \$200,000 fine, or both.

S-697, sponsored by Senator Robert W. Singer (R- Burlington/Monmouth/Ocean) and Assembly Members Melvin Cottrell (R- Burlington/Monmouth/Ocean) and Joseph R. Malone, 3d (R- Burlington/Monmouth/Ocean), allows municipalities, by ordinance, to designate speed limits on municipal streets under their jurisdiction that are not self-contained within the municipality. An ordinance designating such speed limits may only be adopted by the municipality if the municipal engineer first certifies that the new speed limit designation: (1) has been approved by the engineer after investigation; (2) appears to be in the interest of safety and expedition of traffic; and (3) conforms to the current standards prescribed by the Manual of Uniform Traffic Control Devices for Streets and Highways. Within 30 days of adoption of the ordinance, the municipality would be required to send the ordinance and engineer's designation to the Department of Transportation. The Commissioner of the Transportation Department has the discretion to invalidate the ordinance within 90 days of its receipt if he finds that the ordinance is inconsistent with accepted engineering standards, places an undue traffic burden on adjoining municipalities or otherwise creates an unsafe or hazardous condition.

S-1223, sponsored by Senator Joseph M. Kyrillos, Jr. (R- Middlesex/Monmouth) and Assembly Members Leonard Lance (R- Warren/Hunterdon/Mercer) and Francis J. Blee (R-Atlantic), requires moneys remaining in certain prepaid funeral agreements to be paid to the state. The bill amends current law regarding prepaid funeral arrangements to prevent those receiving certain state assistance from improperly sheltering assets. Many individuals who obtain state assistance, such as Medicaid or Supplemental Security Income (SSI), have either established prepaid funeral trusts or purchased funeral insurance policies which provide for that person's funeral expenses. These trusts and insurance policies are excluded from determining eligibility for state assistance.

A-1162, sponsored by Assembly Members Tom Smith, Sr. (R-Monmouth) and Jerry Green (D-Middlesex/Somerset/Union) and Senator Joseph A. Palaia (R-Monmouth), requires that counties accept bonds in lieu of cash from an applicant for a road opening permit. The purpose of the legislation is to remove the burden of paying a large amount of cash which, the Utility and transportation Contractors Association indicates, often times has prevented smaller contractors from bidding for jobs involving road opening permits.

S-1436, sponsored by Senators Andrew R. Ciesla (R-Monmouth/Ocean) and John H. Adler (D-Camden) and Assembly Members James W. Holzapfel (R- Monmouth/Ocean), Louis D. Greenwald (D-Camden), Guy F. Talarico (R- Bergen) and Kevin J. O'Toole (R-Essex/Union), upgrades the degree of crime of initiating false alarms under certain circumstances. The bill upgrades from a third-degree crime to a second-degree crime the offense of knowingly initiating or circulating a false alarm that results in serious bodily injury to another. The offense of knowingly initiating or circulating a false alarm that is likely to cause evacuation of a place or facility, or to cause public inconvenience, was upgraded from a fourth-degree crime to a third-degree crime. The offense of knowingly causing a false alarm to be transmitted to any emergency personnel was upgraded from a fourth degree crime to a third-degree crime.

The legislation also makes a person who violates any of the three provisions liable for a civil penalty of not less than \$1,000, or the actual costs incurred by law enforcement or emergency services personnel in responding to a false alarm, or whichever is higher. Another new penalty created by the bill provides that a court must suspend or postpone the right to operate a motor vehicle for any person under the age of 21 who is convicted or adjudicated delinquent for causing a false alarm.

S-1249, sponsored by Senators Robert E. Littell (R- Sussex/Hunterdon/Morris) and John O. Bennett (R-Monmouth) and Assembly Members Francis J. Blee (R-Atlantic) and John C. Gibson (R-Cape May/Atlantic/Cumberland), permits the Department of the Treasury to distribute computers, computer equipment and software designed as surplus by any state department, institution, commission, board, body or other state agency to local units, boards of education, nonpublic schools, or nonprofit charitable organizations.

S-906, sponsored by Senator Raymond J. Zane (D- Salem/Cumberland/Gloucester) and Assembly Members Joseph Azzolina (R-Middlesex/Monmouth), Kenneth C. LeFevre (R-Atlantic) and Gerald J. Luongo (R-Camden/Gloucester), allows an individual who leases a motor vehicle and obtains personalized courtesy or special license plates to transfer those license plates to another vehicle after the lease agreement ends. The standard \$4.50 transfer fee would be charged for the transfer, which is the fee charged for the transfer of plates from an owned vehicle. Previously, a person who wanted to transfer plates from a leased vehicle was required to surrender the plates and then reapply for them by paying a standard application fee. Depending upon the type of license plates, application fees are in the range of \$15 to \$50.

S-397, sponsored by Senator John O. Bennett (R-Monmouth) and Assembly Members Clare M. Farragher (R-Monmouth) and Michael J. Arnone (R-Monmouth), allows a municipality to use the annual population estimates issued by the U. S. Bureau of the Census and reported by the New Jersey Department of Labor in determining how many liquor licenses to issue. Under previous law, municipalities used the decennial federal census reports for this purpose. A municipality may issue only one retail liquor license for every 3,000 residents, and one distributor's license for every 7,500 residents. This bill does not change those ratios, but instead allows a municipality to update its population annually instead of every ten years when determining how many liquor licenses to issue.

The Governor also has signed **AJR-74**, which permanently designates September as "New Jersey Cares about Children with Cancer Month." The purpose of the resolution is to promote the progress

made in combating this disease in children, and to highlight the need to do more in New Jersey to help cancer treatment specialists, health care providers, health care planners and researchers provide children with the services necessary to prevent these cancers in the future. The joint resolution was sponsored by Assembly Members Carol J. Murphy (R- Essex/Morris/Passaic) and Gerald J. Luongo (R-Camden/Gloucester).