

**24:6E- 4 et. al.**  
**LEGISLATIVE HISTORY CHECKLIST**  
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**LAWS OF:** 2010                    **CHAPTER:** 87

**NJSA:** 24:6E-4 et. al. (Eliminates various inactive boards, commissions, committees, councils and task forces)

**BILL NO:** A2851 (Substituted for A1997)

**SPONSOR(S)** Burzichelli and others

**DATE INTRODUCED:** June 10, 2010

**COMMITTEE:                    ASSEMBLY:** Regulatory Oversight and Gaming

**SENATE:** State Government, Wagering, Tourism & Historic Preservation

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:                    ASSEMBLY:** September 30, 2010

**SENATE:** August 23, 2010

**DATE OF APPROVAL:** November 3, 2010

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (First reprint enacted)

**A2851**

**SPONSOR'S STATEMENT:** (Begins on page 44 of introduced bill)                    Yes

**COMMITTEE STATEMENT:                    ASSEMBLY:** Yes

**SENATE:** Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**S1997**

**SPONSOR'S STATEMENT:** (Begins on page 44 of introduced bill)                    Yes

**COMMITTEE STATEMENT:                    ASSEMBLY:** No

**SENATE:** Yes

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

(continued)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

LAW/kr

[First Reprint]

**ASSEMBLY, No. 2851**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

INTRODUCED JUNE 10, 2010

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**  
**District 3 (Salem, Cumberland and Gloucester)**  
**Assemblyman SCOTT T. RUMANA**  
**District 40 (Bergen, Essex and Passaic)**  
**Assemblywoman ANNETTE QUIJANO**  
**District 20 (Union)**  
**Assemblyman RALPH R. CAPUTO**  
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**Assemblyman WAYNE P. DEANGELO**  
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**Assemblywoman LINDA R. GREENSTEIN**  
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**Co-Sponsored by:**

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**Assemblymen Polistina, Coughlin, Ramos, Assemblywoman Rodriguez,**  
**Assemblyman Wisniewski, Assemblywoman Angelini, Assemblyman**  
**O'Scanlon, Senators Whelan, Madden, Goodwin, Beach, Oroho,**  
**Assemblymen Webber, Conners, Assemblywoman Vainieri Huttle,**  
**Assemblyman Rudder and Assemblywoman Addiego**

**SYNOPSIS**

Eliminates various inactive boards, commissions, committees, councils, and task forces.

**CURRENT VERSION OF TEXT**

As reported by the Senate State Government, Wagering, Tourism & Historic Preservation Committee on July 19, 2010, with amendments.

(Sponsorship Updated As Of: 10/1/2010)

1 AN ACT to eliminate inactive boards, commissions, committees,  
2 councils, and task forces, and amending and repealing various  
3 parts of the statutory law.

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

7  
8 1. Section 5 of P.L.1977, c.240 (C.24:6E-4) is amended to read  
9 as follows:

10 5. As used in this act unless the context clearly indicates  
11 otherwise:

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

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

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

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

41 e. **["Council" means the Drug Utilization Review Council.]**  
42 "Department" means the Department of Health and Senior Services.

43 f. "Chemical equivalents" means those drug products that  
44 contain the same amounts of the same therapeutically active

**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:**

**<sup>1</sup>Senate SSG committee amendments adopted July 19, 2010.**

1 ingredients in the same dosage forms and that meet present  
2 compendial standards.

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

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

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

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

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

24 l. "Interchangeable drug products" means pharmaceutical  
25 equivalents or bioequivalents that are determined to be therapeutic  
26 equivalents by the **【council】** department.

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

31 n. "Dosage form" means the physical formulation or medium in  
32 which the product is intended, manufactured and made available for  
33 use, including, but not limited to: tablets, capsules, oral solutions,  
34 aerosols, inhalers, gels, lotions, creams, ointments, transdermals  
35 and suppositories, and the particular form of the above which  
36 utilizes a specific technology or mechanism to control, enhance or  
37 direct the release, targeting, systemic absorption or other delivery of  
38 a dosage regimen in the body.

39 (cf: P.L.1993, c.256, s.1)

40

41 2. Section 7 of P.L.1977, c.240 (C.24:6E-6) is amended to read  
42 as follows:

43 7. a. The **【council】** department shall prepare a list of  
44 interchangeable drug products. This list shall be periodically  
45 reviewed in accordance with a schedule of and procedure for such  
46 review as shall be established by the **【council】** department. In  
47 development of the list, distinctions shall be made when: (1)  
48 evidence of bioequivalence is considered critical and when it is not;

1 (2) when levels of toxicity are considered critical and when they are  
2 not. The list may include interchangeable drug products used by  
3 the United States Government and its agencies, where the  
4 government or such agency has established the reliability of the  
5 drug products interchanged.

6 b. No drug products shall be included in such list until after a  
7 public hearing has been held thereon after at least 20 days notice.  
8 Such notice shall be mailed to every drug company that is  
9 authorized to do business in the State of New Jersey and to all  
10 persons who have made a timely request of the **【council】**  
11 department for advance notice of its public hearings and shall be  
12 published in the New Jersey Register.

13 c. Manufacturers shall, upon the request of the **【council】**  
14 department, be required to submit any information in their files that  
15 relates manufacturing processes and in vivo and in vitro tests to the  
16 bioavailability of any drug product. This requirement shall also  
17 apply to technical information obtained during research related to  
18 the development of new drug products, even when such information  
19 bears only an indirect relationship to the final dosage form. The  
20 **【council】** department shall not make such information public when  
21 there is a proprietary interest on the part of the manufacturer.

22 d. Any manufacturer of drug products shall have the right to  
23 request the **【council】** department to evaluate its drug products for  
24 the purpose of inclusion on the list of interchangeable drug  
25 products, or to request that the **【council】** department consider  
26 removal of any drug product from the list. Any such request shall  
27 be accompanied by such information as the **【council】** department  
28 shall require, and any drug product involved shall be evaluated in  
29 the same manner and shall be subject to the same procedures and  
30 requirements as all other drug products evaluated by the **【council】**  
31 department for inclusion on or removal from the list.

32 e. Prior to any drug product being approved by the **【council】**  
33 department, the manufacturer shall be required to demonstrate that  
34 it has complied with the standards set forth in the Current Good  
35 Manufacturing Practices of Title 21 USC or in such standards  
36 relating to drug manufacturing practices as may be promulgated by  
37 the **【Department of Health】** department from time to time and must  
38 show evidence of a satisfactory inspection by the Federal Food and  
39 Drug Administration or the **【Department of Health】** department.

40 f. The **【council】** department shall distribute copies of the list  
41 of interchangeable drug products and revisions thereof and  
42 additions thereto among physicians and other authorized prescribers  
43 and licensed pharmacists, and shall supply a copy to any person  
44 upon request, upon payment of the price established by the  
45 **【council】** department.

46 g. The **【council】** department shall be authorized to adopt  
47 reasonable rules and regulations, in accordance with the provisions

1 of the [Administrative Procedure Act, P.L.1966, c. 410 (C. 54:14B-  
2 1 et seq.)] “Administrative Procedure Act,” P.L.1968, c.410  
3 (C.52:14B-1 et seq.), to carry out its functions and duties under this  
4 act and to effectuate its purposes.  
5 (cf: P.L.1977, c.240, s.7)

6  
7 3. Section 35 of P.L.1993, c.139 (C.58:10B-12) is amended to  
8 read as follows:

9 35. a. The Department of Environmental Protection shall adopt  
10 minimum remediation standards for soil, groundwater, and surface  
11 water quality necessary for the remediation of contamination of real  
12 property. The remediation standards shall be developed to ensure  
13 that the potential for harm to public health and safety and to the  
14 environment is minimized to acceptable levels, taking into  
15 consideration the location, the surroundings, the intended use of the  
16 property, the potential exposure to the discharge, and the  
17 surrounding ambient conditions, whether naturally occurring or  
18 man-made.

19 Until the minimum remediation standards for the protection of  
20 public health and safety as described herein are adopted, the  
21 department shall apply public health and safety remediation  
22 standards for contamination at a site on a case-by-case basis based  
23 upon the considerations and criteria enumerated in this section.

24 [The department shall not propose or adopt remediation  
25 standards protective of the environment pursuant to this section,  
26 except standards for groundwater or surface water, until  
27 recommendations are made by the Environment Advisory Task  
28 Force created pursuant to section 37 of P.L.1993, c.139. Until the  
29 Environment Advisory Task Force issues its recommendations and  
30 the department adopts remediation standards protective of the  
31 environment as required by this section, the department shall  
32 continue to determine the need for and the application of  
33 remediation standards protective of the environment on a case-by-  
34 case basis in accordance with the guidance and regulations of the  
35 United States Environmental Protection Agency pursuant to the  
36 "Comprehensive Environmental Response, Compensation and  
37 Liability Act of 1980," 42 U.S.C. s.9601 et seq. and other statutory  
38 authorities as applicable.]

39 The department may not require any person to perform an  
40 ecological evaluation of any area of concern that consists of an  
41 underground storage tank storing heating oil for on-site  
42 consumption in a one to four family residential building.

43 b. In developing minimum remediation standards the  
44 department shall:

45 (1) base the standards on generally accepted and peer reviewed  
46 scientific evidence or methodologies;

47 (2) base the standards upon reasonable assumptions of exposure  
48 scenarios as to amounts of contaminants to which humans or other

1 receptors will be exposed, when and where those exposures will  
2 occur, and the amount of that exposure;

3 (3) avoid the use of redundant conservative assumptions. The  
4 department shall avoid the use of redundant conservative  
5 assumptions by the use of parameters that provide an adequate  
6 margin of safety and which avoid the use of unrealistic conservative  
7 exposure parameters and which guidelines make use of the guidance  
8 and regulations for exposure assessment developed by the United  
9 States Environmental Protection Agency pursuant to the  
10 "Comprehensive Environmental Response, Compensation, and  
11 Liability Act of 1980," 42 U.S.C. s.9601 et seq. and other statutory  
12 authorities as applicable;

13 (4) where feasible, establish the remediation standards as  
14 numeric or narrative standards setting forth acceptable levels or  
15 concentrations for particular contaminants; and

16 (5) consider and utilize, in the absence of other standards used  
17 or developed by the Department of Environmental Protection and  
18 the United States Environmental Protection Agency, the toxicity  
19 factors, slope factors for carcinogens and reference doses for non-  
20 carcinogens from the United States Environmental Protection  
21 Agency's Integrated Risk Information System (IRIS).

22 c. (1) The department shall develop residential and  
23 nonresidential soil remediation standards that are protective of  
24 public health and safety. For contaminants that are mobile and  
25 transportable to groundwater or surface water, the residential and  
26 nonresidential soil remediation standards shall be protective of  
27 groundwater and surface water. Residential soil remediation  
28 standards shall be set at levels or concentrations of contamination  
29 for real property based upon the use of that property for residential  
30 or similar uses and which will allow the unrestricted use of that  
31 property without the need of engineering devices or any  
32 institutional controls and without exceeding a health risk standard  
33 greater than that provided in subsection d. of this section.  
34 Nonresidential soil remediation standards shall be set at levels or  
35 concentrations of contaminants that recognize the lower likelihood  
36 of exposure to contamination on property that will not be used for  
37 residential or similar uses, which will allow for the unrestricted use  
38 of that property for nonresidential purposes, and that can be met  
39 without the need of engineering controls. Whenever real property is  
40 remediated to a nonresidential soil remediation standard, except as  
41 otherwise provided in paragraph (3) of subsection g. of this section,  
42 the department shall require, pursuant to section 36 of P.L.1993,  
43 c.139 (C.58:10B-13), that the use of the property be restricted to  
44 nonresidential or other uses compatible with the extent of the  
45 contamination of the soil and that access to that site be restricted in  
46 a manner compatible with the allowable use of that property.

47 (2) The department may develop differential remediation  
48 standards for surface water or groundwater that take into account



1 the current, planned, or potential use of that water in accordance  
2 with the "Clean Water Act" (33 U.S.C. s.1251 et seq.) and the  
3 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

4 d. The department shall develop minimum remediation  
5 standards for soil, groundwater, and surface water intended to be  
6 protective of public health and safety taking into account the  
7 provisions of this section. In developing these minimum health risk  
8 remediation standards the department shall identify the hazards  
9 posed by a contaminant to determine whether exposure to that  
10 contaminant can cause an increase in the incidence of an adverse  
11 health effect and whether the adverse health effect may occur in  
12 humans. The department shall set minimum soil remediation health  
13 risk standards for both residential and nonresidential uses that:

14 (1) for human carcinogens, as categorized by the United States  
15 Environmental Protection Agency, will result in an additional  
16 cancer risk of one in one million;

17 (2) for noncarcinogens, will limit the Hazard Index for any  
18 given effect to a value not exceeding one.

19 The health risk standards established in this subsection are for  
20 any particular contaminant and not for the cumulative effects of  
21 more than one contaminant at a site.

22 e. Remediation standards and other remediation requirements  
23 established pursuant to this section and regulations adopted  
24 pursuant thereto shall apply to remediation activities required  
25 pursuant to the "Spill Compensation and Control Act," P.L.1976,  
26 c.141 (C.58:10-23.11 et seq.), the "Water Pollution Control Act,"  
27 P.L.1977, c.74 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21  
28 et seq.), the "Industrial Site Recovery Act," P.L.1983, c.330  
29 (C.13:1K-6 et al.), the "Solid Waste Management Act," P.L.1970,  
30 c.39 (C.13:1E-1 et seq.), the "Comprehensive Regulated Medical  
31 Waste Management Act," sections 1 through 25 of P.L.1989, c.34  
32 (C.13:1E-48.1 et seq.), the "Major Hazardous Waste Facilities  
33 Siting Act," P.L.1981, c.279 (C.13:1E-49 et seq.), the "Sanitary  
34 Landfill Facility Closure and Contingency Fund Act," P.L.1981,  
35 c.306 (C.13:1E-100 et seq.), the "Regional Low-Level Radioactive  
36 Waste Disposal Facility Siting Act," P.L.1987, c.333 (C.13:1E-177  
37 et seq.), or any other law or regulation by which the State may  
38 compel a person to perform remediation activities on contaminated  
39 property. However, nothing in this subsection shall be construed to  
40 limit the authority of the department to establish discharge limits  
41 for pollutants or to prescribe penalties for violations of those limits  
42 pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), or to require the  
43 complete removal of nonhazardous solid waste pursuant to law.

44 f. (1) A person performing a remediation of contaminated real  
45 property, in lieu of using the established minimum soil remediation  
46 standard for either residential use or nonresidential use adopted by  
47 the department pursuant to subsection c. of this section, may submit  
48 to the department a request to use an alternative residential use or

1 nonresidential use soil remediation standard. The use of an  
2 alternative soil remediation standard shall be based upon site  
3 specific factors which may include (1) physical site characteristics  
4 which may vary from those used by the department in the  
5 development of the soil remediation standards adopted pursuant to  
6 this section; or (2) a site specific risk assessment. If a person  
7 performing a remediation requests to use an alternative soil  
8 remediation standard based upon a site specific risk assessment, that  
9 person shall demonstrate to the department that the requested  
10 deviation from the risk assessment protocol used by the department  
11 in the development of soil remediation standards pursuant to this  
12 section is consistent with the guidance and regulations for exposure  
13 assessment developed by the United States Environmental  
14 Protection Agency pursuant to the "Comprehensive Environmental  
15 Response, Compensation, and Liability Act of 1980," 42  
16 U.S.C.s.9601 et seq. and other statutory authorities as applicable. A  
17 site specific risk assessment may consider exposure scenarios and  
18 assumptions that take into account the form of the contaminant  
19 present, natural biodegradation, fate and transport of the  
20 contaminant, available toxicological data that are based upon  
21 generally accepted and peer reviewed scientific evidence or  
22 methodologies, and physical characteristics of the site, including,  
23 but not limited to, climatic conditions and topographic conditions.  
24 Nothing in this subsection shall be construed to authorize the use of  
25 an alternative soil remediation standard in those instances where an  
26 engineering control is the appropriate remedial action, as  
27 determined by the department, to prevent exposure to  
28 contamination.

29 Upon a determination by the department that the requested  
30 alternative remediation standard satisfies the department's  
31 regulations, is protective of public health and safety, as established  
32 in subsection d. of this section, and is protective of the environment  
33 pursuant to subsection a. of this section, the alternative residential  
34 use or nonresidential use soil remediation standard shall be  
35 approved by the department. The burden to demonstrate that the  
36 requested alternative remediation standard is protective rests with  
37 the person requesting the alternative standard and the department  
38 may require the submission of any documentation as the department  
39 determines to be necessary in order for the person to meet that  
40 burden.

41 (2) The department may, upon its own initiative, require an  
42 alternative remediation standard for a particular contaminant for a  
43 specific real property site, in lieu of using the established minimum  
44 residential use or nonresidential use soil remediation standard  
45 adopted by the department for a particular contaminant pursuant to  
46 this section. The department may require an alternative remediation  
47 standard pursuant to this paragraph upon a determination by the  
48 department, based on the weight of the scientific evidence, that due

1 to specific physical site characteristics of the subject real property,  
2 including, but not limited to, its proximity to surface water, the use  
3 of the adopted residential use or nonresidential use soil remediation  
4 standards would not be protective, or would be unnecessarily  
5 overprotective, of public health or safety or of the environment, as  
6 appropriate.

7 g. The development, selection, and implementation of any  
8 remediation standard or remedial action shall ensure that it is  
9 protective of public health, safety, and the environment, as  
10 applicable, as provided in this section. In determining the  
11 appropriate remediation standard or remedial action that shall occur  
12 at a site, the department and any person performing the remediation,  
13 shall base the decision on the following factors:

14 (1) Unrestricted use remedial actions, limited restricted use  
15 remedial actions and restricted use remedial actions shall be  
16 allowed except that unrestricted use remedial actions and limited  
17 restricted use remedial actions shall be preferred over restricted use  
18 remedial actions. For any remediation initiated one year after the  
19 date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.), the  
20 department shall require the use of an unrestricted use remedial  
21 action, or a presumptive remedy or an alternative remedy as  
22 provided in paragraph (10) of this subsection, at a site or area of  
23 concern where new construction is proposed for residential  
24 purposes, for use as a child care center licensed pursuant to  
25 P.L.1983, c.492 (C.30:5B-1 et seq.), or as a public school or private  
26 school as defined in N.J.S.18A:1-1, as a charter school established  
27 pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.), or where there  
28 will be a change in the use of the site to residential, child care, or  
29 public school, private school, or charter school purposes or another  
30 purpose that involves use by a sensitive population. For any  
31 remediation initiated on or after the date of enactment of P.L.2009,  
32 c.60 (C.58:10C-1 et al.), the department may require the use of an  
33 unrestricted use remedial action or a presumptive remedy as  
34 provided in guidelines adopted pursuant to paragraph (10) of this  
35 subsection for a site or area of concern that is to be used for  
36 residential, child care, or public school, private school, or charter  
37 school purposes or another purpose that involves use by a sensitive  
38 population. Except as provided in this subsection, and section 27 of  
39 P.L.2009, c.60 (C.58:10C-27), the department, however, may not  
40 disapprove the use of a restricted use remedial action or a limited  
41 restricted use remedial action so long as the selected remedial  
42 action meets the health risk standard established in subsection d. of  
43 this section, and where, as applicable, is protective of the  
44 environment. Except as provided in this subsection and section 27  
45 of P.L.2009, c.60 (C.58:10C-27), the choice of the remedial action  
46 to be implemented shall be made by the person responsible for  
47 conducting the remediation in accordance with regulations adopted  
48 by the department and that choice of the remedial action shall be

1 approved by the department if all the criteria for remedial action  
2 selection enumerated in this section, as applicable, are met. Except  
3 as provided in section 27 of P.L.2009, c.60 (C.58:10C-27), the  
4 department may not require a person to compare or investigate any  
5 alternative remedial action as part of its review of the selected  
6 remedial action. The department may disapprove the selection of a  
7 remedial action for a site on which the proposed remedial action  
8 will render the property unusable for future redevelopment or for  
9 recreational use;

10 (2) Contamination may, upon the department's approval, be left  
11 onsite at levels or concentrations that exceed the minimum soil  
12 remediation standards for residential use if the implementation of  
13 institutional or engineering controls at that site will result in the  
14 protection of public health, safety and the environment at the health  
15 risk standard established in subsection d. of this section, if the  
16 requirements established in subsections a., b., c. and d. of section 36  
17 of P.L.1993, c.139 (C.58:10B-13), and paragraphs (1) and (10) of  
18 this subsection, are met. The department may also require the  
19 treatment or removal of contaminated material that would pose an  
20 acute health or safety hazard in the event of failure of an  
21 engineering control;

22 (3) Real property on which there is soil that has not been  
23 remediated to the residential soil remediation standards, or real  
24 property on which the soil, groundwater, or surface water has been  
25 remediated to meet the required health risk standard by the use of  
26 engineering or institutional controls, may be developed or used for  
27 residential purposes, or for any other similar purpose, if (a) all areas  
28 of that real property at which a person may come into contact with  
29 soil are remediated to meet the residential soil remediation  
30 standards, (b) it is clearly demonstrated that for all areas of the real  
31 property, other than those described in subparagraph (a) above,  
32 engineering and institutional controls can be implemented and  
33 maintained on the real property sufficient to meet the health risk  
34 standard as established in subsection d. of this section, and (c) a  
35 presumptive remedy established and approved by the department  
36 pursuant to paragraph (10) of this subsection, or an alternative  
37 remedy approved by the department pursuant to paragraph (10) of  
38 this subsection, has been approved, as provided in paragraphs (1)  
39 and (10) of this subsection;

40 (4) Remediation shall not be required beyond the regional  
41 natural background levels for any particular contaminant. The  
42 department shall develop regulations that set forth a process to  
43 identify background levels of contaminants for a particular region.  
44 For the purpose of this paragraph "regional natural background  
45 levels" means the concentration of a contaminant consistently  
46 present in the environment of the region of the site and which has  
47 not been influenced by localized human activities;

- 1 (5) Remediation shall not be required of the owner or operator  
2 of real property for contamination coming onto the site from  
3 another property owned and operated by another person, unless the  
4 owner or operator is the person who is liable for cleanup and  
5 removal costs pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.);
- 6 (6) Groundwater that is contaminated shall not be required to be  
7 remediated to a level or concentration for any particular  
8 contaminant lower than the level or concentration that is migrating  
9 onto the property from another property owned and operated by  
10 another person;
- 11 (7) The technical performance, effectiveness and reliability of  
12 the proposed remedial action in attaining and maintaining  
13 compliance with applicable remediation standards and required  
14 health risk standards shall be considered. In reviewing a proposed  
15 remedial action, the department or the licensed site remediation  
16 professional shall also consider the ability of the owner or operator  
17 to implement the proposed remedial action within a reasonable time  
18 frame without jeopardizing public health, safety or the environment;
- 19 (8) The use of a remedial action for soil contamination that is  
20 determined by the department to be effective in its guidance  
21 document created pursuant to section 38 of P.L.1993, c.139  
22 (C.58:10B-14), is presumed to be an appropriate remedial action if  
23 it is to be implemented on a site in the manner described by the  
24 department in the guidance document and applicable regulations  
25 and if all of the conditions for remedy selection provided for in this  
26 section are met. The burden to prove compliance with the criteria  
27 in the guidance document is with the person responsible for  
28 conducting the remediation;
- 29 (9) (Deleted by amendment, P.L.1997, c.278);
- 30 (10) The department shall, by rule or regulation, establish  
31 presumptive remedies, use of which shall be required on any site or  
32 area of concern to be used for residential purposes, as a child care  
33 center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.), as a  
34 public school or private school as defined in N.J.S.18A:1-1, or as a  
35 charter school established pursuant to P.L.1995, c.426 (C.18A:36A-  
36 1 et seq.). The department may also issue guidelines that provide  
37 for presumptive remedies that may be required as provided in  
38 paragraph (1) of this subsection, on a site to be used for residential  
39 purposes, as a child care center, or as a public school, private school  
40 or charter school. The presumptive remedies shall be based on the  
41 historic use of the property, the nature and extent of the  
42 contamination at the site, the future use of the site and any other  
43 factors deemed relevant by the department. The department may  
44 include the use of engineering and institutional controls in the  
45 presumptive remedies authorized pursuant to this subsection. If the  
46 person responsible for conducting the remediation demonstrates to  
47 the department that the use of an unrestricted use remedial action or  
48 a presumptive remedy is impractical due to conditions at the site, or

1 that an alternative remedy would be equally protective over time as  
2 a presumptive remedy, then an alternative remedy for the site that is  
3 protective of the public health and safety may be proposed for  
4 review and approval by the department;

5 (11) The department may authorize a person conducting a  
6 remediation to divide a contaminated site into one or more areas of  
7 concern. For each area of concern, a different remedial action may  
8 be selected provided the requirements of this subsection are met and  
9 the remedial action selected is consistent with the future use of the  
10 property; and

11 (12) The construction of single family residences, public  
12 schools, private schools, or charter schools, or child care centers  
13 shall be prohibited on a landfill that undergoes a remediation if  
14 engineering controls are required for the management of landfill gas  
15 or leachate.

16 The burden to demonstrate that a remedial action is protective of  
17 public health, safety and the environment, as applicable, and has  
18 been selected in conformance with the provisions of this subsection  
19 is with the person responsible for conducting the remediation.

20 The department may require the person responsible for  
21 conducting the remediation to supply the information required  
22 pursuant to this subsection as is necessary for the department to  
23 make a determination.

24 h. (1) The department shall adopt regulations which establish a  
25 procedure for a person to demonstrate that a particular parcel of  
26 land contains large quantities of historical fill material. Upon a  
27 determination by the department that large quantities of historic fill  
28 material exist on that parcel of land, there is a rebuttable  
29 presumption that the department shall not require any person to  
30 remove or treat the fill material in order to comply with applicable  
31 health risk or environmental standards. In these areas the  
32 department shall establish by regulation the requirement for  
33 engineering or institutional controls that are designed to prevent  
34 exposure of these contaminants to humans, that allow for the  
35 continued use of the property, that are less costly than removal or  
36 treatment, which maintain the health risk standards as established in  
37 subsection d. of this section, and, as applicable, are protective of the  
38 environment. The department may rebut the presumption only upon  
39 a finding by the preponderance of the evidence that the use of  
40 engineering or institutional controls would not be effective in  
41 protecting public health, safety, and the environment. The  
42 department may not adopt any rule or regulation that has the effect  
43 of shifting the burden of rebutting the presumption. For the  
44 purposes of this paragraph "historic fill material" means generally  
45 large volumes of non-indigenous material, no matter what date they  
46 were emplaced on the site, used to raise the topographic elevation  
47 of a site, which were contaminated prior to emplacement and are in  
48 no way connected with the operations at the location of

1 emplacement and which include, but are not limited to, construction  
2 debris, dredge spoils, incinerator residue, demolition debris, fly ash,  
3 and non-hazardous solid waste. Historic fill material shall not  
4 include any material which is substantially chromate chemical  
5 production waste or any other chemical production waste or waste  
6 from processing of metal or mineral ores, residues, slags or tailings.

7 (2) The department shall develop recommendations for remedial  
8 actions in large areas of historic industrial contamination. These  
9 recommendations shall be designed to meet the health risk  
10 standards established in subsection d. of this section, and to be  
11 protective of the environment and shall take into account the  
12 industrial history of these sites, the extent of the contamination that  
13 may exist, the costs of remedial actions, the economic impacts of  
14 these policies, and the anticipated uses of these properties. The  
15 department shall issue a report to the Senate Environment  
16 Committee and to the Assembly Environment and Solid Waste  
17 Committee, or their successors, explaining these recommendations  
18 and making any recommendations for legislative or regulatory  
19 action.

20 (3) The department may not, as a condition of allowing the use  
21 of a nonresidential use soil remediation standard, or the use of  
22 institutional or engineering controls, require the owner of that real  
23 property, except as provided in section 36 of P.L.1993, c.139  
24 (C.58:10B-13), to restrict the use of that property through the filing  
25 of a deed easement, covenant, or condition.

26 i. The department may not require a remedial action workplan  
27 to be prepared or implemented or engineering or institutional  
28 controls to be imposed upon any real property unless sampling  
29 performed at that real property demonstrates the existence of  
30 contamination above the applicable remediation standards.

31 j. Upon the approval by the department or by a licensed site  
32 remediation professional of a remedial action workplan, or similar  
33 plan that describes the extent of contamination at a site and the  
34 remedial action to be implemented to address that contamination,  
35 the department may not subsequently require a change to that  
36 workplan or similar plan in order to compel a different remediation  
37 standard due to the fact that the established remediation standards  
38 have changed; however, the department may compel a different  
39 remediation standard if the difference between the new remediation  
40 standard and the remediation standard approved in the workplan or  
41 other plan differs by an order of magnitude. The limitation to the  
42 department's authority to change a workplan or similar plan  
43 pursuant to this subsection shall only apply if the workplan or  
44 similar plan is being implemented in a reasonable timeframe, as  
45 may be indicated in the approved remedial action workplan or  
46 similar plan.

47 k. Notwithstanding any other provisions of this section, all  
48 remediation standards and remedial actions that involve real

1 property located in the Pinelands area shall be consistent with the  
2 provisions of the "Pinelands Protection Act," P.L.1979, c.111  
3 (C.13:18A-1 et seq.), any rules and regulations promulgated  
4 pursuant thereto, and with section 502 of the "National Parks and  
5 Recreation Act of 1978," 16 U.S.C. s.471i; and all remediation  
6 standards and remedial actions that involve real property located in  
7 the Highlands preservation area shall be consistent with the  
8 provisions of the "Highlands Water Protection and Planning Act,"  
9 P.L.2004, c.120 (C.13:20-1 et al.), and any rules and regulations  
10 and the Highland regional master plan adopted pursuant thereto.

11 l. Upon the adoption of a remediation standard for a particular  
12 contaminant in soil, groundwater, or surface water pursuant to this  
13 section, the department may amend that remediation standard only  
14 upon a finding that a new standard is necessary to maintain the  
15 health risk standards established in subsection d. of section 35 of  
16 P.L.1993, c.139 (C.58:10B-12) or to protect the environment, as  
17 applicable. The department may not amend a public health based  
18 soil remediation standard to a level that would result in a health risk  
19 standard more protective than that provided for in subsection d. of  
20 section 35 of P.L.1993, c.139 (C.58:10B-12).

21 m. Nothing in P.L.1993, c.139 shall be construed to restrict or  
22 in any way diminish the public participation which is otherwise  
23 provided under the provisions of the "Spill Compensation and  
24 Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.).

25 n. Notwithstanding any provision of subsection a. of section 36  
26 of P.L.1993, c.139 (C.58:10B-13) to the contrary, the department  
27 may not require a person intending to implement a remedial action  
28 at an underground storage tank facility storing heating oil for on-  
29 site consumption at a one to four family residential dwelling to  
30 provide advance notice to a municipality prior to implementing that  
31 remedial action.

32 o. A person who has remediated a site pursuant to the  
33 provisions of this section, who was liable for the cleanup and  
34 removal costs of that discharge pursuant to the provisions of  
35 paragraph (1) of subsection c. of section 8 of P.L.1976, c.141  
36 (C.58:10-23.11g), and who remains liable for the discharge on that  
37 site due to a possibility that a remediation standard may change,  
38 undiscovered contamination may be found, or because an  
39 engineering control was used to remediate the discharge, shall  
40 maintain with the department a current address at which that person  
41 may be contacted in the event additional remediation needs to be  
42 performed at the site. The requirement to maintain the current  
43 address shall be made part of the conditions of the permit issued  
44 pursuant to section 19 of P.L.2009, c.60 (C.58:10C-19) and the final  
45 remediation document.

46 (cf: P.L.2009, c.60, s.47)

47

48 4. Section 1 of P.L.2003, c.112 (C.17B:30-41) is amended to



1 read as follows:

2 1. The Legislature finds and declares that:

3 a. The rising cost of hospital-based health care in this State  
4 impedes the ability of the State and insurers to provide reasonably  
5 priced, comprehensive health insurance to the citizens of the State.

6 b. Hospitals located within the State report more than \$1  
7 billion annually in debts that they are unable to collect.

8 c. The cost of covering the unpaid care represented by the debt  
9 is spread among citizens, private insurers, hospitals and the State in  
10 the form of higher bills for hospital-based care.

11 d. A significant portion of the uncollected debt is related to  
12 copayments and deductibles that are difficult for hospitals to collect  
13 efficiently.

14 e. The State's Set off of Individual Liability (SOIL) program  
15 has proven to be an administratively efficient means of collecting  
16 debts owed to State agencies.

17 f. It is, therefore, in the public interest to create a **[New Jersey**  
18 **Hospital Care Payment Commission**, the duties of which would  
19 include, but not be limited to, creating a **]** system for using the  
20 State's SOIL program to collect valid hospital debts.

21 (cf: P.L.2003, c.112, s.1)

22

23 5. Section 2 of P.L.2003, c.112 (C.17B:30-42) is amended to  
24 read as follows:

25 2. As used in this act:

26 "Coinsurance" means the percentage of a charge covered by a  
27 health plan that must be paid by a person covered under the health  
28 plan.

29 "Collection agency" means the Department of the Treasury and  
30 any company, agency or law firm engaged in collecting debts that  
31 the Department of the Treasury may determine to engage to assist it  
32 in collecting debts.

33 **["Commission" means the Hospital Care Payment Commission**  
34 **created pursuant to this act.]**

35 "Debt" means money owed by a patient to a hospital, or by  
36 someone who is legally responsible for payment for a patient, and  
37 includes late payment penalties and interest thereon. It does not  
38 include monies owed to a hospital by a health plan for services  
39 provided by the hospital to a person with coverage under that plan,  
40 or amounts subject to dispute between a health plan and a hospital.

41 "Debtor" means an individual owing money to or having a  
42 delinquent account with a hospital, which obligation has not been  
43 adjudicated, satisfied by court order, set aside by court order or  
44 discharged in bankruptcy.

45 "Deductible" means the amount of covered charges under a  
46 health plan that an individual must pay for a services before a health  
47 plan begins to pay on a covered charge.

1     “Department” means the Department of Health and Senior  
2 Services.

3     "General Hospital" and "hospital" have the meanings set forth in  
4 N.J.A.C.8:43G-1.2.

5     "Health plan" means an individual or group health benefits plan  
6 that provides or pays the cost of hospital and medical expenses,  
7 dental or vision care, or prescription drugs, and is provided by or  
8 through an insurer, health maintenance organization, the Medicaid  
9 program, the Medicare program, a Medicare+Choice provider or  
10 Medicare supplemental insurer, an employer-sponsored group  
11 health benefits plan, government or church-sponsored health  
12 benefits plan or a multi-employer welfare arrangement.

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

15     "Medicare" means the program established by Pub.L.89-97 (42  
16 U.S.C. s.1395 et seq.) as amended, or its successor plan or plans.

17     "Patient" means a person who receives services in a hospital on  
18 an inpatient or outpatient basis.

19 (cf: P.L.2003, c.112, s.2)

20

21     6. Section 4 of P.L.2003, c.112 (C.17B:30-44) is amended to  
22 read as follows:

23     4. a. There is established the "New Jersey Hospital Care  
24 Payment Fund" in the Department of the Treasury.

25     b. The fund shall be comprised of monies collected from  
26 debtors of hospitals pursuant to this act, and any other monies  
27 appropriated thereto to carry out the purposes of this act.

28     c. The fund shall be a nonlapsing fund, from which costs shall  
29 be paid in the following order, for each hospital participating:

30     (1) administrative costs of the **【commission】** department to  
31 implement the provisions of P.L.2003, c.112 (C.17B:30-41 et seq.);

32     (2) administrative fees to the collection agency;

33     (3) 50% of the remainder, but only from monies collected from  
34 debtors of hospitals pursuant to this act after paragraphs (1) and (2)  
35 of this subsection are paid, shall be payable to the hospital from  
36 which the debt originated within 90 days of receipt of monies  
37 related to discharge of the assigned debt into the fund; and

38     (4) the remainder, after paragraphs (1), (2) and (3) of this  
39 subsection are paid, shall be deposited into the General Fund.

40 (cf: P.L.2003, c.112, s.4)

41

42     7. Section 5 of P.L.2003, c.112 (C.17B:30-45) is amended to  
43 read as follows:

44     5. The **【commission】** department is authorized to:

45     a. Accept assignment of debts from hospitals which have  
46 followed the procedures outlined in section 7 of this act, or such  
47 other procedures as the **【commission】** department shall adopt.

1 b. Pursue collection of debts pursuant to this act. The  
2 **【commission】 department** shall initiate the program in phases. The  
3 first phase may involve acceptance of assignment of debt that:

4 (1) derives from a limited number of hospitals;

5 (2) consists of coinsurance and deductibles that remain payable  
6 after adjudication by a health plan;

7 (3) is assigned by a general hospital;

8 (4) is less than two years old at the date of assignment to the  
9 **【commission】 department**, as determined by the date of discharge  
10 for inpatient services and date of service for outpatient services;

11 (5) involves any of the above or any combination of the above,  
12 or includes such other limitations as the **【commission】 department**  
13 determines are desirable to smooth implementation of the program  
14 created by this act.

15 After the first phase, the **【commission】 department** may expand  
16 acceptance of assignments as it shall determine pursuant to this act.

17 c. Test assignment data received from the hospitals to  
18 determine whether the records are sufficient to make set-off  
19 practicable, and return records that do not pass the test to the  
20 hospitals.

21 d. Conduct such fact-finding, as is necessary, in preparation for  
22 making a determination as to the validity of debts.

23 e. Make final determinations as to the validity of debts.

24 f. Determine the payment to be collected from the debtor,  
25 based upon a "fairness formula" to be determined by the  
26 **【commission】 department**. For debt processed by the **【commission】**  
27 **department** during the fiscal year starting on July 1, 2003, the  
28 fairness formula shall be based upon the **【Department of Health and**  
29 **Senior Services'】 department's** report entitled "Net Patient Revenue  
30 to Charge Ratio," for the most recent year available. For debt  
31 processed by the **【commission】 department** during the fiscal year  
32 starting on July 1, 2004 and thereafter, the fairness formula shall be  
33 based upon the most recent available "Net Patient Revenue to  
34 Charge Ratio" report, or such other measure as the **【commission】**  
35 **department** determines would most fairly reimburse hospitals for  
36 treatment.

37 g. Offset liability for the hospital debts against the New Jersey  
38 Gross Income Tax pursuant to N.J.S.54A:1-1 et seq., including an  
39 earned income tax credit provided as a refund pursuant to P.L.2000,  
40 c.80 (C.54A:4-6 et al.), or whenever any individual is eligible to  
41 receive an NJ SAVER rebate or a homestead rebate pursuant to  
42 P.L.1990, c.61 (C.54:4-8.57 et al.) or P.L.1999, c.63 (C.54:4-8.58a  
43 et al.), and if the rebate is not required to be paid over to the  
44 municipal tax collector under the provisions of section 8 of  
45 P.L.1990, c.61 (C.54:4-8.64), and including any other financial  
46 resource authorized as a source capable of offset for any reason by  
47 section 1 of P.L.1981, c.239 (C.54A:9-8.1 et seq.).

- 1 h. Adjudicate the validity of all set-off challenges pursuant to  
2 N.J.A.C. 18:35-10.1 et seq.
- 3 i. Make such decisions as to compromise and waiver of  
4 interest, penalties, post-judgment interest and write-off as it shall  
5 deem prudent.
- 6 j. Refer assigned debts under section 7 of this act to a  
7 collection agency in the event that offsetting is not practical or is  
8 not successful in fully resolving the debt.
- 9 k. Create standards for settlement of debts through the  
10 collection agency process.
- 11 l. Determine to cease accepting debt from a hospital until such  
12 time as the hospital can demonstrate to the satisfaction of the  
13 **【commission】** department that its accuracy has improved to  
14 acceptable levels where the **【commission】** department determines  
15 that data forwarded by a hospital to the **【commission】** department  
16 has an unacceptable level of inaccuracies regarding validity or  
17 quality of the debt forwarded to the **【commission】** department.
- 18 m. Contract with other State agencies for services, including  
19 administrative services necessary to carry out the duties of the  
20 **【commission】** department.
- 21 n. Fund the cost of its operations from the fund created by  
22 section 4 of this act.
- 23 o. Adopt rules and regulations pursuant to the "Administrative  
24 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate  
25 the purposes of this act; except that, notwithstanding any provision  
26 of P.L.1968, c.410 to the contrary, the **【commission】** department  
27 may adopt, immediately upon filing with the Office of  
28 Administrative Law, such regulations as the **【commission】**  
29 department deems necessary to implement the provisions of this act,  
30 which shall be effective for a period not to exceed six months and  
31 may thereafter be amended, adopted or readopted by the  
32 **【commission】** department in accordance with the requirements of  
33 P.L.1968, c.410.  
34 (cf: P.L.2003, c.112, s.5)  
35
- 36 8. Section 6 of P.L.2003, c.112 (C.17B:30-46) is amended to  
37 read as follows:
- 38 6. Decisions of the **【commission】** department, regarding the  
39 fairness formula, the validity of debts, the adequacy of data  
40 provided to the **【commission】** department by hospitals for use in  
41 the program, and other such matters as shall arise concerning the  
42 administration of the program, shall constitute final agency action.  
43 (cf: P.L.2003, c.112, s.6)  
44
- 45 9. Section 7 of P.L.2003, c.112 (C.17B:30-47) is amended to  
46 read as follows:

1       7. a. The following procedures shall apply for those hospitals  
2 that wish to participate in the voluntary assignment program created  
3 by this act.

4       b. The hospital shall file with the **【commission】** department a  
5 notice signifying its intent to participate voluntarily and certifying  
6 the following:

7       (1) the hospital has determined that the patient is not eligible for  
8 charity care under the New Jersey Hospital Care Payment  
9 Assistance Program established by the Department of Health and  
10 Senior Services pursuant to section 10 of P.L.1992, c.160 (C.26:2H-  
11 18.60);

12       (2) the hospital has submitted a "clean claim" pursuant to  
13 P.L.1999, c.154 (C.17B:30-23 et al.) and P.L.1999, c.155  
14 (C.17B:30-26 et seq.) to the patient, a responsible party, Medicaid,  
15 Medicare or a health plan, as applicable, within a reasonable time  
16 following the patient's discharge, or in the case of outpatient  
17 service, the date of service;

18       (3) the claims have been fully adjudicated by a health plan,  
19 Medicare or Medicaid, where applicable, and a debt remains  
20 outstanding;

21       (4) the hospital has not initiated collection procedures against  
22 the patient or responsible party while a claim was pending  
23 adjudication with Medicare or a health plan, for which a debt  
24 remains outstanding;

25       (5) the hospital has notified the patient of the hospital's  
26 intention, if the account is not paid in full, or alternatively through a  
27 payment plan with the hospital, to proceed with legal action, or to  
28 turn the bill over to the **【State Hospital Care Payment Commission】**  
29 department for collection.

30       c. Nothing herein shall be deemed to create any new right to  
31 collection of hospital debts by hospitals beyond existing law; nor  
32 shall it be deemed to preclude any existing right to collection.

33       d. The **【commission】** department may determine the content of  
34 the notice required by paragraph (5) of subsection b. of this section  
35 to the patient concerning the likelihood that the account will be  
36 turned over to the **【commission】** department for collection.

37       e. The minimum amount of an unpaid bill that may be assigned  
38 to the **【commission】** department by a hospital is \$100, or such other  
39 minimum as the **【commission】** department shall determine by  
40 regulation.

41       f. Upon receipt of the voluntary assignment, the Department of  
42 the Treasury shall send, on behalf of the **【commission】** department,  
43 a notice to the person named as a debtor of the hospital, notifying  
44 the person as to receipt of the assignment by the **【commission】**  
45 department, providing the person with 30 days to challenge the  
46 validity of the debt, and providing notice that in the absence of such  
47 challenge, a Certificate of Debt will be filed with the Superior Court

1 of New Jersey. The notice shall also include a statement on the  
2 **【commission's】 department's** intention to take action to set off the  
3 liability against any refund of taxes pursuant to the "New Jersey  
4 Gross Income Tax Act" including an earned income tax credit, a NJ  
5 SAVER rebate or a homestead rebate, or other such funds as may be  
6 authorized by law.

7 g. If the person named as a debtor responds within the 30-day  
8 period, the person shall be provided with an opportunity to present,  
9 either in writing or in person, evidence as to why the person does  
10 not believe he is responsible for the debt. The **【commission】**  
11 department shall provide written notice to both the person and the  
12 hospital as to its determination regarding the validity of the debt,  
13 including the imposition of collection fees and interest, if  
14 applicable.

15 h. If the person fails to respond within 30 days to the  
16 **【commission】 department**, the **【commission】 department** may  
17 utilize the provisions of the Set off of Individual Liability (SOIL)  
18 program established pursuant to P.L.1981, c.239 (C.54A:9-8.1 et  
19 seq.), to collect any surcharge levied under this section that is  
20 unpaid on or after the effective date of this act.

21 As additional remedies, the **【commission】 department** may  
22 utilize the services of a collection agency to settle the debt and may  
23 also issue a certificate to the Clerk of the Superior Court stating that  
24 the person identified in the certificate is indebted under this law in  
25 such amount as shall be stated in the certificate. The certificate  
26 shall reference this act. Thereupon the clerk to whom such  
27 certificate shall have been issued shall immediately enter upon the  
28 record of docketed judgments: the name of the person as debtor; the  
29 State as creditor; the address of the person, if shown in the  
30 certificate; the amount of the debt so certified; a reference to this  
31 act under which the debt is assessed; and the date of making the  
32 entries. The docketing of the entries shall have the same force and  
33 effect as a civil judgment docketed in the Superior Court, and the  
34 **【commission】 department** shall have all the remedies and may take  
35 all of the proceedings for the collection thereof which may be had  
36 or taken upon the recovery of a judgment in an action, but without  
37 prejudice to any right of appeal. Upon entry by the clerk of the  
38 certificate in the record of docketed judgments in accordance with  
39 this provision, interest in the amount specified by the court rules for  
40 post-judgment interest shall accrue from the date of the docketing  
41 of the certificate; however, payment of the interest may be waived  
42 by the **【commission】 department**.

43 i. Any collection efforts undertaken pursuant to this act shall  
44 be undertaken in accordance with the "Health Insurance Portability  
45 and Accountability Act of 1996," Pub.L. 104-191 and 45 C.F.R.  
46 160.101 to 164.534, or any other similar law. The **【commission】**  
47 department and any other entity performing collection activities

1 pursuant to this act is authorized to enter into any agreements  
2 required to comply with such laws, including, but not limited to,  
3 entering into agreements with the hospitals and collection agencies  
4 to provide for appropriate safeguarding of information.  
5 (cf: P.L.2003, c.112, s.7)

6  
7 10. Section 1 of P.L.2001, c.192 (C.52:9YY-1) is amended to  
8 read as follows:

9 1. This act shall be known and may be cited as the "Health  
10 Data **【Commission】** Act."  
11 (cf: P.L.2001, c.192, s.1)

12  
13 11. Section 2 of P.L.2001, c.192 (C.52:9YY-2) is amended to  
14 read as follows:

15 2. The Legislature finds and declares that:

16 a. It is the intention of the Legislature to establish a single  
17 point of contact for members of the public to obtain health data  
18 **【through the creation of the New Jersey Health Data Commission】**;

19 b. The purpose of this **【commission】** initiative is to compile  
20 health care access, quality and cost data produced within the State  
21 from public and private entities and maximize the usefulness of the  
22 data for the public without duplicating existing data collection  
23 efforts by State agencies; and

24 c. It is anticipated that the expense to the State of compiling  
25 and disseminating the available and useful health data for the  
26 benefit of the public will be minimal and will be partially offset by  
27 subscriptions to routinely published **【commission】** documents of  
28 the Department of Health and Senior Services, the purchase of  
29 special **【commission】** reports of the Department of Health and  
30 Senior Services, and the receipt of grants to provide health data  
31 information to the public.

32 (cf: P.L.2001, c.192, s.2)

33  
34 12. Section 3 of P.L.2001, c.192 (C.52:9YY-3) is amended to  
35 read as follows:

36 3. As used in this act:

37 **【"Commission" means the New Jersey Health Data Commission**  
38 **established pursuant to this act.】**

39 "Department" means the Department of Health and Senior  
40 Services.

41 "Disclosure" means the disclosure of health data to a person or  
42 entity outside the **【commission】** department.

43 "Health data" means any information, except vital statistics as  
44 defined in R.S.26:8-1, relating to the health status of people, the  
45 availability of health care resources and services, or the use and  
46 cost of these resources and services. Health data shall not include

1 information that is created or received by members of the clergy or  
2 others who use spiritual means alone for healing.

3 "Identifiable health data" means any item, collection or grouping  
4 of health data which makes the person supplying it or described in it  
5 identifiable.

6 "Research and statistical purposes" means the performance of  
7 certain activities relating to health data, including, but not limited  
8 to: describing the group characteristics of persons or entities;  
9 analyzing the interrelationships among various characteristics of  
10 persons or entities; the conduct of statistical procedures or studies  
11 to improve the quality of health data; the design of sample surveys  
12 and the selection of samples of persons or entities; the preparation  
13 and publication of reports describing these activities; and other  
14 related functions; but excluding the use of health data for a person  
15 or entity to make a determination directly affecting the rights,  
16 benefits or entitlements of that person or entity.

17 (cf: P.L.2001, c.192, s.3)

18

19 13. Section 5 of P.L.2001, c.192 (C.52:9YY-5) is amended to  
20 read as follows:

21 5. a. The **【commission】** department may:

22 (1) collect and maintain health data from State government  
23 agencies or other entities on:

24 (a) the extent, nature and impact of illness and disability on the  
25 population of the State;

26 (b) the determinants of health and health hazards;

27 (c) health resources, including the extent of available personnel  
28 and resources;

29 (d) utilization of health care;

30 (e) health care costs and financing; and

31 (f) other health-related matters;

32 (2) undertake and support research, demonstrations and  
33 evaluations concerning new or improved methods for obtaining  
34 current data with respect to any of the health data described in  
35 paragraph (1) of this subsection; and

36 (3) promote standards for health data that will facilitate the  
37 comparison of information and ease the burden of data preparation  
38 and reporting.

39 b. The **【commission】** department may collect health data on  
40 behalf of other entities.

41 c. The **【commission】** department shall collect health data only  
42 on a voluntary basis from persons and entities, except to the extent  
43 that specific statutory authority exists to compel the reporting of  
44 such data. When requesting health data from a person or entity, the  
45 agency shall notify the person or entity in writing as to the  
46 following:

47 (1) whether the person or entity is required to supply the health  
48 data and any sanctions which may be imposed for noncompliance;



1 (2) the purposes for which the health data is being collected; and

2 (3) if the **【commission】** department intends to disclose  
3 identifiable health data for other than research and statistical  
4 purposes, the information to be disclosed, to whom it is to be  
5 disclosed, and for what purposes.

6 d. No health data obtained by the **【commission】** department  
7 under this section may be used for any purpose other than the  
8 purpose for which they were supplied or for which the person or  
9 entity described in the data has otherwise consented.

10 e. The **【commission】** department shall:

11 (1) take such actions as may be necessary to assure that the  
12 health data which it obtains and maintains are accurate, timely and  
13 comprehensive, as well as specific, standardized and adequately  
14 analyzed and indexed; and

15 (2) publish, disseminate and otherwise make available these data  
16 on as wide a basis as practicable.

17 f. The **【commission】** department shall take such actions as are  
18 appropriate to effect the collection and compilation of health data  
19 produced within the State and to maximize the usefulness of the  
20 data collected.

21 g. The **【commission】** department shall:

22 (1) participate with federal, State and local government agencies  
23 in the design and implementation of a cooperative system of  
24 producing comparable and uniform health data at the federal, State  
25 and local levels;

26 (2) undertake and support research, development,  
27 demonstrations and evaluations concerning such a cooperative  
28 system; and

29 (3) assume its fair share of the data costs associated with  
30 implementing and maintaining such a system.

31 (cf: P.L.2001, c.192, s.5)

32

33 14. Section 6 of P.L.2001, c.192 (C.52:9YY-6) is amended to  
34 read as follows:

35 6. a. The **【commission】** department shall make no disclosure  
36 of any health data which identifies a person's health status or  
37 utilization of health care unless the person described in the data has  
38 consented to the disclosure.

39 b. A person or entity to whom the **【commission】** department  
40 has disclosed health data shall make no disclosure of any health  
41 data which identifies a person's health status or utilization of health  
42 care unless the person described in the data has consented to the  
43 disclosure.

44 c. No identifiable health data obtained by the **【commission】**  
45 department shall be subject to subpoena or similar compulsory  
46 process in a civil or criminal, judicial, administrative or legislative  
47 proceeding, nor shall a person or entity with lawful access to

1 identifiable health data pursuant to this act be compelled to testify  
2 with regard to that data; except that data pertaining to a party in  
3 litigation may be subject to subpoena or similar compulsory process  
4 in an action brought by or on behalf of that party to enforce a  
5 liability arising under this act.

6 (cf: P.L.2001, c.192, s.6  
7

8 15. Section 7 of P.L.2001, c.192 (C.52:9YY-7) is amended to  
9 read as follows:

10 7. The **[commission]** department shall take appropriate  
11 measures to protect the security of health data which it obtains,  
12 including:

- 13 a. limiting access to the data to authorized persons;
- 14 b. designating a person to be responsible for the physical  
15 security of the data;
- 16 c. developing and implementing a system for monitoring the  
17 security of the data;
- 18 d. periodically reviewing all health data to evaluate whether it  
19 is appropriate to remove identifying characteristics from the data;  
20 and
- 21 e. developing a program for the routine scheduled destruction  
22 of all forms, records or electronic files maintained by the  
23 **[commission]** department which contain identifiable health data.

24 (cf: P.L.2001, c.192, s.7)  
25

26 16. Section 8 of P.L.2001, c.192 (C.52:9YY-8) is amended to  
27 read as follows:

28 8. **[In]** To effectuate the purposes of P.L.2001, c.192  
29 (C.52:9YY-1 et seq.), and in addition to any other powers  
30 authorized by law, the **[commission]** department shall have the  
31 authority, in accordance with State law, to:

- 32 a. make and enter into contracts to purchase services and  
33 supplies and to hire consultants;
- 34 b. develop and submit a proposed budget;
- 35 c. accept gifts and charitable contributions;
- 36 d. apply for, receive and expend grants;
- 37 e. adopt regulations, pursuant to the "Administrative Procedure  
38 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the  
39 purposes of this act;
- 40 f. establish charges for and collect payment from persons and  
41 entities for the provision of services, including the dissemination of  
42 health data;
- 43 g. receive and expend appropriations;
- 44 h. enter into a reimbursable work program with other State  
45 government agencies or private entities under which funds are  
46 transferred from the other agencies or entities to the **[commission]**

1 department for the performance of activities pursuant to this act;  
2 and

3 i. provide such other services and perform such other functions  
4 as the **【commission】** department deems necessary to fulfill its  
5 responsibilities under this act.

6 (cf: P.L.2001, c.192, s.8)

7

8 17. Section 9 of P.L.2001, c.192 (C.52:9YY-9) is amended to  
9 read as follows:

10 9. a. A person or entity whom the **【commission】** department  
11 determines has violated the provisions of section 6 of **【this act】**  
12 P.L.2001, c.192 (C.52:9YY-6), regarding the disclosure of health  
13 data shall be subject, in addition to any other penalties that may be  
14 prescribed by law, to: a civil penalty of not more than \$10,000 for  
15 each such violation, but not to exceed \$50,000 in the aggregate for  
16 multiple violations; or a civil penalty of not more than \$250,000, if  
17 the **【commission】** department finds that these violations have  
18 occurred with such frequency as to constitute a general business  
19 practice.

20 The penalty shall be sued for and collected in the name of the  
21 **【commission】** department in a summary proceeding in accordance  
22 with the "Penalty Enforcement Law of 1999," P.L.1999, c.274  
23 (C.2A:58-10 et seq.).

24 b. The **【commission】** department or an entity acting on its  
25 behalf shall be liable to a person or entity injured by the intentional  
26 or negligent violation of the provisions of section 6 of **【this act】**  
27 P.L.2001, c.192 (C.52:9YY-6), in an amount equal to the damages  
28 sustained by the person or entity, together with the cost of the  
29 action and reasonable attorney's fees, as determined by the court.

30 (cf: P.L.2001, c.192, s.9)

31

32 18. Section 3 of P.L.1991, c.235 (C.13:1D-37) is amended to  
33 read as follows:

34 3. As used in this act:

35 **【"Board" means the Pollution Prevention Advisory Board**  
36 **established pursuant to section 5 of this act.】**

37 "Commissioner" means the Commissioner of the Department of  
38 Environmental Protection.

39 "Consume" means to change or alter the molecular structure of a  
40 hazardous substance within a production process.

41 "Department" means the Department of Environmental  
42 Protection.

43 "Facility" means all buildings, equipment, structures, and other  
44 property that are located on a single site or on contiguous or  
45 adjacent sites and that are owned or operated by the same person.

46 "Facility-wide permit" means a single permit issued by the  
47 department to the owner or operator of a priority industrial facility

1 incorporating the permits, certificates, registrations, or any other  
2 relevant department approvals previously issued to the owner or  
3 operator of the priority industrial facility pursuant to P.L.1970, c.39  
4 (C.13:1E-1 et seq.), P.L.1977, c.74 (C.58:10A-1 et seq.), or  
5 P.L.1954, c.212 (C.26:2C-1 et seq.), and the appropriate provisions  
6 of the pollution prevention plan prepared by the owner or operator  
7 of the priority industrial facility pursuant to section 7 and section 8  
8 of this act.

9 "Hazardous substance" means any substance on the list  
10 established by the United States Environmental Protection Agency  
11 for reporting pursuant to 42 U.S.C. s.11023, and any other  
12 substance which the department, pursuant to the provisions of  
13 subsection i. of section 8 of this act, defines as a hazardous  
14 substance for the purposes of this act.

15 "Hazardous waste" means any solid waste defined as hazardous  
16 waste by the department pursuant to P.L.1970, c.39 (C.13:1E-1 et  
17 seq.).

18 "Industrial facility" means any facility having a Standard  
19 Industrial Classification, as designated in the Standard Industrial  
20 Classification Manual prepared by the federal Office of  
21 Management and Budget, within the Major Group Numbers, Group  
22 Numbers, or Industry Numbers listed in subsection h. of section 3  
23 of P.L.1983, c.315 (C.34:5A-3) and which is subject to the  
24 regulatory requirements of P.L.1970, c.39 (C.13:1E-1 et seq.),  
25 P.L.1977, c.74 (C.58:10A-1 et seq.), or P.L.1954, c.212 (C.26:2C-1  
26 et seq.).

27 "Manufacture" means to produce, prepare, import, or compound  
28 a hazardous substance.

29 "Multimedia release" means the release of a hazardous substance  
30 to any environmental medium, or any combination of media,  
31 including the air, water or land, and shall include any release into  
32 workplaces.

33 "Nonproduct output" means all hazardous substances or  
34 hazardous wastes that are generated prior to storage, recycling,  
35 treatment, control, or disposal and that are not intended for use as a  
36 product.

37 "Office" means the Office of Pollution Prevention established in  
38 the department pursuant to section 4 of this act.

39 "Operator" means any person in control of, or exercising  
40 responsibility for, the daily operation of an industrial facility or a  
41 priority industrial facility.

42 "Owner" means any person who owns an industrial facility or a  
43 priority industrial facility.

44 "Person" means any individual, partnership, company,  
45 corporation, society, firm, consortium, joint venture, or any  
46 commercial or other legal entity.

47 "Pilot facility" means a facility or designated area of a facility  
48 used for pilot-scale development of products or processes.

1 "Pollution prevention" means: changes in production  
2 technologies, raw materials or products, that result in the reduction  
3 of the demand for hazardous substances per unit of product  
4 manufactured and the creation of hazardous products or nonproduct  
5 outputs; or changes in the use of raw materials, products, or  
6 production technologies that result in the reduction of the input use  
7 of hazardous substances and the creation of hazardous by-products  
8 or destructive results; or on-site facility changes in production  
9 processes, products, or the use of substitute raw materials that result  
10 in the reduction of the amount of hazardous waste generated and  
11 disposed of on the land or hazardous substances discharged into the  
12 air or water per unit of product manufactured prior to treatment, and  
13 that reduce or eliminate, without shifting, the risks that the use of  
14 hazardous substances at an industrial facility pose to employees,  
15 consumers, and the environment and human health. "Pollution  
16 prevention" shall include, but need not be limited to, raw material  
17 substitution, product reformulation, production process redesign or  
18 modification, in-process recycling, and improved operation and  
19 maintenance of production process equipment. "Pollution  
20 prevention" shall not include any action or change entailing a  
21 substitution of one hazardous substance, product or nonproduct  
22 output for another that results in the creation of substantial new  
23 risk, and shall not include treatment, increased pollution control,  
24 out-of-process recycling, or incineration, except as otherwise  
25 provided pursuant to subsection f. of section 7 of this act.

26 "Pollution prevention plan" means a plan required to be prepared  
27 by an industrial facility pursuant to the provisions of section 7 of  
28 this act.

29 "Pollution prevention plan progress report" means a report  
30 required to be submitted annually to the department by the owner or  
31 operator of an industrial facility pursuant to the provisions of  
32 section 7 of this act.

33 "Pollution prevention plan summary" means a summary of a  
34 pollution prevention plan required to be prepared by an industrial  
35 facility and submitted to the department pursuant to the provisions  
36 of section 7 of this act.

37 "Priority industrial facility" means any industrial facility  
38 required to prepare and submit a toxic chemical release form  
39 pursuant to 42 U.S.C. s.11023, or any other facility designated a  
40 priority industrial facility pursuant to rules and regulations adopted  
41 by the department pursuant to the provisions of subsection h. of  
42 section 8 of this act.

43 "Process" means the preparation of a hazardous substance, after  
44 its manufacture, for sale or use in the same form or physical state,  
45 or in a different form or physical state, as that in which it was  
46 received at the industrial facility where it is processed, or as part of  
47 an article or product containing the hazardous substance.

1 "Product" means a desired result of a production process that is  
2 used as a commodity in trade in the channels of commerce by the  
3 general public in the same form as it is produced.

4 "Production process" means a process, line, method, activity or  
5 technique, or a series or combination of processes, lines, methods or  
6 techniques used to produce a product or reach a planned result.

7 "Research and development laboratory" means a facility or a  
8 specially designated area of a facility used primarily for research,  
9 development, and testing activity, and not primarily involved in the  
10 production of goods for commercial sale, in which hazardous  
11 substances are used by, or under, the direct supervision of a  
12 technically qualified person.

13 "Source" means a point or location in a production process at  
14 which a nonproduct output is generated or released, provided,  
15 however, that similar, related, or identical kinds of sources may be  
16 considered a single source for the purposes of this act.

17 "Targeted production process" means any production process  
18 which significantly contributes to the use or release of hazardous  
19 substances or the generation of hazardous waste or nonproduct  
20 output, as determined by the owner or operator of an industrial  
21 facility pursuant to criteria established by the department.

22 "Targeted source" means any source which significantly  
23 contributes to the generation of nonproduct output, as determined  
24 by the owner or operator of an industrial facility pursuant to criteria  
25 established by the department.

26 "Use" means to process or otherwise use a hazardous substance.

27 "Violation of this act" means a violation of any provision of this  
28 act, or any rule or regulation, administrative order, or facility-wide  
29 permit adopted or issued pursuant thereto.

30 (cf: P.L.1991, c.235, s.3)

31

32 19. Section 21 of P.L.1983, c.315 (C.34:5A-21) is amended to  
33 read as follows:

34 21. The Department of Health and Senior Services, the  
35 Department of Environmental Protection, and the Department of  
36 Labor **【, in conjunction with the council,】** and Workforce  
37 Development shall jointly establish a procedure for annually  
38 receiving information **【, advice, testimony, and recommendations】**  
39 from the **【council, the】** public **【,】** and any other interested party,  
40 concerning **【the implementation of this act】** any revision of the  
41 workplace hazardous substance list and any revision of the  
42 environmental hazardous substance list. This procedure shall  
43 include a mechanism for revising the workplace hazardous  
44 substance list and the environmental hazardous substance list. Any  
45 revision of the workplace hazardous substance list or environmental  
46 hazardous substance list shall be based on documented scientific  
47 evidence. The Department of Health and Senior Services and the  
48 Department of Environmental Protection shall publicly announce

1 any revisions of the workplace hazardous substance list or the  
2 environmental hazardous substance list, and any such additions or  
3 revisions shall be made pursuant to the provisions of the  
4 "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et  
5 seq.).

6 (cf: P.L.1983, c. 315, s. 21)

7  
8 20. Section 8 of P.L.1998, c.108 (C.27:5F-41) is amended to  
9 read as follows:

10 8. a. The Director of the Office of Highway Traffic Safety in  
11 the Department of Law and Public Safety, after consultation with  
12 the **【Director of the Division of Motor Vehicles】** Chief  
13 Administrator of the New Jersey Motor Vehicle Commission in, but  
14 not of, the Department of Transportation **【and the Review Board on**  
15 **Driver Education established in section 10 of P.L.1998, c.108**  
16 **(C.27:5F-43)】**, shall develop curriculum guidelines for use by  
17 teachers of approved classroom driver education courses. The  
18 course of instruction for approved courses shall be no less than 30  
19 hours in length and be designed to develop and instill the  
20 knowledge and attitudes necessary for the safe operation and  
21 driving of motor vehicles. Defensive driving, highway courtesy,  
22 accident avoidance, understanding and respect for the State's motor  
23 vehicle laws, insurance fraud and State requirements for and  
24 benefits of maintaining automobile insurance shall be emphasized.  
25 The incorporation of these curriculum guidelines in these classroom  
26 courses and the use of related instructional materials shall be a  
27 requirement for approval of the course by the **【Director of the**  
28 **Division of Motor Vehicles】** chief administrator.

29 b. The Director of the Office of Highway Traffic Safety, in  
30 consultation with the **【Director of the Division of Motor Vehicles】**  
31 Chief Administrator of the New Jersey Motor Vehicle Commission,  
32 shall produce an informational brochure for parents and guardians  
33 of beginning drivers under the age of 18 years. The **【division】**  
34 commission shall ensure that the parents or guardians of a permit  
35 holder receive these brochures at the time a permit is issued to a  
36 beginning driver. The brochures shall include, but not be limited to,  
37 the following information:

38 (1) Setting an example for the beginning driver;

39 (2) Accident and fatality statistics about beginning drivers;

40 (3) Causes of accidents among beginning drivers;

41 (4) The need to supervise vehicle operation by a beginning  
42 driver;

43 (5) Methods to coach a beginning driver on how to reduce  
44 accidents;

45 (6) A description of the graduated driver's license program; and

1 (7) Benefits of classroom and behind-the-wheel driver education  
2 under the direction of State certified or licensed driving instructors,  
3 as the case may be.

4 (cf: P.L.2001, c.420, s.1)

5  
6 21. Section 9 of P.L.1998, c.108 (C.27:5F-42) is amended to  
7 read as follows:

8 9. a. There is created in the Department of Transportation a  
9 special non-lapsing fund to be known as the "Graduated Driver  
10 License Fund." There shall be deposited in the fund up to \$5 from  
11 each special learner's permit fee and examination permit fee for a  
12 passenger automobile that is established pursuant to R.S.39:3-13  
13 and any other monies that may be made available for graduated  
14 license program start-up costs. The **【Division of Motor Vehicles】**  
15 New Jersey Motor Vehicle Commission shall administer  
16 expenditures from this fund.

17 b. Amounts necessary to reimburse the **【Division of Motor**  
18 **Vehicles】** New Jersey Motor Vehicle Commission in, but not of,  
19 the Department of Transportation and the Office of Highway  
20 Traffic Safety in the Department of Law and Public Safety for all  
21 costs reasonably and actually incurred in the initial implementation  
22 and continuing administration of this act shall be appropriated from  
23 the fund. The **【Division of Motor Vehicles】** New Jersey Motor  
24 Vehicle Commission and the Office of Highway Traffic Safety shall  
25 certify to the State Treasurer their start-up costs to carry out their  
26 responsibilities under **【this act】** P.L.1998, c.108, and the program's  
27 costs annually thereafter. This amount shall be reimbursed to the  
28 **【Division of Motor Vehicles】** New Jersey Motor Vehicle  
29 Commission and the Office of Highway Traffic Safety from the  
30 Graduated Driver License Fund. In the event the fund's balance is  
31 insufficient to fully reimburse these costs, the State Treasurer shall  
32 provide to the Graduated Driver License Fund a loan from the  
33 General Fund in the amount needed to fully defray these costs. This  
34 loan shall be repaid to the General Fund when the balance in the  
35 Graduated Driver License Fund exceeds the amount necessary to  
36 reimburse these costs.

37 (cf: P.L.1998, c.108, s.9)

38  
39 22. Section 10 of P.L.1998, c.108 (C.27:5F-43) is amended to  
40 read as follows:

41 10. a. **【There is established a State Review Board on Driver**  
42 **Education.】** The Director of the Office of Highway Traffic Safety  
43 **【or his designee shall be ex officio the chairman of the board. The**  
44 **Governor shall appoint to the board a certified secondary school**  
45 **driver education teacher and representatives from the Department of**  
46 **Education, the Department of Transportation, the AAA Clubs of**  
47 **New Jersey, the Driving School Association of New Jersey, the**



1 Insurance Council of New Jersey, the New Jersey Association of  
2 Chiefs of Police, the New Jersey State Safety Council and the New  
3 Jersey Traffic Safety Officers Association. The board] shall make  
4 recommendations to the [Director of the Division of Motor  
5 Vehicles] Chief Administrator of the New Jersey Motor Vehicle  
6 Commission with respect to rules and regulations promulgated  
7 under [this act] P.L.1998, c.108 including, but not limited to, the  
8 development of uniform curriculum guidelines for approved  
9 classroom and behind-the-wheel driver education. [Any vacancies  
10 occurring in the membership shall be filled in the same manner as  
11 the original appointments.]

12 b. The course of instruction for behind-the-wheel driver  
13 education shall be designed to develop the skills necessary for the  
14 safe and lawful operation of a motor vehicle. Defensive driving,  
15 highway courtesy, appropriate driving behavior and attitudes,  
16 accident avoidance, safe passing and lane changing, and a general  
17 understanding of and respect for the State's motor vehicle laws shall  
18 be emphasized.

19 (cf: P.L.2001, c.420, s.2)

20

21 23. Section 4 of P.L.1969, c.95 (C.18A:61A-4) is amended to  
22 read as follows:

23 4. [The board of trustees shall organize at a meeting to be  
24 called by the Commissioner of Education and annually thereafter by  
25 election from their number of a chairman and a vice chairman and  
26 appointment of a secretary, who may but need not be a member of  
27 the board of trustees, and such other officers as the board shall  
28 determine. The meeting for the election and appointment of  
29 officers shall be held not earlier than July 1 and not later than  
30 October 1 of each year. Officers shall serve for terms of one year,  
31 and until their successors are selected and qualified. The board of  
32 trustees shall be known as "The Trustees of the New Jersey School  
33 of the Arts" and shall be a body corporate, with all the powers  
34 usually conferred upon such bodies and necessary to enable it to  
35 make contracts, and to exercise such other rights and privileges as  
36 may be necessary for carrying out the provisions and purposes of  
37 this act.] The school shall employ northern, central and southern  
38 coordinators and hire appropriate professional staff to implement  
39 programs in music, dance, visual arts and creative writing in each of  
40 the 21 counties of the State.

41 (cf: P.L.2000, c.115, s.4)

42

43 24. Section 6 of P.L.1969, c.95 (C.18A:61A-6) is amended to  
44 read as follows:

45 6. The [board of trustees of the] school shall [, within] be  
46 governed by the Commissioner of Education under the general  
47 policies and guidelines set by the State Board of Education, and the

- 1 commissioner shall have general supervision over, and shall be  
2 vested with the conduct of, the school. **【It】** The commissioner  
3 shall, within the general policies and guidelines set by the State  
4 Board of Education, have the power and duty to:
- 5 a. Determine the educational curriculum and program of the  
6 school in accordance with the arts standards, frameworks and  
7 assessments;
- 8 b. Determine policies for the organization, administration and  
9 development of the school;
- 10 c. Study the educational and financial needs of the school;  
11 annually acquaint the Governor and Legislature with the condition  
12 of the school; and prepare, and after concurrence by and jointly  
13 with the State Board of Education, present the annual budget to the  
14 Governor and Legislature, in accordance with law;
- 15 d. Subject to the provisions of P.L.1944, c.112 (C.52:27B-1 et  
16 seq.), direct and control the expenditures of the school in  
17 accordance with the provisions of the budget and the appropriations  
18 acts of the Legislature, except that with respect to transfers of funds  
19 pursuant to P.L.1944, c.112 (C.52:27B-1 et seq.), the school shall  
20 be deemed a spending agency, and as to funds received or solicited  
21 from other sources, in accordance with the terms of any applicable  
22 trusts, gifts, bequests, or other special provisions, the counsel,  
23 advice and assistance of the Division of Investment in the  
24 Department of the Treasury shall be available to the **【board of**  
25 **trustees】** commissioner in the establishment and maintenance of  
26 endowment and trust funds;
- 27 e. With the approval of the State Board of Education appoint  
28 and fix the compensation of a director of the school who shall be its  
29 executive officer and shall serve at the pleasure of the **【board of**  
30 **trustees】** commissioner;
- 31 f. Appoint members of the academic, administrative and  
32 teaching staffs as shall be required and fix their compensation and  
33 terms of employment in accordance with salary policies adopted by  
34 the State Board of Education, which salary policies shall prescribe  
35 qualifications for the education staff that may be in any given  
36 classification;
- 37 g. Appoint, remove, promote and transfer such other officers,  
38 agents or employees as may be required for carrying out the  
39 purposes of the school and assign their duties, determine their  
40 salaries and prescribe qualifications for all positions, all in  
41 accordance with the provisions of Title 11A, Civil Service, of the  
42 New Jersey Statutes;
- 43 h. Subject to the provisions of P.L.1954, c.48 (C.52:34-6 et  
44 seq.), to enter into contracts and agreements with the State or any of  
45 its political subdivisions or with the United States, or with any  
46 public body, department or other agency of the State or the United  
47 States or with any individual, firm, or corporation which are

- 1 deemed necessary or advisable by the **[board]** commissioner for  
2 carrying out the purposes of the school;
- 3 i. Adopt bylaws and make and promulgate such rules,  
4 regulations and orders, not inconsistent with the provisions of this  
5 act that are necessary and proper for the administration and  
6 operation of the school and the carrying out of its purposes;
- 7 j. Receive and accept private and corporate contributions for  
8 such purposes and upon such terms as the donor may prescribe  
9 consistent with the purposes of the school and general policies and  
10 guidelines set by the State Board of Education.  
11 (cf: P.L.2000, c.115, s.5)

12  
13 25. Section 7 of P.L.1969, c.95 (C.18A:61A-7) is amended to  
14 read as follows:

- 15 7. Subject to the approval of the State Board of Education or  
16 the board of education of a school district, as the case may be, the  
17 **[board of trustees]** Commissioner of Education may contract for  
18 the use of existing facilities, courses of instruction and programs in  
19 academic and other nonarts courses and instruction of other  
20 educational institutions and to employ faculty and other personnel  
21 jointly or on a co-operative or cost sharing basis with such other  
22 educational institutions.  
23 (cf: P.L.1969, c.95, s.7)

24  
25 26. Section 2 of P.L.1981, c.311 (C.45:14D-2) is amended to  
26 read as follows:

- 27 2. As used in this act:
- 28 a. "Accessorial service" means the preparation of articles for  
29 shipment, including, but not limited to, the packing, crating, boxing  
30 and servicing of appliances, the furnishing of containers,  
31 unpacking, uncrating and reassembling of articles, placing them at  
32 final destination and the moving or shifting of articles from one  
33 location to another within a building, or at a single address;
- 34 b. **["Board" means the State Board of Public Movers and**  
35 **Warehousemen established under this act;]** (Deleted by  
36 amendment, P.L. , c. )(pending before the Legislature as this bill)
- 37 c. (Deleted by amendment, P.L.1993, c.365).
- 38 d. "Department" means the Department of Law and Public  
39 Safety;
- 40 e. "Household goods" means personal effects, fixtures,  
41 equipment, stock and supplies or other property usually used in or  
42 as part of the stock of a dwelling, when it is put into storage or  
43 when it is transported by virtue of its removal, in whole or in part,  
44 by a householder from one dwelling to another, or from the  
45 dwelling of a householder to the dwelling of another householder,  
46 or between the dwelling of a householder and a repair or storage  
47 facility, or from the dwelling to an auction house or other place of  
48 sale. The term "household goods" shall not apply to property

- 1 moving from a factory or store, except property which the  
2 householder has purchased and which is transported at his request  
3 as part of the movement by the householder from one dwelling to  
4 another;
- 5 f. "Intrastate commerce" means commerce moving wholly  
6 between points within the State over all public highways, or at a  
7 single location;
- 8 g. "License" means a license issued by the **[board]** director;
- 9 h. "Motor vehicle" means any vehicle, machine, tractor, truck  
10 or semitrailer, or any combination thereof, propelled, driven or  
11 drawn by mechanical power, and used upon the public highways in  
12 the transportation of household goods, office goods and special  
13 commodities in intrastate commerce;
- 14 i. "Mover's services" means all of the services rendered by a  
15 public mover;
- 16 j. "Storage services" means all of the services rendered by a  
17 warehouseman;
- 18 k. "Office goods" means personal effects, fixtures, furniture,  
19 equipment, stock and supplies or other property usually used in or  
20 as part of the stock of any office, or commercial, institutional,  
21 professional or other type of establishment, when it is put into  
22 storage or when the property is transported by virtue of its removal,  
23 in whole or in part, from one location to another, but does not mean  
24 or include stock and supplies or other property usually used in or as  
25 part of the stock of any office, or commercial, institutional,  
26 professional or other type of establishment, when put into storage;
- 27 l. "Person" means any individual, copartnership, association,  
28 company, or corporation, and includes any trustee, receiver,  
29 assignee, lessee, or personal representative of any person herein  
30 defined;
- 31 m. "Place of business" means a business office located in New  
32 Jersey from which the mover or warehouseman conducts his daily  
33 business and where records are kept;
- 34 n. "Property" means all of the articles in the definition of  
35 household goods, office goods or special commodities;
- 36 o. "Public highway" or "highway" means any public street,  
37 road, thoroughfare, bridge and way in this State open to the use of  
38 the public as a matter of right for purposes of motor vehicular  
39 travel, including those that impose toll charges;
- 40 p. "Public mover" or "mover" means any person who engages  
41 in the transportation of household goods, office goods or special  
42 commodities by motor vehicle for compensation in intrastate  
43 commerce between points in this State, including the moving of  
44 household goods, office goods or special commodities from one  
45 location to another at a single address, and any person who engages  
46 in the performance of accessorial services; except that the term  
47 "public mover" or "mover" shall not apply to an owner-operator, or  
48 any person who engages in, or holds himself out to the general

1 public as engaging in, the transportation of special commodities  
2 when such commodities are not transported by virtue of a removal,  
3 in whole or in part, and who does not engage, nor hold himself out  
4 to the general public as engaging in, the transportation of household  
5 or office goods;

6 q. "Special commodities" means uncrated or unboxed works of  
7 art, fixtures, appliances, business machines, electronic equipment,  
8 displays, exhibits, home, office, store, theatrical or show equipment,  
9 musical instruments, or other articles being put into storage or being  
10 moved, and which require the use of equipment and personnel  
11 usually furnished or employed by warehousemen or public movers,  
12 except that the provisions of P.L.1981, c.311 (C.45:14D-1 et seq.)  
13 shall not apply to any person engaged in the transportation or  
14 storage of special commodities when these commodities are not  
15 transported by virtue of a removal, in whole or in part;

16 r. "Storage" means the safekeeping of property in a depository  
17 for compensation;

18 s. "Tariff" means a schedule of rates and charges for the  
19 storage or transportation of property in intrastate commerce on file  
20 with the **[board]** director, which shall be used, except in the use of  
21 binding estimates by movers, in computing all charges on the  
22 storage or transportation of property as of the date of the time in  
23 storage or transportation;

24 t. "Warehouseman" means a person engaged in the business of  
25 storage;

26 u. "Removal" means the physical relocation, in whole or in  
27 part, of either household goods, office goods or special  
28 commodities from one location to another location, including  
29 internal relocations within the same room or facility, for  
30 compensation;

31 v. "Bill of lading" means "bill of lading" as defined by  
32 paragraph (6) of N.J.S.12A:1-201;

33 w. "Consumer" means a person who contracts with a public  
34 mover for mover's services;

35 x. "Contracting public mover" means a licensed public mover  
36 who contracts with an owner-operator to provide any mover's  
37 service of the licensed public mover, and is liable for any mover's  
38 services performed or agreed to be performed by the owner-  
39 operator pursuant to that contract;

40 y. "Director" means the Director of the Division of Consumer  
41 Affairs in the Department of Law and Public Safety;

42 z. "Owner-operator" means a person who owns, leases, or rents  
43 one or more motor vehicles and who uses the vehicles to provide  
44 mover's services for a contracting public mover.

45 (cf: P.L.2007, c.50, s.1)

46

47 27. Section 6 of P.L.1981, c.311 (C.45:14D-6) is amended to  
48 read as follows:

- 1       6. The **[board]** director shall, in addition to such other powers  
2 and duties as **[it]** the director may possess by law:
- 3       a. Administer and enforce the provisions of this act;
- 4       b. Adopt and promulgate rules and regulations, pursuant to the  
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
6 seq.), to effectuate the purposes of this act;
- 7       c. Examine and pass on the qualifications of all applicants for  
8 license under this act, and issue a license to each qualified  
9 applicant;
- 10      d. Establish professional standards for persons licensed under  
11 this act;
- 12      e. Conduct hearings pursuant to the "Administrative Procedure  
13 Act," P.L.1968, c.410 (C.52:14B-1 et seq.); except that the **[board]**  
14 director shall have the right to administer oaths to witnesses, and  
15 shall have the power to issue subpoenas for the compulsory  
16 attendance of witnesses and the production of pertinent books,  
17 papers, or records;
- 18      f. Conduct proceedings before any board, agency or court of  
19 competent jurisdiction for the enforcement of the provisions of this  
20 act;
- 21      g. Annually publish a list of the names, addresses and tariffs of  
22 all persons who are licensed under this act;
- 23      h. Establish reasonable requirements with respect to proper and  
24 adequate movers' and warehousemen's services and the furnishing  
25 of estimates, and prescribe a uniform system of accounts, records  
26 and reports;
- 27      i. Adopt and promulgate rules and regulations to protect the  
28 interests of the consumer, including, but not limited to, regulations  
29 concerning the contents of information brochures which a mover or  
30 warehouseman shall give to a customer prior to the signing of a  
31 contract for moving or storage services.  
32 (cf: P.L.1993, c.365, s.3)  
33
- 34      28. Section 7 of P.L.1981, c.311 (C.45:14D-7) is amended to  
35 read as follows:
- 36      7. The **[board]** director may, after notice and opportunity for a  
37 hearing, revoke, suspend or refuse to renew or issue any license  
38 issued pursuant to this act upon a finding that the applicant or  
39 holder of a license:
- 40      a. Has obtained a license by means of fraud, misrepresentation  
41 or concealment of material facts;
- 42      b. Has engaged in the use or employment of dishonesty, fraud,  
43 deception, misrepresentation, false promise or false pretense;
- 44      c. Has engaged in gross negligence or gross incompetence;
- 45      d. Has engaged in repeated acts of negligence or incompetence;
- 46      e. Has repeatedly failed to discharge contractual obligations to  
47 any person contracting for moving or storage services;
- 48      f. Has engaged in occupational misconduct;

1 g. Has been convicted of any crime involving moral turpitude  
2 or any crime relating adversely to the activities regulated by  
3 P.L.1981, c.311 (C.45:14D-1 et seq.). For the purpose of this  
4 subsection, a plea of guilty, non vult, nolo contendere or any other  
5 similar disposition of alleged criminal activity shall be deemed a  
6 conviction;

7 h. Has had his authority to engage in the activities regulated by  
8 P.L.1981, c.311 (C.45:14D-1 et seq.) revoked or suspended by any  
9 other state, agency or authority for reasons consistent with that act;  
10 or

11 i. Has violated or failed to comply with the provisions of  
12 P.L.1981, c.311 (C.45:14D-1 et seq.) or any regulation adopted  
13 thereunder.

14 The licensee or applicant shall be furnished with an official  
15 statement of the reasons for the **[board's]** director's proposed action  
16 and shall be afforded an opportunity for a hearing.

17 (cf: P.L.1993, c.365, s.4)

18

19 29. Section 8 of P.L.1981, c.311 (C.45:14D-8) is amended to  
20 read as follows:

21 8. The **[board]** director may, after one year from the date of  
22 the revocation of any license, restore the license.

23 (cf: P.L.1993, c.365, s.5)

24

25 30. Section 9 of P.L.1981, c.311 (C.45:14D-9) is amended to  
26 read as follows:

27 9. a. It shall be unlawful for any person to engage in the  
28 business of public moving or storage unless he shall have obtained  
29 from the **[board]** director a license to engage in the business and  
30 shall have a permanent place of business in this State;

31 b. Application for a license shall be made in writing to the  
32 **[board]** director, be verified under oath by the agent in charge and  
33 shall contain the following information: (1) the name and location  
34 of the applicant; (2) description of the applicant's moving vehicles  
35 and storage facilities; (3) identification of the issuer and amount of  
36 any insurance or surety bonds maintained by the applicant. A  
37 license shall be issued to a qualified applicant if it is found that the  
38 applicant is fit, willing and able to perform the service of a mover  
39 or warehouseman, and to conform to the provisions of this act;

40 c. Every person advertising moving or storage services shall  
41 include in any advertisement the number of his license, and his New  
42 Jersey business address and telephone number;

43 d. No license shall be issued to an applicant if the applicant  
44 has: (1) committed any act which if committed by a licensee would  
45 be grounds for suspension or revocation; (2) misrepresented any  
46 material fact on his application; (3) not registered each vehicle  
47 which will be performing intrastate moves in New Jersey, except on  
48 vehicles which have been rented or leased and are operated by a

1 public mover licensed under this act; (4) not established or  
2 maintained a place of business in New Jersey;

3 e. A copy of the license shall be carried on each truck, tractor,  
4 trailer or semitrailer or combination thereof at all times when the  
5 vehicle is being used in operations subject to this act.

6 (cf: P.L.1993, c.365, s.6)

7

8 31. Section 11 of P.L.1981, c.311 (C.45:14D-11) is amended to  
9 read as follows:

10 11. Every warehouseman or mover shall provide safe, proper  
11 and adequate service and shall observe the **【board's】** director's  
12 rules and regulations concerning the storage or transportation of  
13 property.

14 (cf: P.L.1993, c.365, s.7)

15

16 32. Section 14 of P.L.1981, c.311 (C.45:14D-14) is amended to  
17 read as follows:

18 14. a. Public movers and warehousemen shall file their tariffs  
19 with the **【board】** director semiannually;

20 b. Except in the use of binding estimates provided for in  
21 section 6 of P.L.1998, c.60 (C.45:14D-29), no public mover or  
22 warehouseman shall charge, demand, collect or receive a greater  
23 compensation for his service than specified in the tariff.

24 (cf: P.L.1998, c.60, s.2)

25

26 33. Section 15 of P.L.1981, c.311 (C.45:14D-15) is amended to  
27 read as follows:

28 15. a. The **【board】** director shall by rule or regulation establish,  
29 prescribe or change the fees for licenses, renewals of licenses or  
30 other services. Licenses shall expire one year from the date of issue  
31 unless the holder thereof shall, 30 days before such expiration, pay  
32 to the **【board】** director a renewal fee accompanied by a renewal  
33 application on a form prescribed by the **【board】** director.

34 b. The **【board's】** director's fees established, prescribed or  
35 changed pursuant to this section shall be established, prescribed or  
36 changed to such extent as shall be necessary to defray all proper  
37 expenses incurred by the **【board】** director and any staff employed  
38 to administer this act; but such fees shall not be fixed at a level that  
39 will raise amounts in excess of the amount estimated to be so  
40 required.

41 c. All fees and any fines imposed by the **【board】** director shall  
42 be paid to the **【board】** director and shall be forwarded by the  
43 **【board】** director to the State Treasurer and become part of the  
44 General Fund.

45 d. There shall be annually appropriated to the Department of  
46 Law and Public Safety for the use of the **【board】** director such sums



1 as shall be necessary to implement and effectuate the provisions of  
2 this act.

3 (cf: P.L.1993, c.365, s.9)

4

5 34. Section 16 of P.L.1981, c.311 (C.45:14D-16) is amended to  
6 read as follows:

7 16. Any person violating any provision of P.L.1981, c.311  
8 (C.45:14D-1 et seq.) shall, in addition to any other sanctions  
9 provided herein, be liable to a civil penalty of not more than  
10 \$2,500.00 for the first offense and not more than \$5,000.00 for the  
11 second and each subsequent offense. For the purpose of this  
12 section, each transaction or violation shall constitute a separate  
13 offense; except a second or subsequent offense shall not be deemed  
14 to exist unless an administrative or court order has been entered in a  
15 prior, separate and independent proceeding. In lieu of an  
16 administrative proceeding or an action in the Superior Court, the  
17 Attorney General may bring an action in the name of the **[board]**  
18 director for the collection or enforcement of civil penalties for the  
19 violation of any provision of that act. The action may be brought in  
20 a summary manner pursuant to **["the penalty enforcement law"**  
21 **(N.J.S.2A:58-1 et seq.)]** the "Penalty Enforcement Law of 1999,"  
22 P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court  
23 governing actions for the collection of civil penalties in the  
24 municipal or Special Civil Part of the Law Division of the Superior  
25 Court where the offense occurred. Process in the action may be by  
26 summons or warrant and if the defendant in the action fails to  
27 answer the action, the court shall, upon finding an unlawful act or  
28 practice to have been committed by the defendant, issue a warrant  
29 for the defendant's arrest in order to bring the person before the  
30 court to satisfy the civil penalties imposed. In an action  
31 commenced pursuant to this section, the court may order restored to  
32 any person in interest any moneys or property acquired by means of  
33 an unlawful act or practice. Any action alleging the unlicensed  
34 practice of the activities regulated by P.L.1981, c.311 (C.45:14D-1  
35 et seq.) shall be brought pursuant to this section or, where  
36 injunctive relief is sought, by an action commenced in the Superior  
37 Court. In an action brought pursuant to that act, the **[board]**  
38 director or the court may order the payment of costs for the use of  
39 the State.

40 (cf: P.L.1993, c.365, s.10)

41

42 35. Section 7 of P.L.1984, c.140 (C.45:14D-17) is amended to  
43 read as follows:

44 7. Whenever it shall appear to the **[board]** director or the  
45 Attorney General that a person has engaged in, or is engaging in,  
46 any act or practice declared unlawful by P.L.1981, c.311  
47 (C.45:14D-1 et seq.), or when the **[board]** director or the Attorney

1 General shall deem it to be in the public interest to inquire whether  
2 a violation may exist, the **[board]** director through the Attorney  
3 General, or the Attorney General acting independently, may:

4 a. Require any person to file, on a form to be prescribed, a  
5 statement or report in writing under oath, or otherwise, as to the  
6 facts and circumstances concerning the rendition of any service or  
7 conduct of any sale incidental to the discharge of any act or practice  
8 subject to that act;

9 b. Examine under oath any person in connection with any act  
10 or practice subject to that act;

11 c. Inspect any premises from which the activity regulated by  
12 that act is conducted;

13 d. Examine any goods, ware or item used in the rendition of  
14 any service by a public mover or warehouseman;

15 e. Examine any record, book, document, account or paper  
16 maintained by or for any public mover or warehouseman in the  
17 regular course of engaging in the activities regulated by that act or  
18 regulations promulgated pursuant to that act;

19 f. For the purpose of preserving evidence of an unlawful act or  
20 practice, pursuant to an order of the Superior Court, impound any  
21 record, book, document, account, paper, goods, ware, or item used  
22 or maintained by or for any public mover or warehouseman in the  
23 regular course of engaging in the activities regulated by that act or  
24 regulations promulgated pursuant to that act. When necessary, the  
25 Superior Court may, on application of the Attorney General, issue  
26 an order sealing items or material subject to this subsection.

27 In order to accomplish the objectives of P.L.1981, c.311  
28 (C.45:14D-1 et seq.) or the regulations promulgated pursuant to that  
29 act, the **[board]** director or the Attorney General may hold  
30 investigative hearings as necessary and may issue subpoenas to  
31 compel the attendance of any person or the production of books,  
32 records or papers at a hearing or inquiry.  
33 (cf: P.L.1993, c.365, s.11)

34  
35 36. Section 8 of P.L.1984, c.140 (C.45:14D-18) is amended to  
36 read as follows:

37 8. If a person fails or refuses to file any statement or report, or  
38 refuses access to premises from which activities regulated by  
39 P.L.1981, c.311 (C.45:14D-1 et seq.) are conducted in any lawfully  
40 conducted investigative matter or fails to obey a subpoena issued  
41 pursuant to that act, the **[board]** director or the Attorney General  
42 may apply to the Superior Court and obtain an order:

43 a. Adjudging that person in contempt of court and assessing  
44 civil penalties in accordance with the amounts prescribed by that  
45 act; or

46 b. Granting other relief as required; or

1 c. Suspending the license of that person until compliance with  
2 the subpoena or investigative demand is effected.

3 (cf: P.L.1993, c.365, s.12)

4

5 37. Section 10 of P.L.1984, c.140 (C.45:14D-20) is amended to  
6 read as follows:

7 10. In addition or as an alternative, as the case may be, to  
8 revoking, suspending or refusing to renew any license, the **[board]**  
9 director may, after affording an opportunity to be heard:

10 a. Assess civil penalties in accordance with P.L.1981, c.311  
11 (C.45:14D-1 et seq.);

12 b. Order that any person violating any provision of that act  
13 cease and desist from future violations thereof or take affirmative  
14 corrective action as necessary with regard to any act or practice  
15 found to be unlawful by the **[board]** director;

16 c. Order any person found to have violated any provision of  
17 that act to restore or to return to any person aggrieved by an  
18 unlawful act or practice any moneys or property, real or personal,  
19 acquired by means of that act or practice; except that the **[board]**  
20 director shall not order restoration in a dollar amount greater than  
21 those moneys received by a licensee or his agent or any other  
22 person violating that act.

23 In any administrative proceeding on a complaint alleging a  
24 violation of that act, the **[board]** director may issue subpoenas to  
25 compel the attendance of witnesses or the production of books,  
26 records, or documents at the hearing on the complaint.

27 (cf: P.L.1993, c.365, s.13)

28

29 38. Section 11 of P.L.1984, c.140 (C.45:14D-21) is amended to  
30 read as follows:

31 11. Whenever it shall appear to the **[board]** director or the  
32 Attorney General that a violation of P.L.1981, c.311 (C.45:14D-1 et  
33 seq.), including the unlicensed practice of the activities regulated  
34 therein, has occurred, is occurring, or will occur, the Attorney  
35 General, in addition to any other proceeding authorized by law, may  
36 seek and obtain in a summary proceeding in the Superior Court an  
37 injunction prohibiting the act or practice. In the proceeding the  
38 court may assess a civil penalty in accordance with the provisions  
39 of that act, order restoration to any person in interest of any moneys  
40 or property, real or personal, acquired by means of an unlawful act  
41 or practice and may enter any orders necessary to prevent the  
42 performance of an unlawful practice in the future and to remedy  
43 fully any past unlawful activity. In any action brought pursuant to  
44 this section, the court shall not suspend or revoke any license issued  
45 by the **[board]** director.

46 (cf: P.L.1993, c.365, s.14)

1       39. Section 12 of P.L.1984, c.140 (C.45:14D-22) is amended to  
2 read as follows:

3       12. Upon the failure of any person to comply within 10 days  
4 after service of any order of the **【board】** director directing payment  
5 of penalties or restoration of moneys or property, the Attorney  
6 General or the **【board】** director may issue a certificate to the Clerk  
7 of the Superior Court that the person is indebted to the State for the  
8 payment of the penalty and the moneys or property ordered  
9 restored. A copy of the certificate shall be served upon the person  
10 against whom the order was entered. Thereupon the clerk shall  
11 immediately enter upon his record of docketed judgments the name  
12 of the person so indebted and of the State, a designation of the  
13 statute under which the penalty is imposed, the amount of the  
14 penalty imposed, and amount of moneys ordered restored, a listing  
15 of property ordered restored, and the date of the certification. The  
16 entry shall have the same force and effect as the entry of a docketed  
17 judgment in the Superior Court, and the Attorney General shall  
18 have all rights and remedies of a judgment creditor, in addition to  
19 exercising any other available remedies. The entry, however, shall  
20 be without prejudice to the right of appeal to the Appellate Division  
21 of the Superior Court from the **【board's】** director's order.

22       An action to enforce the provisions of an order entered by the  
23 **【board】** director or to collect a penalty levied thereby may be  
24 brought in any municipal or Special Civil Part of the Law Division  
25 of the Superior Court or the Superior Court in a summary manner  
26 pursuant to **【"the penalty enforcement law" (N.J.S. 2A:58-1 et**  
27 **seq.)】** the "Penalty Enforcement Law of 1999," P.L.1999, c.274  
28 (C.2A:58-10 et seq.) and the rules of court governing the collection  
29 of civil penalties. Process in the action shall be by summons or  
30 warrant, and if the defendant fails to answer the action, the court  
31 shall issue a warrant for the defendant's arrest for the purpose of  
32 bringing the person before the court to satisfy any order entered.

33 (cf: P.L.1993, c.365, s.15)

34

35       40. Section 13 of P.L.1984, c.140 (C.45:14D-23) is amended to  
36 read as follows:

37       13. When it shall appear to the **【board】** director or the Attorney  
38 General that a person against whom a cease and desist order has  
39 been entered has violated the order, the **【board】** director or the  
40 Attorney General may initiate a summary proceeding in the  
41 Superior Court for the violation thereof. Any person found to have  
42 violated a cease and desist order shall pay to the State of New  
43 Jersey civil penalties in the amount of not more than \$25,000.00 for  
44 each violation of the order. If a person fails to pay a civil penalty  
45 assessed by the court for violation of a cease and desist order, the  
46 court assessing the unpaid penalty is authorized, upon application of  
47 the **【board】** director or the Attorney General, to grant any relief

1 which may be obtained under any statute or court rule governing the  
2 collection and enforcement of penalties.

3 (cf: P.L.1993, c.365, s.16)

4

5 41. Section 15 of P.L.1984, c.140 (C.45:14D-25) is amended to  
6 read as follows:

7 15. No license shall be issued to a warehouseman or mover or  
8 remain in force unless the warehouseman or mover complies with  
9 the rules or regulations that the **board** director shall prescribe  
10 governing policies of insurance, qualifications as a self-insurer or  
11 other securities or agreements in the amount that the **board**  
12 director may require.

13 (cf: P.L.1993, c.365, s.17)

14

15 42. Section 3 of P.L.1998, c.60 (C.45:14D-26) is amended to  
16 read as follows:

17 3. The **board** director shall notify the Board of Public  
18 Utilities of the business location and telephone number of any  
19 public mover that does not have a valid license issued by the  
20 **board** director.

21 (cf: P.L.1998, c.60, s.3)

22

23 43. Section 4 of P.L.1998, c.60 (C.45:14D-27) is amended to  
24 read as follows:

25 4. When notified by the **State Board of Public Movers and**  
26 **Warehousemen** director pursuant to section 3 of P.L.1998, c.60  
27 (C.45:14D-26), the Board of Public Utilities shall order the  
28 servicing telecommunications company to disconnect that mover's  
29 telephone number that is published in any commercial listing.

30 (cf: P.L.1998, c.60, s.4)

31

32 <sup>1</sup>44. Section 12 of P.L.1969, c.158 (C.18A:73-27) is amended to  
33 read as follows:

34 12. The State Library shall consist of the State Librarian and **an**  
35 **advisory council and** such other personnel as the President of  
36 Thomas Edison State College may deem necessary for the efficient  
37 administration thereof.

38 (cf: P.L.2001, c.137, s.4)<sup>1</sup>

39

40 <sup>1</sup>45. N.J.S.18A:74-10 is amended to read as follows:

41 18A:74-10. In order to participate in any apportionment made  
42 according to the provisions of this chapter, municipalities and  
43 counties shall comply with the regulations and standards which  
44 have been, or which may be, prescribed by law or recommended by  
45 the **advisory council of the State Library** State Librarian for the  
46 operation and improvement of free public libraries to provide

1 efficient and effective library services, to insure public benefit and  
2 convenience therefrom and to achieve the objects of this chapter.

3 (cf: P.L.2001, c.137, s.34)<sup>1</sup>

4

5 <sup>1</sup>46. Section 4 of P.L.1973, c.381 (C.18A:74-17) is amended to  
6 read as follows:

7 4. The administration of this act shall be governed by rules and  
8 regulations[, ] recommended [by the Advisory Council of the State  
9 Library, ] and promulgated by the State Librarian with the approval  
10 of the President of Thomas Edison State College.

11 (cf: 2001, c.137, s.38)<sup>1</sup>

12

13 <sup>1</sup>47. Section 3 of P.L.1999, c.184 (C.18A:74-26) is amended to  
14 read as follows:

15 3. There is created a Public Library Construction Advisory  
16 Board to be comprised of seven members as follows: the Secretary  
17 of State or the secretary's designee who shall serve as the chair; the  
18 State Librarian or the librarian's designee; [a member of the State  
19 Library Advisory Council established pursuant to section 13 of  
20 P.L.1969, c.158 (C.18A:73-28), or the council's designee, who shall  
21 be chosen by the council and shall serve at the pleasure of the  
22 council and until a successor is chosen] the President of Thomas  
23 Edison State College, or the president's designee; and four persons  
24 with library, construction, or finance experience who shall be  
25 appointed by the Governor with the advice and consent of the  
26 Senate and who shall serve at the pleasure of the Governor and until  
27 their successors are appointed and shall have qualified.

28 Moneys in the fund shall be distributed as grants to public  
29 libraries for part of eligible project costs as enumerated in section 4  
30 of P.L.1999, c.184 (C.18A:74-27), based on criteria and a  
31 competitive selection process established by the board. The board  
32 shall promulgate regulations prescribing procedures for applying for  
33 a grant and the terms and conditions for receiving a grant. A grant  
34 application shall include a complete description of the project to be  
35 financed and an identification of additional sources of revenue to be  
36 used. An application shall be reviewed, and approved or denied by  
37 the board in accordance with uniform procedures by resolution of  
38 the board. When a grant is approved by the board, the board shall  
39 establish the recommended grant amount and shall submit to the  
40 Joint Budget Oversight Committee, or its successor, the board's  
41 approved amount of the grant and a brief description of the project  
42 for approval by the committee. Any grant not disapproved by the  
43 Joint Budget Oversight Committee within 30 days of such  
44 submission shall be deemed approved by the committee. After a  
45 grant application is approved by the committee, the board shall

1 forward a copy of the application and certify the approved amount  
2 of the grant to the authority.

3 (cf: P.L.1999, c.184, s.3)<sup>1</sup>

4

5 <sup>1</sup>[44.] 48.<sup>1</sup> The following are repealed:

6 <sup>1</sup>Sections 13, 15, and 16 of P.L.1969, c.158 (C.18A:73-28,  
7 18A:73-30 and 31);

8 Section 7 of P.L.1983, c.486 (C.18A:73-31.1);<sup>1</sup>

9 P.L.1979, c.443;

10 Section 9 of P.L.1999, c.156 (C.52:27D-118.30b);

11 P.L.1983, c.378 (C.52:9V-1 et <sup>1</sup>[seq] seq.<sup>1</sup>);

12 Section 12 of P.L.1971, c.134 (C.52:17B-129);

13 Section 1 of P.L.2000, c.138 (C.18A:44-5);

14 P.L.1978, c.68;

15 Section 1 of P.L.1994, c.191;

16 Section 31 of P.L.2002, c.40 (C.54:10A-41);

17 Sections 2 through 4 of P.L.1985, c.1 (C.52:17B-77.1 through  
18 52:17B-77.3, inclusive);

19 Sections 8 through 12 of P.L.1991, c.344;

20 Section 6 of P.L.1977, c.240 (C.24:6E-5);

21 Section 37 of P.L.1993, c.139;

22 P.L.2003, c.58;

23 Section 2 of P.L.1999, c.419 (C.18A:65-87);

24 Section 2 of P.L.1995, c.419 (C.6:1-99);

25 Section 3 of P.L.2003, c.112 (C.17B:30-43);

26 P.L.2003, c.47;

27 Section 5 of P.L.1998, c.37;

28 P.L.2004, c.121;

29 P.L.1997, J.R.7;

30 Section 4 of P.L.2001, c.192 (C.52:9YY-4);

31 P.L.2003, c.303;

32 Sections 1 through 7 of P.L.1993, c.209 (C.52:16A-43 through  
33 52:16A-49, inclusive);

34 P.L.1993, J.R.7;

35 Section 4 of P.L.1999, c.111 (C.2A:34-12.4);

36 Section 43 of P.L.2000, c.126;

37 Section 5 of P.L.1991, c.235 (C.13:1D-39);

38 Sections 1 through 17 of P.L.2001, c.262 (C.18A:71B-64  
39 through 18A:71B-80, inclusive);

40 P.L.2004, c.85;

41 P.L.1993, J.R.8;

42 P.L.1998, J.R.7;

43 Sections 18 through 20 of P.L.1983, c.315 (C.34:5A-18 through  
44 34:5A-20, inclusive);

45 P.L.2005, c.117;

46 Section 4 of P.L.1981, c.311 (C.45:14D-4);

47 P.L.1984, J.R.8;

48 P.L.1992, c.75 (C.52:9H-31 et seq.);

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46

- 1 P.L.1994, c.146;
- 2 P.L.2002, c.49;
- 3 P.L.2004, J.R.1;
- 4 Section 3 of P.L.1969, c.95 (C.18A:61A-3); and
- 5 Sections 1 through 7 of P.L.2001, c.203.
- 6
- 7 <sup>1</sup>[45.] 49.<sup>1</sup> This act shall take effect immediately.



# ASSEMBLY, No. 2851

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 10, 2010

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**  
**District 3 (Salem, Cumberland and Gloucester)**  
**Assemblyman SCOTT T. RUMANA**  
**District 40 (Bergen, Essex and Passaic)**  
**Assemblywoman ANNETTE QUIJANO**  
**District 20 (Union)**  
**Assemblyman RALPH R. CAPUTO**  
**District 28 (Essex)**  
**Assemblyman WAYNE P. DEANGELO**  
**District 14 (Mercer and Middlesex)**  
**Assemblywoman LINDA R. GREENSTEIN**  
**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

**Assemblyman Chivukula, Assemblywomen Riley, Casagrande,**  
**Assemblymen Polistina, Coughlin, Ramos, Assemblywoman Rodriguez,**  
**Assemblyman Wisniewski, Assemblywoman Angelini and Assemblyman**  
**O'Scanlon**

**SYNOPSIS**

Eliminates various inactive boards, commissions, committees, councils, and task forces.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/29/2010)**

1 AN ACT to eliminate inactive boards, commissions, committees,  
2 councils, and task forces, and amending and repealing various  
3 parts of the statutory law.

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

7  
8 1. Section 5 of P.L.1977, c.240 (C.24:6E-4) is amended to read  
9 as follows:

10 5. As used in this act unless the context clearly indicates  
11 otherwise:

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

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

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

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

41 e. **["Council" means the Drug Utilization Review Council.]**  
42 "Department" means the Department of Health and Senior Services.

43 f. "Chemical equivalents" means those drug products that  
44 contain the same amounts of the same therapeutically active

**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 ingredients in the same dosage forms and that meet present  
2 compendial standards.

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

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

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

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

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

24 l. "Interchangeable drug products" means pharmaceutical  
25 equivalents or bioequivalents that are determined to be therapeutic  
26 equivalents by the **【council】** department.

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

31 n. "Dosage form" means the physical formulation or medium in  
32 which the product is intended, manufactured and made available for  
33 use, including, but not limited to: tablets, capsules, oral solutions,  
34 aerosols, inhalers, gels, lotions, creams, ointments, transdermals  
35 and suppositories, and the particular form of the above which  
36 utilizes a specific technology or mechanism to control, enhance or  
37 direct the release, targeting, systemic absorption or other delivery of  
38 a dosage regimen in the body.

39 (cf: P.L.1993, c.256, s.1)

40

41 2. Section 7 of P.L.1977, c.240 (C.24:6E-6) is amended to read  
42 as follows:

43 7. a. The **【council】** department shall prepare a list of  
44 interchangeable drug products. This list shall be periodically  
45 reviewed in accordance with a schedule of and procedure for such  
46 review as shall be established by the **【council】** department. In  
47 development of the list, distinctions shall be made when: (1)  
48 evidence of bioequivalence is considered critical and when it is not;

1 (2) when levels of toxicity are considered critical and when they are  
2 not. The list may include interchangeable drug products used by  
3 the United States Government and its agencies, where the  
4 government or such agency has established the reliability of the  
5 drug products interchanged.

6 b. No drug products shall be included in such list until after a  
7 public hearing has been held thereon after at least 20 days notice.  
8 Such notice shall be mailed to every drug company that is  
9 authorized to do business in the State of New Jersey and to all  
10 persons who have made a timely request of the **【council】**  
11 department for advance notice of its public hearings and shall be  
12 published in the New Jersey Register.

13 c. Manufacturers shall, upon the request of the **【council】**  
14 department, be required to submit any information in their files that  
15 relates manufacturing processes and in vivo and in vitro tests to the  
16 bioavailability of any drug product. This requirement shall also  
17 apply to technical information obtained during research related to  
18 the development of new drug products, even when such information  
19 bears only an indirect relationship to the final dosage form. The  
20 **【council】** department shall not make such information public when  
21 there is a proprietary interest on the part of the manufacturer.

22 d. Any manufacturer of drug products shall have the right to  
23 request the **【council】** department to evaluate its drug products for  
24 the purpose of inclusion on the list of interchangeable drug  
25 products, or to request that the **【council】** department consider  
26 removal of any drug product from the list. Any such request shall  
27 be accompanied by such information as the **【council】** department  
28 shall require, and any drug product involved shall be evaluated in  
29 the same manner and shall be subject to the same procedures and  
30 requirements as all other drug products evaluated by the **【council】**  
31 department for inclusion on or removal from the list.

32 e. Prior to any drug product being approved by the **【council】**  
33 department, the manufacturer shall be required to demonstrate that  
34 it has complied with the standards set forth in the Current Good  
35 Manufacturing Practices of Title 21 USC or in such standards  
36 relating to drug manufacturing practices as may be promulgated by  
37 the **【Department of Health】** department from time to time and must  
38 show evidence of a satisfactory inspection by the Federal Food and  
39 Drug Administration or the **【Department of Health】** department.

40 f. The **【council】** department shall distribute copies of the list  
41 of interchangeable drug products and revisions thereof and  
42 additions thereto among physicians and other authorized prescribers  
43 and licensed pharmacists, and shall supply a copy to any person  
44 upon request, upon payment of the price established by the  
45 **【council】** department.

46 g. The **【council】** department shall be authorized to adopt  
47 reasonable rules and regulations, in accordance with the provisions

1 of the [Administrative Procedure Act, P.L.1966, c. 410 (C. 54:14B-  
2 1 et seq.)] “Administrative Procedure Act,” P.L.1968, c.410  
3 (C.52:14B-1 et seq.), to carry out its functions and duties under this  
4 act and to effectuate its purposes.  
5 (cf: P.L.1977, c.240, s.7)

6  
7 3. Section 35 of P.L.1993, c.139 (C.58:10B-12) is amended to  
8 read as follows:

9 35. a. The Department of Environmental Protection shall adopt  
10 minimum remediation standards for soil, groundwater, and surface  
11 water quality necessary for the remediation of contamination of real  
12 property. The remediation standards shall be developed to ensure  
13 that the potential for harm to public health and safety and to the  
14 environment is minimized to acceptable levels, taking into  
15 consideration the location, the surroundings, the intended use of the  
16 property, the potential exposure to the discharge, and the  
17 surrounding ambient conditions, whether naturally occurring or  
18 man-made.

19 Until the minimum remediation standards for the protection of  
20 public health and safety as described herein are adopted, the  
21 department shall apply public health and safety remediation  
22 standards for contamination at a site on a case-by-case basis based  
23 upon the considerations and criteria enumerated in this section.

24 [The department shall not propose or adopt remediation  
25 standards protective of the environment pursuant to this section,  
26 except standards for groundwater or surface water, until  
27 recommendations are made by the Environment Advisory Task  
28 Force created pursuant to section 37 of P.L.1993, c.139. Until the  
29 Environment Advisory Task Force issues its recommendations and  
30 the department adopts remediation standards protective of the  
31 environment as required by this section, the department shall  
32 continue to determine the need for and the application of  
33 remediation standards protective of the environment on a case-by-  
34 case basis in accordance with the guidance and regulations of the  
35 United States Environmental Protection Agency pursuant to the  
36 "Comprehensive Environmental Response, Compensation and  
37 Liability Act of 1980," 42 U.S.C. s.9601 et seq. and other statutory  
38 authorities as applicable.]

39 The department may not require any person to perform an  
40 ecological evaluation of any area of concern that consists of an  
41 underground storage tank storing heating oil for on-site  
42 consumption in a one to four family residential building.

43 b. In developing minimum remediation standards the  
44 department shall:

45 (1) base the standards on generally accepted and peer reviewed  
46 scientific evidence or methodologies;

47 (2) base the standards upon reasonable assumptions of exposure  
48 scenarios as to amounts of contaminants to which humans or other

1 receptors will be exposed, when and where those exposures will  
2 occur, and the amount of that exposure;

3 (3) avoid the use of redundant conservative assumptions. The  
4 department shall avoid the use of redundant conservative  
5 assumptions by the use of parameters that provide an adequate  
6 margin of safety and which avoid the use of unrealistic conservative  
7 exposure parameters and which guidelines make use of the guidance  
8 and regulations for exposure assessment developed by the United  
9 States Environmental Protection Agency pursuant to the  
10 "Comprehensive Environmental Response, Compensation, and  
11 Liability Act of 1980," 42 U.S.C. s.9601 et seq. and other statutory  
12 authorities as applicable;

13 (4) where feasible, establish the remediation standards as  
14 numeric or narrative standards setting forth acceptable levels or  
15 concentrations for particular contaminants; and

16 (5) consider and utilize, in the absence of other standards used  
17 or developed by the Department of Environmental Protection and  
18 the United States Environmental Protection Agency, the toxicity  
19 factors, slope factors for carcinogens and reference doses for non-  
20 carcinogens from the United States Environmental Protection  
21 Agency's Integrated Risk Information System (IRIS).

22 c. (1) The department shall develop residential and  
23 nonresidential soil remediation standards that are protective of  
24 public health and safety. For contaminants that are mobile and  
25 transportable to groundwater or surface water, the residential and  
26 nonresidential soil remediation standards shall be protective of  
27 groundwater and surface water. Residential soil remediation  
28 standards shall be set at levels or concentrations of contamination  
29 for real property based upon the use of that property for residential  
30 or similar uses and which will allow the unrestricted use of that  
31 property without the need of engineering devices or any  
32 institutional controls and without exceeding a health risk standard  
33 greater than that provided in subsection d. of this section.  
34 Nonresidential soil remediation standards shall be set at levels or  
35 concentrations of contaminants that recognize the lower likelihood  
36 of exposure to contamination on property that will not be used for  
37 residential or similar uses, which will allow for the unrestricted use  
38 of that property for nonresidential purposes, and that can be met  
39 without the need of engineering controls. Whenever real property is  
40 remediated to a nonresidential soil remediation standard, except as  
41 otherwise provided in paragraph (3) of subsection g. of this section,  
42 the department shall require, pursuant to section 36 of P.L.1993,  
43 c.139 (C.58:10B-13), that the use of the property be restricted to  
44 nonresidential or other uses compatible with the extent of the  
45 contamination of the soil and that access to that site be restricted in  
46 a manner compatible with the allowable use of that property.

47 (2) The department may develop differential remediation  
48 standards for surface water or groundwater that take into account

1 the current, planned, or potential use of that water in accordance  
2 with the "Clean Water Act" (33 U.S.C. s.1251 et seq.) and the  
3 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

4 d. The department shall develop minimum remediation  
5 standards for soil, groundwater, and surface water intended to be  
6 protective of public health and safety taking into account the  
7 provisions of this section. In developing these minimum health risk  
8 remediation standards the department shall identify the hazards  
9 posed by a contaminant to determine whether exposure to that  
10 contaminant can cause an increase in the incidence of an adverse  
11 health effect and whether the adverse health effect may occur in  
12 humans. The department shall set minimum soil remediation health  
13 risk standards for both residential and nonresidential uses that:

14 (1) for human carcinogens, as categorized by the United States  
15 Environmental Protection Agency, will result in an additional  
16 cancer risk of one in one million;

17 (2) for noncarcinogens, will limit the Hazard Index for any  
18 given effect to a value not exceeding one.

19 The health risk standards established in this subsection are for  
20 any particular contaminant and not for the cumulative effects of  
21 more than one contaminant at a site.

22 e. Remediation standards and other remediation requirements  
23 established pursuant to this section and regulations adopted  
24 pursuant thereto shall apply to remediation activities required  
25 pursuant to the "Spill Compensation and Control Act," P.L.1976,  
26 c.141 (C.58:10-23.11 et seq.), the "Water Pollution Control Act,"  
27 P.L.1977, c.74 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21  
28 et seq.), the "Industrial Site Recovery Act," P.L.1983, c.330  
29 (C.13:1K-6 et al.), the "Solid Waste Management Act," P.L.1970,  
30 c.39 (C.13:1E-1 et seq.), the "Comprehensive Regulated Medical  
31 Waste Management Act," sections 1 through 25 of P.L.1989, c.34  
32 (C.13:1E-48.1 et seq.), the "Major Hazardous Waste Facilities  
33 Siting Act," P.L.1981, c.279 (C.13:1E-49 et seq.), the "Sanitary  
34 Landfill Facility Closure and Contingency Fund Act," P.L.1981,  
35 c.306 (C.13:1E-100 et seq.), the "Regional Low-Level Radioactive  
36 Waste Disposal Facility Siting Act," P.L.1987, c.333 (C.13:1E-177  
37 et seq.), or any other law or regulation by which the State may  
38 compel a person to perform remediation activities on contaminated  
39 property. However, nothing in this subsection shall be construed to  
40 limit the authority of the department to establish discharge limits  
41 for pollutants or to prescribe penalties for violations of those limits  
42 pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), or to require the  
43 complete removal of nonhazardous solid waste pursuant to law.

44 f. (1) A person performing a remediation of contaminated real  
45 property, in lieu of using the established minimum soil remediation  
46 standard for either residential use or nonresidential use adopted by  
47 the department pursuant to subsection c. of this section, may submit  
48 to the department a request to use an alternative residential use or

1 nonresidential use soil remediation standard. The use of an  
2 alternative soil remediation standard shall be based upon site  
3 specific factors which may include (1) physical site characteristics  
4 which may vary from those used by the department in the  
5 development of the soil remediation standards adopted pursuant to  
6 this section; or (2) a site specific risk assessment. If a person  
7 performing a remediation requests to use an alternative soil  
8 remediation standard based upon a site specific risk assessment, that  
9 person shall demonstrate to the department that the requested  
10 deviation from the risk assessment protocol used by the department  
11 in the development of soil remediation standards pursuant to this  
12 section is consistent with the guidance and regulations for exposure  
13 assessment developed by the United States Environmental  
14 Protection Agency pursuant to the "Comprehensive Environmental  
15 Response, Compensation, and Liability Act of 1980," 42  
16 U.S.C.s.9601 et seq. and other statutory authorities as applicable. A  
17 site specific risk assessment may consider exposure scenarios and  
18 assumptions that take into account the form of the contaminant  
19 present, natural biodegradation, fate and transport of the  
20 contaminant, available toxicological data that are based upon  
21 generally accepted and peer reviewed scientific evidence or  
22 methodologies, and physical characteristics of the site, including,  
23 but not limited to, climatic conditions and topographic conditions.  
24 Nothing in this subsection shall be construed to authorize the use of  
25 an alternative soil remediation standard in those instances where an  
26 engineering control is the appropriate remedial action, as  
27 determined by the department, to prevent exposure to  
28 contamination.

29 Upon a determination by the department that the requested  
30 alternative remediation standard satisfies the department's  
31 regulations, is protective of public health and safety, as established  
32 in subsection d. of this section, and is protective of the environment  
33 pursuant to subsection a. of this section, the alternative residential  
34 use or nonresidential use soil remediation standard shall be  
35 approved by the department. The burden to demonstrate that the  
36 requested alternative remediation standard is protective rests with  
37 the person requesting the alternative standard and the department  
38 may require the submission of any documentation as the department  
39 determines to be necessary in order for the person to meet that  
40 burden.

41 (2) The department may, upon its own initiative, require an  
42 alternative remediation standard for a particular contaminant for a  
43 specific real property site, in lieu of using the established minimum  
44 residential use or nonresidential use soil remediation standard  
45 adopted by the department for a particular contaminant pursuant to  
46 this section. The department may require an alternative remediation  
47 standard pursuant to this paragraph upon a determination by the  
48 department, based on the weight of the scientific evidence, that due



1 to specific physical site characteristics of the subject real property,  
2 including, but not limited to, its proximity to surface water, the use  
3 of the adopted residential use or nonresidential use soil remediation  
4 standards would not be protective, or would be unnecessarily  
5 overprotective, of public health or safety or of the environment, as  
6 appropriate.

7 g. The development, selection, and implementation of any  
8 remediation standard or remedial action shall ensure that it is  
9 protective of public health, safety, and the environment, as  
10 applicable, as provided in this section. In determining the  
11 appropriate remediation standard or remedial action that shall occur  
12 at a site, the department and any person performing the remediation,  
13 shall base the decision on the following factors:

14 (1) Unrestricted use remedial actions, limited restricted use  
15 remedial actions and restricted use remedial actions shall be  
16 allowed except that unrestricted use remedial actions and limited  
17 restricted use remedial actions shall be preferred over restricted use  
18 remedial actions. For any remediation initiated one year after the  
19 date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.), the  
20 department shall require the use of an unrestricted use remedial  
21 action, or a presumptive remedy or an alternative remedy as  
22 provided in paragraph (10) of this subsection, at a site or area of  
23 concern where new construction is proposed for residential  
24 purposes, for use as a child care center licensed pursuant to  
25 P.L.1983, c.492 (C.30:5B-1 et seq.), or as a public school or private  
26 school as defined in N.J.S.18A:1-1, as a charter school established  
27 pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.), or where there  
28 will be a change in the use of the site to residential, child care, or  
29 public school, private school, or charter school purposes or another  
30 purpose that involves use by a sensitive population. For any  
31 remediation initiated on or after the date of enactment of P.L.2009,  
32 c.60 (C.58:10C-1 et al.), the department may require the use of an  
33 unrestricted use remedial action or a presumptive remedy as  
34 provided in guidelines adopted pursuant to paragraph (10) of this  
35 subsection for a site or area of concern that is to be used for  
36 residential, child care, or public school, private school, or charter  
37 school purposes or another purpose that involves use by a sensitive  
38 population. Except as provided in this subsection, and section 27 of  
39 P.L.2009, c.60 (C.58:10C-27), the department, however, may not  
40 disapprove the use of a restricted use remedial action or a limited  
41 restricted use remedial action so long as the selected remedial  
42 action meets the health risk standard established in subsection d. of  
43 this section, and where, as applicable, is protective of the  
44 environment. Except as provided in this subsection and section 27  
45 of P.L.2009, c.60 (C.58:10C-27), the choice of the remedial action  
46 to be implemented shall be made by the person responsible for  
47 conducting the remediation in accordance with regulations adopted  
48 by the department and that choice of the remedial action shall be

1 approved by the department if all the criteria for remedial action  
2 selection enumerated in this section, as applicable, are met. Except  
3 as provided in section 27 of P.L.2009, c.60 (C.58:10C-27), the  
4 department may not require a person to compare or investigate any  
5 alternative remedial action as part of its review of the selected  
6 remedial action. The department may disapprove the selection of a  
7 remedial action for a site on which the proposed remedial action  
8 will render the property unusable for future redevelopment or for  
9 recreational use;

10 (2) Contamination may, upon the department's approval, be left  
11 onsite at levels or concentrations that exceed the minimum soil  
12 remediation standards for residential use if the implementation of  
13 institutional or engineering controls at that site will result in the  
14 protection of public health, safety and the environment at the health  
15 risk standard established in subsection d. of this section, if the  
16 requirements established in subsections a., b., c. and d. of section 36  
17 of P.L.1993, c.139 (C.58:10B-13), and paragraphs (1) and (10) of  
18 this subsection, are met. The department may also require the  
19 treatment or removal of contaminated material that would pose an  
20 acute health or safety hazard in the event of failure of an  
21 engineering control;

22 (3) Real property on which there is soil that has not been  
23 remediated to the residential soil remediation standards, or real  
24 property on which the soil, groundwater, or surface water has been  
25 remediated to meet the required health risk standard by the use of  
26 engineering or institutional controls, may be developed or used for  
27 residential purposes, or for any other similar purpose, if (a) all areas  
28 of that real property at which a person may come into contact with  
29 soil are remediated to meet the residential soil remediation  
30 standards, (b) it is clearly demonstrated that for all areas of the real  
31 property, other than those described in subparagraph (a) above,  
32 engineering and institutional controls can be implemented and  
33 maintained on the real property sufficient to meet the health risk  
34 standard as established in subsection d. of this section, and (c) a  
35 presumptive remedy established and approved by the department  
36 pursuant to paragraph (10) of this subsection, or an alternative  
37 remedy approved by the department pursuant to paragraph (10) of  
38 this subsection, has been approved, as provided in paragraphs (1)  
39 and (10) of this subsection;

40 (4) Remediation shall not be required beyond the regional  
41 natural background levels for any particular contaminant. The  
42 department shall develop regulations that set forth a process to  
43 identify background levels of contaminants for a particular region.  
44 For the purpose of this paragraph "regional natural background  
45 levels" means the concentration of a contaminant consistently  
46 present in the environment of the region of the site and which has  
47 not been influenced by localized human activities;

- 1 (5) Remediation shall not be required of the owner or operator  
2 of real property for contamination coming onto the site from  
3 another property owned and operated by another person, unless the  
4 owner or operator is the person who is liable for cleanup and  
5 removal costs pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.);
- 6 (6) Groundwater that is contaminated shall not be required to be  
7 remediated to a level or concentration for any particular  
8 contaminant lower than the level or concentration that is migrating  
9 onto the property from another property owned and operated by  
10 another person;
- 11 (7) The technical performance, effectiveness and reliability of  
12 the proposed remedial action in attaining and maintaining  
13 compliance with applicable remediation standards and required  
14 health risk standards shall be considered. In reviewing a proposed  
15 remedial action, the department or the licensed site remediation  
16 professional shall also consider the ability of the owner or operator  
17 to implement the proposed remedial action within a reasonable time  
18 frame without jeopardizing public health, safety or the environment;
- 19 (8) The use of a remedial action for soil contamination that is  
20 determined by the department to be effective in its guidance  
21 document created pursuant to section 38 of P.L.1993, c.139  
22 (C.58:10B-14), is presumed to be an appropriate remedial action if  
23 it is to be implemented on a site in the manner described by the  
24 department in the guidance document and applicable regulations  
25 and if all of the conditions for remedy selection provided for in this  
26 section are met. The burden to prove compliance with the criteria  
27 in the guidance document is with the person responsible for  
28 conducting the remediation;
- 29 (9) (Deleted by amendment, P.L.1997, c.278);
- 30 (10) The department shall, by rule or regulation, establish  
31 presumptive remedies, use of which shall be required on any site or  
32 area of concern to be used for residential purposes, as a child care  
33 center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.), as a  
34 public school or private school as defined in N.J.S.18A:1-1, or as a  
35 charter school established pursuant to P.L.1995, c.426 (C.18A:36A-  
36 1 et seq.). The department may also issue guidelines that provide  
37 for presumptive remedies that may be required as provided in  
38 paragraph (1) of this subsection, on a site to be used for residential  
39 purposes, as a child care center, or as a public school, private school  
40 or charter school. The presumptive remedies shall be based on the  
41 historic use of the property, the nature and extent of the  
42 contamination at the site, the future use of the site and any other  
43 factors deemed relevant by the department. The department may  
44 include the use of engineering and institutional controls in the  
45 presumptive remedies authorized pursuant to this subsection. If the  
46 person responsible for conducting the remediation demonstrates to  
47 the department that the use of an unrestricted use remedial action or  
48 a presumptive remedy is impractical due to conditions at the site, or

1 that an alternative remedy would be equally protective over time as  
2 a presumptive remedy, then an alternative remedy for the site that is  
3 protective of the public health and safety may be proposed for  
4 review and approval by the department;

5 (11) The department may authorize a person conducting a  
6 remediation to divide a contaminated site into one or more areas of  
7 concern. For each area of concern, a different remedial action may  
8 be selected provided the requirements of this subsection are met and  
9 the remedial action selected is consistent with the future use of the  
10 property; and

11 (12) The construction of single family residences, public  
12 schools, private schools, or charter schools, or child care centers  
13 shall be prohibited on a landfill that undergoes a remediation if  
14 engineering controls are required for the management of landfill gas  
15 or leachate.

16 The burden to demonstrate that a remedial action is protective of  
17 public health, safety and the environment, as applicable, and has  
18 been selected in conformance with the provisions of this subsection  
19 is with the person responsible for conducting the remediation.

20 The department may require the person responsible for  
21 conducting the remediation to supply the information required  
22 pursuant to this subsection as is necessary for the department to  
23 make a determination.

24 h. (1) The department shall adopt regulations which establish a  
25 procedure for a person to demonstrate that a particular parcel of  
26 land contains large quantities of historical fill material. Upon a  
27 determination by the department that large quantities of historic fill  
28 material exist on that parcel of land, there is a rebuttable  
29 presumption that the department shall not require any person to  
30 remove or treat the fill material in order to comply with applicable  
31 health risk or environmental standards. In these areas the  
32 department shall establish by regulation the requirement for  
33 engineering or institutional controls that are designed to prevent  
34 exposure of these contaminants to humans, that allow for the  
35 continued use of the property, that are less costly than removal or  
36 treatment, which maintain the health risk standards as established in  
37 subsection d. of this section, and, as applicable, are protective of the  
38 environment. The department may rebut the presumption only upon  
39 a finding by the preponderance of the evidence that the use of  
40 engineering or institutional controls would not be effective in  
41 protecting public health, safety, and the environment. The  
42 department may not adopt any rule or regulation that has the effect  
43 of shifting the burden of rebutting the presumption. For the  
44 purposes of this paragraph "historic fill material" means generally  
45 large volumes of non-indigenous material, no matter what date they  
46 were emplaced on the site, used to raise the topographic elevation  
47 of a site, which were contaminated prior to emplacement and are in  
48 no way connected with the operations at the location of

1 emplacement and which include, but are not limited to, construction  
2 debris, dredge spoils, incinerator residue, demolition debris, fly ash,  
3 and non-hazardous solid waste. Historic fill material shall not  
4 include any material which is substantially chromate chemical  
5 production waste or any other chemical production waste or waste  
6 from processing of metal or mineral ores, residues, slags or tailings.

7 (2) The department shall develop recommendations for remedial  
8 actions in large areas of historic industrial contamination. These  
9 recommendations shall be designed to meet the health risk  
10 standards established in subsection d. of this section, and to be  
11 protective of the environment and shall take into account the  
12 industrial history of these sites, the extent of the contamination that  
13 may exist, the costs of remedial actions, the economic impacts of  
14 these policies, and the anticipated uses of these properties. The  
15 department shall issue a report to the Senate Environment  
16 Committee and to the Assembly Environment and Solid Waste  
17 Committee, or their successors, explaining these recommendations  
18 and making any recommendations for legislative or regulatory  
19 action.

20 (3) The department may not, as a condition of allowing the use  
21 of a nonresidential use soil remediation standard, or the use of  
22 institutional or engineering controls, require the owner of that real  
23 property, except as provided in section 36 of P.L.1993, c.139  
24 (C.58:10B-13), to restrict the use of that property through the filing  
25 of a deed easement, covenant, or condition.

26 i. The department may not require a remedial action workplan  
27 to be prepared or implemented or engineering or institutional  
28 controls to be imposed upon any real property unless sampling  
29 performed at that real property demonstrates the existence of  
30 contamination above the applicable remediation standards.

31 j. Upon the approval by the department or by a licensed site  
32 remediation professional of a remedial action workplan, or similar  
33 plan that describes the extent of contamination at a site and the  
34 remedial action to be implemented to address that contamination,  
35 the department may not subsequently require a change to that  
36 workplan or similar plan in order to compel a different remediation  
37 standard due to the fact that the established remediation standards  
38 have changed; however, the department may compel a different  
39 remediation standard if the difference between the new remediation  
40 standard and the remediation standard approved in the workplan or  
41 other plan differs by an order of magnitude. The limitation to the  
42 department's authority to change a workplan or similar plan  
43 pursuant to this subsection shall only apply if the workplan or  
44 similar plan is being implemented in a reasonable timeframe, as  
45 may be indicated in the approved remedial action workplan or  
46 similar plan.

47 k. Notwithstanding any other provisions of this section, all  
48 remediation standards and remedial actions that involve real

1 property located in the Pinelands area shall be consistent with the  
2 provisions of the "Pinelands Protection Act," P.L.1979, c.111  
3 (C.13:18A-1 et seq.), any rules and regulations promulgated  
4 pursuant thereto, and with section 502 of the "National Parks and  
5 Recreation Act of 1978," 16 U.S.C. s.471i; and all remediation  
6 standards and remedial actions that involve real property located in  
7 the Highlands preservation area shall be consistent with the  
8 provisions of the "Highlands Water Protection and Planning Act,"  
9 P.L.2004, c.120 (C.13:20-1 et al.), and any rules and regulations  
10 and the Highland regional master plan adopted pursuant thereto.

11 l. Upon the adoption of a remediation standard for a particular  
12 contaminant in soil, groundwater, or surface water pursuant to this  
13 section, the department may amend that remediation standard only  
14 upon a finding that a new standard is necessary to maintain the  
15 health risk standards established in subsection d. of section 35 of  
16 P.L.1993, c.139 (C.58:10B-12) or to protect the environment, as  
17 applicable. The department may not amend a public health based  
18 soil remediation standard to a level that would result in a health risk  
19 standard more protective than that provided for in subsection d. of  
20 section 35 of P.L.1993, c.139 (C.58:10B-12).

21 m. Nothing in P.L.1993, c.139 shall be construed to restrict or  
22 in any way diminish the public participation which is otherwise  
23 provided under the provisions of the "Spill Compensation and  
24 Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.).

25 n. Notwithstanding any provision of subsection a. of section 36  
26 of P.L.1993, c.139 (C.58:10B-13) to the contrary, the department  
27 may not require a person intending to implement a remedial action  
28 at an underground storage tank facility storing heating oil for on-  
29 site consumption at a one to four family residential dwelling to  
30 provide advance notice to a municipality prior to implementing that  
31 remedial action.

32 o. A person who has remediated a site pursuant to the  
33 provisions of this section, who was liable for the cleanup and  
34 removal costs of that discharge pursuant to the provisions of  
35 paragraph (1) of subsection c. of section 8 of P.L.1976, c.141  
36 (C.58:10-23.11g), and who remains liable for the discharge on that  
37 site due to a possibility that a remediation standard may change,  
38 undiscovered contamination may be found, or because an  
39 engineering control was used to remediate the discharge, shall  
40 maintain with the department a current address at which that person  
41 may be contacted in the event additional remediation needs to be  
42 performed at the site. The requirement to maintain the current  
43 address shall be made part of the conditions of the permit issued  
44 pursuant to section 19 of P.L.2009, c.60 (C.58:10C-19) and the final  
45 remediation document.

46 (cf: P.L.2009, c.60, s.47)

47

48 4. Section 1 of P.L.2003, c.112 (C.17B:30-41) is amended to

1 read as follows:

2 1. The Legislature finds and declares that:

3 a. The rising cost of hospital-based health care in this State  
4 impedes the ability of the State and insurers to provide reasonably  
5 priced, comprehensive health insurance to the citizens of the State.

6 b. Hospitals located within the State report more than \$1  
7 billion annually in debts that they are unable to collect.

8 c. The cost of covering the unpaid care represented by the debt  
9 is spread among citizens, private insurers, hospitals and the State in  
10 the form of higher bills for hospital-based care.

11 d. A significant portion of the uncollected debt is related to  
12 copayments and deductibles that are difficult for hospitals to collect  
13 efficiently.

14 e. The State's Set off of Individual Liability (SOIL) program  
15 has proven to be an administratively efficient means of collecting  
16 debts owed to State agencies.

17 f. It is, therefore, in the public interest to create a [New Jersey  
18 Hospital Care Payment Commission, the duties of which would  
19 include, but not be limited to, creating a] system for using the  
20 State's SOIL program to collect valid hospital debts.

21 (cf: P.L.2003, c.112, s.1)

22

23 5. Section 2 of P.L.2003, c.112 (C.17B:30-42) is amended to  
24 read as follows:

25 2. As used in this act:

26 "Coinsurance" means the percentage of a charge covered by a  
27 health plan that must be paid by a person covered under the health  
28 plan.

29 "Collection agency" means the Department of the Treasury and  
30 any company, agency or law firm engaged in collecting debts that  
31 the Department of the Treasury may determine to engage to assist it  
32 in collecting debts.

33 ["Commission" means the Hospital Care Payment Commission  
34 created pursuant to this act.]

35 "Debt" means money owed by a patient to a hospital, or by  
36 someone who is legally responsible for payment for a patient, and  
37 includes late payment penalties and interest thereon. It does not  
38 include monies owed to a hospital by a health plan for services  
39 provided by the hospital to a person with coverage under that plan,  
40 or amounts subject to dispute between a health plan and a hospital.

41 "Debtor" means an individual owing money to or having a  
42 delinquent account with a hospital, which obligation has not been  
43 adjudicated, satisfied by court order, set aside by court order or  
44 discharged in bankruptcy.

45 "Deductible" means the amount of covered charges under a  
46 health plan that an individual must pay for a services before a health  
47 plan begins to pay on a covered charge.

1     “Department” means the Department of Health and Senior  
2 Services.

3     "General Hospital" and "hospital" have the meanings set forth in  
4 N.J.A.C.8:43G-1.2.

5     "Health plan" means an individual or group health benefits plan  
6 that provides or pays the cost of hospital and medical expenses,  
7 dental or vision care, or prescription drugs, and is provided by or  
8 through an insurer, health maintenance organization, the Medicaid  
9 program, the Medicare program, a Medicare+Choice provider or  
10 Medicare supplemental insurer, an employer-sponsored group  
11 health benefits plan, government or church-sponsored health  
12 benefits plan or a multi-employer welfare arrangement.

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

15     "Medicare" means the program established by Pub.L.89-97 (42  
16 U.S.C. s.1395 et seq.) as amended, or its successor plan or plans.

17     "Patient" means a person who receives services in a hospital on  
18 an inpatient or outpatient basis.

19 (cf: P.L.2003, c.112, s.2)

20

21     6. Section 4 of P.L.2003, c.112 (C.17B:30-44) is amended to  
22 read as follows:

23     4. a. There is established the "New Jersey Hospital Care  
24 Payment Fund" in the Department of the Treasury.

25     b. The fund shall be comprised of monies collected from  
26 debtors of hospitals pursuant to this act, and any other monies  
27 appropriated thereto to carry out the purposes of this act.

28     c. The fund shall be a nonlapsing fund, from which costs shall  
29 be paid in the following order, for each hospital participating:

30     (1) administrative costs of the **【commission】** department to  
31 implement the provisions of P.L.2003, c.112 (C.17B:30-41 et seq.);

32     (2) administrative fees to the collection agency;

33     (3) 50% of the remainder, but only from monies collected from  
34 debtors of hospitals pursuant to this act after paragraphs (1) and (2)  
35 of this subsection are paid, shall be payable to the hospital from  
36 which the debt originated within 90 days of receipt of monies  
37 related to discharge of the assigned debt into the fund; and

38     (4) the remainder, after paragraphs (1), (2) and (3) of this  
39 subsection are paid, shall be deposited into the General Fund.

40 (cf: P.L.2003, c.112, s.4)

41

42     7. Section 5 of P.L.2003, c.112 (C.17B:30-45) is amended to  
43 read as follows:

44     5. The **【commission】** department is authorized to:

45     a. Accept assignment of debts from hospitals which have  
46 followed the procedures outlined in section 7 of this act, or such  
47 other procedures as the **【commission】** department shall adopt.



1 b. Pursue collection of debts pursuant to this act. The  
2 **【commission】 department** shall initiate the program in phases. The  
3 first phase may involve acceptance of assignment of debt that:

- 4 (1) derives from a limited number of hospitals;  
5 (2) consists of coinsurance and deductibles that remain payable  
6 after adjudication by a health plan;  
7 (3) is assigned by a general hospital;  
8 (4) is less than two years old at the date of assignment to the  
9 **【commission】 department**, as determined by the date of discharge  
10 for inpatient services and date of service for outpatient services;  
11 (5) involves any of the above or any combination of the above,  
12 or includes such other limitations as the **【commission】 department**  
13 determines are desirable to smooth implementation of the program  
14 created by this act.

15 After the first phase, the **【commission】 department** may expand  
16 acceptance of assignments as it shall determine pursuant to this act.

17 c. Test assignment data received from the hospitals to  
18 determine whether the records are sufficient to make set-off  
19 practicable, and return records that do not pass the test to the  
20 hospitals.

21 d. Conduct such fact-finding, as is necessary, in preparation for  
22 making a determination as to the validity of debts.

23 e. Make final determinations as to the validity of debts.

24 f. Determine the payment to be collected from the debtor,  
25 based upon a "fairness formula" to be determined by the  
26 **【commission】 department**. For debt processed by the **【commission】**  
27 **department** during the fiscal year starting on July 1, 2003, the  
28 fairness formula shall be based upon the **【Department of Health and**  
29 **Senior Services'】 department's** report entitled "Net Patient Revenue  
30 to Charge Ratio," for the most recent year available. For debt  
31 processed by the **【commission】 department** during the fiscal year  
32 starting on July 1, 2004 and thereafter, the fairness formula shall be  
33 based upon the most recent available "Net Patient Revenue to  
34 Charge Ratio" report, or such other measure as the **【commission】**  
35 **department** determines would most fairly reimburse hospitals for  
36 treatment.

37 g. Offset liability for the hospital debts against the New Jersey  
38 Gross Income Tax pursuant to N.J.S.54A:1-1 et seq., including an  
39 earned income tax credit provided as a refund pursuant to P.L.2000,  
40 c.80 (C.54A:4-6 et al.), or whenever any individual is eligible to  
41 receive an NJ SAVER rebate or a homestead rebate pursuant to  
42 P.L.1990, c.61 (C.54:4-8.57 et al.) or P.L.1999, c.63 (C.54:4-8.58a  
43 et al.), and if the rebate is not required to be paid over to the  
44 municipal tax collector under the provisions of section 8 of  
45 P.L.1990, c.61 (C.54:4-8.64), and including any other financial  
46 resource authorized as a source capable of offset for any reason by  
47 section 1 of P.L.1981, c.239 (C.54A:9-8.1 et seq.).

- 1 h. Adjudicate the validity of all set-off challenges pursuant to  
2 N.J.A.C. 18:35-10.1 et seq.
- 3 i. Make such decisions as to compromise and waiver of  
4 interest, penalties, post-judgment interest and write-off as it shall  
5 deem prudent.
- 6 j. Refer assigned debts under section 7 of this act to a  
7 collection agency in the event that offsetting is not practical or is  
8 not successful in fully resolving the debt.
- 9 k. Create standards for settlement of debts through the  
10 collection agency process.
- 11 l. Determine to cease accepting debt from a hospital until such  
12 time as the hospital can demonstrate to the satisfaction of the  
13 **【commission】** department that its accuracy has improved to  
14 acceptable levels where the **【commission】** department determines  
15 that data forwarded by a hospital to the **【commission】** department  
16 has an unacceptable level of inaccuracies regarding validity or  
17 quality of the debt forwarded to the **【commission】** department.
- 18 m. Contract with other State agencies for services, including  
19 administrative services necessary to carry out the duties of the  
20 **【commission】** department.
- 21 n. Fund the cost of its operations from the fund created by  
22 section 4 of this act.
- 23 o. Adopt rules and regulations pursuant to the "Administrative  
24 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate  
25 the purposes of this act; except that, notwithstanding any provision  
26 of P.L.1968, c.410 to the contrary, the **【commission】** department  
27 may adopt, immediately upon filing with the Office of  
28 Administrative Law, such regulations as the **【commission】**  
29 department deems necessary to implement the provisions of this act,  
30 which shall be effective for a period not to exceed six months and  
31 may thereafter be amended, adopted or readopted by the  
32 **【commission】** department in accordance with the requirements of  
33 P.L.1968, c.410.  
34 (cf: P.L.2003, c.112, s.5)  
35
- 36 8. Section 6 of P.L.2003, c.112 (C.17B:30-46) is amended to  
37 read as follows:
- 38 6. Decisions of the **【commission】** department, regarding the  
39 fairness formula, the validity of debts, the adequacy of data  
40 provided to the **【commission】** department by hospitals for use in  
41 the program, and other such matters as shall arise concerning the  
42 administration of the program, shall constitute final agency action.  
43 (cf: P.L.2003, c.112, s.6)  
44
- 45 9. Section 7 of P.L.2003, c.112 (C.17B:30-47) is amended to  
46 read as follows:

- 1       7. a. The following procedures shall apply for those hospitals  
2 that wish to participate in the voluntary assignment program created  
3 by this act.
- 4       b. The hospital shall file with the **【commission】** department a  
5 notice signifying its intent to participate voluntarily and certifying  
6 the following:
- 7       (1) the hospital has determined that the patient is not eligible for  
8 charity care under the New Jersey Hospital Care Payment  
9 Assistance Program established by the Department of Health and  
10 Senior Services pursuant to section 10 of P.L.1992, c.160 (C.26:2H-  
11 18.60);
- 12       (2) the hospital has submitted a "clean claim" pursuant to  
13 P.L.1999, c.154 (C.17B:30-23 et al.) and P.L.1999, c.155  
14 (C.17B:30-26 et seq.) to the patient, a responsible party, Medicaid,  
15 Medicare or a health plan, as applicable, within a reasonable time  
16 following the patient's discharge, or in the case of outpatient  
17 service, the date of service;
- 18       (3) the claims have been fully adjudicated by a health plan,  
19 Medicare or Medicaid, where applicable, and a debt remains  
20 outstanding;
- 21       (4) the hospital has not initiated collection procedures against  
22 the patient or responsible party while a claim was pending  
23 adjudication with Medicare or a health plan, for which a debt  
24 remains outstanding;
- 25       (5) the hospital has notified the patient of the hospital's  
26 intention, if the account is not paid in full, or alternatively through a  
27 payment plan with the hospital, to proceed with legal action, or to  
28 turn the bill over to the **【State Hospital Care Payment Commission】**  
29 department for collection.
- 30       c. Nothing herein shall be deemed to create any new right to  
31 collection of hospital debts by hospitals beyond existing law; nor  
32 shall it be deemed to preclude any existing right to collection.
- 33       d. The **【commission】** department may determine the content of  
34 the notice required by paragraph (5) of subsection b. of this section  
35 to the patient concerning the likelihood that the account will be  
36 turned over to the **【commission】** department for collection.
- 37       e. The minimum amount of an unpaid bill that may be assigned  
38 to the **【commission】** department by a hospital is \$100, or such other  
39 minimum as the **【commission】** department shall determine by  
40 regulation.
- 41       f. Upon receipt of the voluntary assignment, the Department of  
42 the Treasury shall send, on behalf of the **【commission】** department,  
43 a notice to the person named as a debtor of the hospital, notifying  
44 the person as to receipt of the assignment by the **【commission】**  
45 department, providing the person with 30 days to challenge the  
46 validity of the debt, and providing notice that in the absence of such  
47 challenge, a Certificate of Debt will be filed with the Superior Court

1 of New Jersey. The notice shall also include a statement on the  
2 **【commission's】** department's intention to take action to set off the  
3 liability against any refund of taxes pursuant to the "New Jersey  
4 Gross Income Tax Act" including an earned income tax credit, a NJ  
5 SAVER rebate or a homestead rebate, or other such funds as may be  
6 authorized by law.

7 g. If the person named as a debtor responds within the 30-day  
8 period, the person shall be provided with an opportunity to present,  
9 either in writing or in person, evidence as to why the person does  
10 not believe he is responsible for the debt. The **【commission】**  
11 department shall provide written notice to both the person and the  
12 hospital as to its determination regarding the validity of the debt,  
13 including the imposition of collection fees and interest, if  
14 applicable.

15 h. If the person fails to respond within 30 days to the  
16 **【commission】** department, the **【commission】** department may  
17 utilize the provisions of the Set off of Individual Liability (SOIL)  
18 program established pursuant to P.L.1981, c.239 (C.54A:9-8.1 et  
19 seq.), to collect any surcharge levied under this section that is  
20 unpaid on or after the effective date of this act.

21 As additional remedies, the **【commission】** department may  
22 utilize the services of a collection agency to settle the debt and may  
23 also issue a certificate to the Clerk of the Superior Court stating that  
24 the person identified in the certificate is indebted under this law in  
25 such amount as shall be stated in the certificate. The certificate  
26 shall reference this act. Thereupon the clerk to whom such  
27 certificate shall have been issued shall immediately enter upon the  
28 record of docketed judgments: the name of the person as debtor; the  
29 State as creditor; the address of the person, if shown in the  
30 certificate; the amount of the debt so certified; a reference to this  
31 act under which the debt is assessed; and the date of making the  
32 entries. The docketing of the entries shall have the same force and  
33 effect as a civil judgment docketed in the Superior Court, and the  
34 **【commission】** department shall have all the remedies and may take  
35 all of the proceedings for the collection thereof which may be had  
36 or taken upon the recovery of a judgment in an action, but without  
37 prejudice to any right of appeal. Upon entry by the clerk of the  
38 certificate in the record of docketed judgments in accordance with  
39 this provision, interest in the amount specified by the court rules for  
40 post-judgment interest shall accrue from the date of the docketing  
41 of the certificate; however, payment of the interest may be waived  
42 by the **【commission】** department.

43 i. Any collection efforts undertaken pursuant to this act shall  
44 be undertaken in accordance with the "Health Insurance Portability  
45 and Accountability Act of 1996," Pub.L. 104-191 and 45 C.F.R.  
46 160.101 to 164.534, or any other similar law. The **【commission】**  
47 department and any other entity performing collection activities

1 pursuant to this act is authorized to enter into any agreements  
2 required to comply with such laws, including, but not limited to,  
3 entering into agreements with the hospitals and collection agencies  
4 to provide for appropriate safeguarding of information.

5 (cf: P.L.2003, c.112, s.7)

6

7 10. Section 1 of P.L.2001, c.192 (C.52:9YY-1) is amended to  
8 read as follows:

9 1. This act shall be known and may be cited as the "Health  
10 Data **【Commission】** Act."

11 (cf: P.L.2001, c.192, s.1)

12

13 11. Section 2 of P.L.2001, c.192 (C.52:9YY-2) is amended to  
14 read as follows:

15 2. The Legislature finds and declares that:

16 a. It is the intention of the Legislature to establish a single  
17 point of contact for members of the public to obtain health data  
18 **【through the creation of the New Jersey Health Data Commission】**;

19 b. The purpose of this **【commission】** initiative is to compile  
20 health care access, quality and cost data produced within the State  
21 from public and private entities and maximize the usefulness of the  
22 data for the public without duplicating existing data collection  
23 efforts by State agencies; and

24 c. It is anticipated that the expense to the State of compiling  
25 and disseminating the available and useful health data for the  
26 benefit of the public will be minimal and will be partially offset by  
27 subscriptions to routinely published **【commission】** documents of  
28 the Department of Health and Senior Services, the purchase of  
29 special **【commission】** reports of the Department of Health and  
30 Senior Services, and the receipt of grants to provide health data  
31 information to the public.

32 (cf: P.L.2001, c.192, s.2)

33

34 12. Section 3 of P.L.2001, c.192 (C.52:9YY-3) is amended to  
35 read as follows:

36 3. As used in this act:

37 **【"Commission" means the New Jersey Health Data Commission**  
38 **established pursuant to this act.】**

39 "Department" means the Department of Health and Senior  
40 Services.

41 "Disclosure" means the disclosure of health data to a person or  
42 entity outside the **【commission】** department.

43 "Health data" means any information, except vital statistics as  
44 defined in R.S.26:8-1, relating to the health status of people, the  
45 availability of health care resources and services, or the use and  
46 cost of these resources and services. Health data shall not include

1 information that is created or received by members of the clergy or  
2 others who use spiritual means alone for healing.

3 "Identifiable health data" means any item, collection or grouping  
4 of health data which makes the person supplying it or described in it  
5 identifiable.

6 "Research and statistical purposes" means the performance of  
7 certain activities relating to health data, including, but not limited  
8 to: describing the group characteristics of persons or entities;  
9 analyzing the interrelationships among various characteristics of  
10 persons or entities; the conduct of statistical procedures or studies  
11 to improve the quality of health data; the design of sample surveys  
12 and the selection of samples of persons or entities; the preparation  
13 and publication of reports describing these activities; and other  
14 related functions; but excluding the use of health data for a person  
15 or entity to make a determination directly affecting the rights,  
16 benefits or entitlements of that person or entity.

17 (cf: P.L.2001, c.192, s.3)

18

19 13. Section 5 of P.L.2001, c.192 (C.52:9YY-5) is amended to  
20 read as follows:

21 5. a. The **【commission】** department may:

22 (1) collect and maintain health data from State government  
23 agencies or other entities on:

24 (a) the extent, nature and impact of illness and disability on the  
25 population of the State;

26 (b) the determinants of health and health hazards;

27 (c) health resources, including the extent of available personnel  
28 and resources;

29 (d) utilization of health care;

30 (e) health care costs and financing; and

31 (f) other health-related matters;

32 (2) undertake and support research, demonstrations and  
33 evaluations concerning new or improved methods for obtaining  
34 current data with respect to any of the health data described in  
35 paragraph (1) of this subsection; and

36 (3) promote standards for health data that will facilitate the  
37 comparison of information and ease the burden of data preparation  
38 and reporting.

39 b. The **【commission】** department may collect health data on  
40 behalf of other entities.

41 c. The **【commission】** department shall collect health data only  
42 on a voluntary basis from persons and entities, except to the extent  
43 that specific statutory authority exists to compel the reporting of  
44 such data. When requesting health data from a person or entity, the  
45 agency shall notify the person or entity in writing as to the  
46 following:

47 (1) whether the person or entity is required to supply the health  
48 data and any sanctions which may be imposed for noncompliance;

1 (2) the purposes for which the health data is being collected; and

2 (3) if the **【commission】** department intends to disclose  
3 identifiable health data for other than research and statistical  
4 purposes, the information to be disclosed, to whom it is to be  
5 disclosed, and for what purposes.

6 d. No health data obtained by the **【commission】** department  
7 under this section may be used for any purpose other than the  
8 purpose for which they were supplied or for which the person or  
9 entity described in the data has otherwise consented.

10 e. The **【commission】** department shall:

11 (1) take such actions as may be necessary to assure that the  
12 health data which it obtains and maintains are accurate, timely and  
13 comprehensive, as well as specific, standardized and adequately  
14 analyzed and indexed; and

15 (2) publish, disseminate and otherwise make available these data  
16 on as wide a basis as practicable.

17 f. The **【commission】** department shall take such actions as are  
18 appropriate to effect the collection and compilation of health data  
19 produced within the State and to maximize the usefulness of the  
20 data collected.

21 g. The **【commission】** department shall:

22 (1) participate with federal, State and local government agencies  
23 in the design and implementation of a cooperative system of  
24 producing comparable and uniform health data at the federal, State  
25 and local levels;

26 (2) undertake and support research, development,  
27 demonstrations and evaluations concerning such a cooperative  
28 system; and

29 (3) assume its fair share of the data costs associated with  
30 implementing and maintaining such a system.

31 (cf: P.L.2001, c.192, s.5)

32

33 14. Section 6 of P.L.2001, c.192 (C.52:9YY-6) is amended to  
34 read as follows:

35 6. a. The **【commission】** department shall make no disclosure  
36 of any health data which identifies a person's health status or  
37 utilization of health care unless the person described in the data has  
38 consented to the disclosure.

39 b. A person or entity to whom the **【commission】** department  
40 has disclosed health data shall make no disclosure of any health  
41 data which identifies a person's health status or utilization of health  
42 care unless the person described in the data has consented to the  
43 disclosure.

44 c. No identifiable health data obtained by the **【commission】**  
45 department shall be subject to subpoena or similar compulsory  
46 process in a civil or criminal, judicial, administrative or legislative  
47 proceeding, nor shall a person or entity with lawful access to

1 identifiable health data pursuant to this act be compelled to testify  
2 with regard to that data; except that data pertaining to a party in  
3 litigation may be subject to subpoena or similar compulsory process  
4 in an action brought by or on behalf of that party to enforce a  
5 liability arising under this act.

6 (cf: P.L.2001, c.192, s.6  
7

8 15. Section 7 of P.L.2001, c.192 (C.52:9YY-7) is amended to  
9 read as follows:

10 7. The **[commission]** department shall take appropriate  
11 measures to protect the security of health data which it obtains,  
12 including:

- 13 a. limiting access to the data to authorized persons;
- 14 b. designating a person to be responsible for the physical  
15 security of the data;
- 16 c. developing and implementing a system for monitoring the  
17 security of the data;
- 18 d. periodically reviewing all health data to evaluate whether it  
19 is appropriate to remove identifying characteristics from the data;  
20 and
- 21 e. developing a program for the routine scheduled destruction  
22 of all forms, records or electronic files maintained by the  
23 **[commission]** department which contain identifiable health data.

24 (cf: P.L.2001, c.192, s.7)  
25

26 16. Section 8 of P.L.2001, c.192 (C.52:9YY-8) is amended to  
27 read as follows:

28 8. **[In]** To effectuate the purposes of P.L.2001, c.192  
29 (C.52:9YY-1 et seq.), and in addition to any other powers  
30 authorized by law, the **[commission]** department shall have the  
31 authority, in accordance with State law, to:

- 32 a. make and enter into contracts to purchase services and  
33 supplies and to hire consultants;
- 34 b. develop and submit a proposed budget;
- 35 c. accept gifts and charitable contributions;
- 36 d. apply for, receive and expend grants;
- 37 e. adopt regulations, pursuant to the "Administrative Procedure  
38 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the  
39 purposes of this act;
- 40 f. establish charges for and collect payment from persons and  
41 entities for the provision of services, including the dissemination of  
42 health data;
- 43 g. receive and expend appropriations;
- 44 h. enter into a reimbursable work program with other State  
45 government agencies or private entities under which funds are  
46 transferred from the other agencies or entities to the **[commission]**



1 department for the performance of activities pursuant to this act;  
2 and

3 i. provide such other services and perform such other functions  
4 as the **【commission】** department deems necessary to fulfill its  
5 responsibilities under this act.

6 (cf: P.L.2001, c.192, s.8)

7

8 17. Section 9 of P.L.2001, c.192 (C.52:9YY-9) is amended to  
9 read as follows:

10 9. a. A person or entity whom the **【commission】** department  
11 determines has violated the provisions of section 6 of **【this act】**  
12 P.L.2001, c.192 (C.52:9YY-6), regarding the disclosure of health  
13 data shall be subject, in addition to any other penalties that may be  
14 prescribed by law, to: a civil penalty of not more than \$10,000 for  
15 each such violation, but not to exceed \$50,000 in the aggregate for  
16 multiple violations; or a civil penalty of not more than \$250,000, if  
17 the **【commission】** department finds that these violations have  
18 occurred with such frequency as to constitute a general business  
19 practice.

20 The penalty shall be sued for and collected in the name of the  
21 **【commission】** department in a summary proceeding in accordance  
22 with the "Penalty Enforcement Law of 1999," P.L.1999, c.274  
23 (C.2A:58-10 et seq.).

24 b. The **【commission】** department or an entity acting on its  
25 behalf shall be liable to a person or entity injured by the intentional  
26 or negligent violation of the provisions of section 6 of **【this act】**  
27 P.L.2001, c.192 (C.52:9YY-6), in an amount equal to the damages  
28 sustained by the person or entity, together with the cost of the  
29 action and reasonable attorney's fees, as determined by the court.

30 (cf: P.L.2001, c.192, s.9)

31

32 18. Section 3 of P.L.1991, c.235 (C.13:1D-37) is amended to  
33 read as follows:

34 3. As used in this act:

35 **【"Board" means the Pollution Prevention Advisory Board**  
36 **established pursuant to section 5 of this act.】**

37 "Commissioner" means the Commissioner of the Department of  
38 Environmental Protection.

39 "Consume" means to change or alter the molecular structure of a  
40 hazardous substance within a production process.

41 "Department" means the Department of Environmental  
42 Protection.

43 "Facility" means all buildings, equipment, structures, and other  
44 property that are located on a single site or on contiguous or  
45 adjacent sites and that are owned or operated by the same person.

46 "Facility-wide permit" means a single permit issued by the  
47 department to the owner or operator of a priority industrial facility

1 incorporating the permits, certificates, registrations, or any other  
2 relevant department approvals previously issued to the owner or  
3 operator of the priority industrial facility pursuant to P.L.1970, c.39  
4 (C.13:1E-1 et seq.), P.L.1977, c.74 (C.58:10A-1 et seq.), or  
5 P.L.1954, c.212 (C.26:2C-1 et seq.), and the appropriate provisions  
6 of the pollution prevention plan prepared by the owner or operator  
7 of the priority industrial facility pursuant to section 7 and section 8  
8 of this act.

9 "Hazardous substance" means any substance on the list  
10 established by the United States Environmental Protection Agency  
11 for reporting pursuant to 42 U.S.C. s.11023, and any other  
12 substance which the department, pursuant to the provisions of  
13 subsection i. of section 8 of this act, defines as a hazardous  
14 substance for the purposes of this act.

15 "Hazardous waste" means any solid waste defined as hazardous  
16 waste by the department pursuant to P.L.1970, c.39 (C.13:1E-1 et  
17 seq.).

18 "Industrial facility" means any facility having a Standard  
19 Industrial Classification, as designated in the Standard Industrial  
20 Classification Manual prepared by the federal Office of  
21 Management and Budget, within the Major Group Numbers, Group  
22 Numbers, or Industry Numbers listed in subsection h. of section 3  
23 of P.L.1983, c.315 (C.34:5A-3) and which is subject to the  
24 regulatory requirements of P.L.1970, c.39 (C.13:1E-1 et seq.),  
25 P.L.1977, c.74 (C.58:10A-1 et seq.), or P.L.1954, c.212 (C.26:2C-1  
26 et seq.).

27 "Manufacture" means to produce, prepare, import, or compound  
28 a hazardous substance.

29 "Multimedia release" means the release of a hazardous substance  
30 to any environmental medium, or any combination of media,  
31 including the air, water or land, and shall include any release into  
32 workplaces.

33 "Nonproduct output" means all hazardous substances or  
34 hazardous wastes that are generated prior to storage, recycling,  
35 treatment, control, or disposal and that are not intended for use as a  
36 product.

37 "Office" means the Office of Pollution Prevention established in  
38 the department pursuant to section 4 of this act.

39 "Operator" means any person in control of, or exercising  
40 responsibility for, the daily operation of an industrial facility or a  
41 priority industrial facility.

42 "Owner" means any person who owns an industrial facility or a  
43 priority industrial facility.

44 "Person" means any individual, partnership, company,  
45 corporation, society, firm, consortium, joint venture, or any  
46 commercial or other legal entity.

47 "Pilot facility" means a facility or designated area of a facility  
48 used for pilot-scale development of products or processes.

1 "Pollution prevention" means: changes in production  
2 technologies, raw materials or products, that result in the reduction  
3 of the demand for hazardous substances per unit of product  
4 manufactured and the creation of hazardous products or nonproduct  
5 outputs; or changes in the use of raw materials, products, or  
6 production technologies that result in the reduction of the input use  
7 of hazardous substances and the creation of hazardous by-products  
8 or destructive results; or on-site facility changes in production  
9 processes, products, or the use of substitute raw materials that result  
10 in the reduction of the amount of hazardous waste generated and  
11 disposed of on the land or hazardous substances discharged into the  
12 air or water per unit of product manufactured prior to treatment, and  
13 that reduce or eliminate, without shifting, the risks that the use of  
14 hazardous substances at an industrial facility pose to employees,  
15 consumers, and the environment and human health. "Pollution  
16 prevention" shall include, but need not be limited to, raw material  
17 substitution, product reformulation, production process redesign or  
18 modification, in-process recycling, and improved operation and  
19 maintenance of production process equipment. "Pollution  
20 prevention" shall not include any action or change entailing a  
21 substitution of one hazardous substance, product or nonproduct  
22 output for another that results in the creation of substantial new  
23 risk, and shall not include treatment, increased pollution control,  
24 out-of-process recycling, or incineration, except as otherwise  
25 provided pursuant to subsection f. of section 7 of this act.

26 "Pollution prevention plan" means a plan required to be prepared  
27 by an industrial facility pursuant to the provisions of section 7 of  
28 this act.

29 "Pollution prevention plan progress report" means a report  
30 required to be submitted annually to the department by the owner or  
31 operator of an industrial facility pursuant to the provisions of  
32 section 7 of this act.

33 "Pollution prevention plan summary" means a summary of a  
34 pollution prevention plan required to be prepared by an industrial  
35 facility and submitted to the department pursuant to the provisions  
36 of section 7 of this act.

37 "Priority industrial facility" means any industrial facility  
38 required to prepare and submit a toxic chemical release form  
39 pursuant to 42 U.S.C. s.11023, or any other facility designated a  
40 priority industrial facility pursuant to rules and regulations adopted  
41 by the department pursuant to the provisions of subsection h. of  
42 section 8 of this act.

43 "Process" means the preparation of a hazardous substance, after  
44 its manufacture, for sale or use in the same form or physical state,  
45 or in a different form or physical state, as that in which it was  
46 received at the industrial facility where it is processed, or as part of  
47 an article or product containing the hazardous substance.

1 "Product" means a desired result of a production process that is  
2 used as a commodity in trade in the channels of commerce by the  
3 general public in the same form as it is produced.

4 "Production process" means a process, line, method, activity or  
5 technique, or a series or combination of processes, lines, methods or  
6 techniques used to produce a product or reach a planned result.

7 "Research and development laboratory" means a facility or a  
8 specially designated area of a facility used primarily for research,  
9 development, and testing activity, and not primarily involved in the  
10 production of goods for commercial sale, in which hazardous  
11 substances are used by, or under, the direct supervision of a  
12 technically qualified person.

13 "Source" means a point or location in a production process at  
14 which a nonproduct output is generated or released, provided,  
15 however, that similar, related, or identical kinds of sources may be  
16 considered a single source for the purposes of this act.

17 "Targeted production process" means any production process  
18 which significantly contributes to the use or release of hazardous  
19 substances or the generation of hazardous waste or nonproduct  
20 output, as determined by the owner or operator of an industrial  
21 facility pursuant to criteria established by the department.

22 "Targeted source" means any source which significantly  
23 contributes to the generation of nonproduct output, as determined  
24 by the owner or operator of an industrial facility pursuant to criteria  
25 established by the department.

26 "Use" means to process or otherwise use a hazardous substance.

27 "Violation of this act" means a violation of any provision of this  
28 act, or any rule or regulation, administrative order, or facility-wide  
29 permit adopted or issued pursuant thereto.

30 (cf: P.L.1991, c.235, s.3)

31

32 19. Section 21 of P.L.1983, c.315 (C.34:5A-21) is amended to  
33 read as follows:

34 21. The Department of Health and Senior Services, the  
35 Department of Environmental Protection, and the Department of  
36 Labor **【, in conjunction with the council,】** and Workforce  
37 Development shall jointly establish a procedure for annually  
38 receiving information **【, advice, testimony, and recommendations】**  
39 from the **【council, the】** public **【,】** and any other interested party,  
40 concerning **【the implementation of this act】** any revision of the  
41 workplace hazardous substance list and any revision of the  
42 environmental hazardous substance list. This procedure shall  
43 include a mechanism for revising the workplace hazardous  
44 substance list and the environmental hazardous substance list. Any  
45 revision of the workplace hazardous substance list or environmental  
46 hazardous substance list shall be based on documented scientific  
47 evidence. The Department of Health and Senior Services and the  
48 Department of Environmental Protection shall publicly announce

1 any revisions of the workplace hazardous substance list or the  
2 environmental hazardous substance list, and any such additions or  
3 revisions shall be made pursuant to the provisions of the  
4 "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et  
5 seq.).

6 (cf: P.L.1983, c. 315, s. 21)

7

8 20. Section 8 of P.L.1998, c.108 (C.27:5F-41) is amended to  
9 read as follows:

10 8. a. The Director of the Office of Highway Traffic Safety in  
11 the Department of Law and Public Safety, after consultation with  
12 the **【Director of the Division of Motor Vehicles】** Chief  
13 Administrator of the New Jersey Motor Vehicle Commission in, but  
14 not of, the Department of Transportation **【and the Review Board on**  
15 **Driver Education established in section 10 of P.L.1998, c.108**  
16 **(C.27:5F-43)】**, shall develop curriculum guidelines for use by  
17 teachers of approved classroom driver education courses. The  
18 course of instruction for approved courses shall be no less than 30  
19 hours in length and be designed to develop and instill the  
20 knowledge and attitudes necessary for the safe operation and  
21 driving of motor vehicles. Defensive driving, highway courtesy,  
22 accident avoidance, understanding and respect for the State's motor  
23 vehicle laws, insurance fraud and State requirements for and  
24 benefits of maintaining automobile insurance shall be emphasized.  
25 The incorporation of these curriculum guidelines in these classroom  
26 courses and the use of related instructional materials shall be a  
27 requirement for approval of the course by the **【Director of the**  
28 **Division of Motor Vehicles】** chief administrator.

29 b. The Director of the Office of Highway Traffic Safety, in  
30 consultation with the **【Director of the Division of Motor Vehicles】**  
31 Chief Administrator of the New Jersey Motor Vehicle Commission,  
32 shall produce an informational brochure for parents and guardians  
33 of beginning drivers under the age of 18 years. The **【division】**  
34 commission shall ensure that the parents or guardians of a permit  
35 holder receive these brochures at the time a permit is issued to a  
36 beginning driver. The brochures shall include, but not be limited to,  
37 the following information:

38 (1) Setting an example for the beginning driver;

39 (2) Accident and fatality statistics about beginning drivers;

40 (3) Causes of accidents among beginning drivers;

41 (4) The need to supervise vehicle operation by a beginning  
42 driver;

43 (5) Methods to coach a beginning driver on how to reduce  
44 accidents;

45 (6) A description of the graduated driver's license program; and

1 (7) Benefits of classroom and behind-the-wheel driver education  
2 under the direction of State certified or licensed driving instructors,  
3 as the case may be.

4 (cf: P.L.2001, c.420, s.1)

5  
6 21. Section 9 of P.L.1998, c.108 (C.27:5F-42) is amended to  
7 read as follows:

8 9. a. There is created in the Department of Transportation a  
9 special non-lapsing fund to be known as the "Graduated Driver  
10 License Fund." There shall be deposited in the fund up to \$5 from  
11 each special learner's permit fee and examination permit fee for a  
12 passenger automobile that is established pursuant to R.S.39:3-13  
13 and any other monies that may be made available for graduated  
14 license program start-up costs. The **【Division of Motor Vehicles】**  
15 New Jersey Motor Vehicle Commission shall administer  
16 expenditures from this fund.

17 b. Amounts necessary to reimburse the **【Division of Motor**  
18 **Vehicles】** New Jersey Motor Vehicle Commission in, but not of,  
19 the Department of Transportation and the Office of Highway  
20 Traffic Safety in the Department of Law and Public Safety for all  
21 costs reasonably and actually incurred in the initial implementation  
22 and continuing administration of this act shall be appropriated from  
23 the fund. The **【Division of Motor Vehicles】** New Jersey Motor  
24 Vehicle Commission and the Office of Highway Traffic Safety shall  
25 certify to the State Treasurer their start-up costs to carry out their  
26 responsibilities under **【this act】** P.L.1998, c.108, and the program's  
27 costs annually thereafter. This amount shall be reimbursed to the  
28 **【Division of Motor Vehicles】** New Jersey Motor Vehicle  
29 Commission and the Office of Highway Traffic Safety from the  
30 Graduated Driver License Fund. In the event the fund's balance is  
31 insufficient to fully reimburse these costs, the State Treasurer shall  
32 provide to the Graduated Driver License Fund a loan from the  
33 General Fund in the amount needed to fully defray these costs. This  
34 loan shall be repaid to the General Fund when the balance in the  
35 Graduated Driver License Fund exceeds the amount necessary to  
36 reimburse these costs.

37 (cf: P.L.1998, c.108, s.9)

38  
39 22. Section 10 of P.L.1998, c.108 (C.27:5F-43) is amended to  
40 read as follows:

41 10. a. **【There is established a State Review Board on Driver**  
42 **Education.】** The Director of the Office of Highway Traffic Safety  
43 **【or his designee shall be ex officio the chairman of the board. The**  
44 **Governor shall appoint to the board a certified secondary school**  
45 **driver education teacher and representatives from the Department of**  
46 **Education, the Department of Transportation, the AAA Clubs of**  
47 **New Jersey, the Driving School Association of New Jersey, the**

1 Insurance Council of New Jersey, the New Jersey Association of  
2 Chiefs of Police, the New Jersey State Safety Council and the New  
3 Jersey Traffic Safety Officers Association. The board] shall make  
4 recommendations to the [Director of the Division of Motor  
5 Vehicles] Chief Administrator of the New Jersey Motor Vehicle  
6 Commission with respect to rules and regulations promulgated  
7 under [this act] P.L.1998, c.108 including, but not limited to, the  
8 development of uniform curriculum guidelines for approved  
9 classroom and behind-the-wheel driver education. [Any vacancies  
10 occurring in the membership shall be filled in the same manner as  
11 the original appointments.]

12 b. The course of instruction for behind-the-wheel driver  
13 education shall be designed to develop the skills necessary for the  
14 safe and lawful operation of a motor vehicle. Defensive driving,  
15 highway courtesy, appropriate driving behavior and attitudes,  
16 accident avoidance, safe passing and lane changing, and a general  
17 understanding of and respect for the State's motor vehicle laws shall  
18 be emphasized.

19 (cf: P.L.2001, c.420, s.2)

20

21 23. Section 4 of P.L.1969, c.95 (C.18A:61A-4) is amended to  
22 read as follows:

23 4. [The board of trustees shall organize at a meeting to be  
24 called by the Commissioner of Education and annually thereafter by  
25 election from their number of a chairman and a vice chairman and  
26 appointment of a secretary, who may but need not be a member of  
27 the board of trustees, and such other officers as the board shall  
28 determine. The meeting for the election and appointment of  
29 officers shall be held not earlier than July 1 and not later than  
30 October 1 of each year. Officers shall serve for terms of one year,  
31 and until their successors are selected and qualified. The board of  
32 trustees shall be known as "The Trustees of the New Jersey School  
33 of the Arts" and shall be a body corporate, with all the powers  
34 usually conferred upon such bodies and necessary to enable it to  
35 make contracts, and to exercise such other rights and privileges as  
36 may be necessary for carrying out the provisions and purposes of  
37 this act.] The school shall employ northern, central and southern  
38 coordinators and hire appropriate professional staff to implement  
39 programs in music, dance, visual arts and creative writing in each of  
40 the 21 counties of the State.

41 (cf: P.L.2000, c.115, s.4)

42

43 24. Section 6 of P.L.1969, c.95 (C.18A:61A-6) is amended to  
44 read as follows:

45 6. The [board of trustees of the] school shall [, within] be  
46 governed by the Commissioner of Education under the general  
47 policies and guidelines set by the State Board of Education, and the

- 1 commissioner shall have general supervision over, and shall be  
2 vested with the conduct of, the school. **【It】** The commissioner  
3 shall, within the general policies and guidelines set by the State  
4 Board of Education, have the power and duty to:
- 5 a. Determine the educational curriculum and program of the  
6 school in accordance with the arts standards, frameworks and  
7 assessments;
- 8 b. Determine policies for the organization, administration and  
9 development of the school;
- 10 c. Study the educational and financial needs of the school;  
11 annually acquaint the Governor and Legislature with the condition  
12 of the school; and prepare, and after concurrence by and jointly  
13 with the State Board of Education, present the annual budget to the  
14 Governor and Legislature, in accordance with law;
- 15 d. Subject to the provisions of P.L.1944, c.112 (C.52:27B-1 et  
16 seq.), direct and control the expenditures of the school in  
17 accordance with the provisions of the budget and the appropriations  
18 acts of the Legislature, except that with respect to transfers of funds  
19 pursuant to P.L.1944, c.112 (C.52:27B-1 et seq.), the school shall  
20 be deemed a spending agency, and as to funds received or solicited  
21 from other sources, in accordance with the terms of any applicable  
22 trusts, gifts, bequests, or other special provisions, the counsel,  
23 advice and assistance of the Division of Investment in the  
24 Department of the Treasury shall be available to the **【board of**  
25 **trustees】** commissioner in the establishment and maintenance of  
26 endowment and trust funds;
- 27 e. With the approval of the State Board of Education appoint  
28 and fix the compensation of a director of the school who shall be its  
29 executive officer and shall serve at the pleasure of the **【board of**  
30 **trustees】** commissioner;
- 31 f. Appoint members of the academic, administrative and  
32 teaching staffs as shall be required and fix their compensation and  
33 terms of employment in accordance with salary policies adopted by  
34 the State Board of Education, which salary policies shall prescribe  
35 qualifications for the education staff that may be in any given  
36 classification;
- 37 g. Appoint, remove, promote and transfer such other officers,  
38 agents or employees as may be required for carrying out the  
39 purposes of the school and assign their duties, determine their  
40 salaries and prescribe qualifications for all positions, all in  
41 accordance with the provisions of Title 11A, Civil Service, of the  
42 New Jersey Statutes;
- 43 h. Subject to the provisions of P.L.1954, c.48 (C.52:34-6 et  
44 seq.), to enter into contracts and agreements with the State or any of  
45 its political subdivisions or with the United States, or with any  
46 public body, department or other agency of the State or the United  
47 States or with any individual, firm, or corporation which are



- 1 deemed necessary or advisable by the **[board]** commissioner for  
2 carrying out the purposes of the school;
- 3 i. Adopt bylaws and make and promulgate such rules,  
4 regulations and orders, not inconsistent with the provisions of this  
5 act that are necessary and proper for the administration and  
6 operation of the school and the carrying out of its purposes;
- 7 j. Receive and accept private and corporate contributions for  
8 such purposes and upon such terms as the donor may prescribe  
9 consistent with the purposes of the school and general policies and  
10 guidelines set by the State Board of Education.  
11 (cf: P.L.2000, c.115, s.5)

12  
13 25. Section 7 of P.L.1969, c.95 (C.18A:61A-7) is amended to  
14 read as follows:

- 15 7. Subject to the approval of the State Board of Education or  
16 the board of education of a school district, as the case may be, the  
17 **[board of trustees]** Commissioner of Education may contract for  
18 the use of existing facilities, courses of instruction and programs in  
19 academic and other nonarts courses and instruction of other  
20 educational institutions and to employ faculty and other personnel  
21 jointly or on a co-operative or cost sharing basis with such other  
22 educational institutions.  
23 (cf: P.L.1969, c.95, s.7)

24  
25 26. Section 2 of P.L.1981, c.311 (C.45:14D-2) is amended to  
26 read as follows:

- 27 2. As used in this act:
- 28 a. "Accessorial service" means the preparation of articles for  
29 shipment, including, but not limited to, the packing, crating, boxing  
30 and servicing of appliances, the furnishing of containers,  
31 unpacking, uncrating and reassembling of articles, placing them at  
32 final destination and the moving or shifting of articles from one  
33 location to another within a building, or at a single address;
- 34 b. **["Board" means the State Board of Public Movers and**  
35 **Warehousemen established under this act;]** (Deleted by  
36 amendment, P.L. , c. )(pending before the Legislature as this bill)
- 37 c. (Deleted by amendment, P.L.1993, c.365).
- 38 d. "Department" means the Department of Law and Public  
39 Safety;
- 40 e. "Household goods" means personal effects, fixtures,  
41 equipment, stock and supplies or other property usually used in or  
42 as part of the stock of a dwelling, when it is put into storage or  
43 when it is transported by virtue of its removal, in whole or in part,  
44 by a householder from one dwelling to another, or from the  
45 dwelling of a householder to the dwelling of another householder,  
46 or between the dwelling of a householder and a repair or storage  
47 facility, or from the dwelling to an auction house or other place of  
48 sale. The term "household goods" shall not apply to property

1 moving from a factory or store, except property which the  
2 householder has purchased and which is transported at his request  
3 as part of the movement by the householder from one dwelling to  
4 another;

5 f. "Intrastate commerce" means commerce moving wholly  
6 between points within the State over all public highways, or at a  
7 single location;

8 g. "License" means a license issued by the **[board]** director;

9 h. "Motor vehicle" means any vehicle, machine, tractor, truck  
10 or semitrailer, or any combination thereof, propelled, driven or  
11 drawn by mechanical power, and used upon the public highways in  
12 the transportation of household goods, office goods and special  
13 commodities in intrastate commerce;

14 i. "Mover's services" means all of the services rendered by a  
15 public mover;

16 j. "Storage services" means all of the services rendered by a  
17 warehouseman;

18 k. "Office goods" means personal effects, fixtures, furniture,  
19 equipment, stock and supplies or other property usually used in or  
20 as part of the stock of any office, or commercial, institutional,  
21 professional or other type of establishment, when it is put into  
22 storage or when the property is transported by virtue of its removal,  
23 in whole or in part, from one location to another, but does not mean  
24 or include stock and supplies or other property usually used in or as  
25 part of the stock of any office, or commercial, institutional,  
26 professional or other type of establishment, when put into storage;

27 l. "Person" means any individual, copartnership, association,  
28 company, or corporation, and includes any trustee, receiver,  
29 assignee, lessee, or personal representative of any person herein  
30 defined;

31 m. "Place of business" means a business office located in New  
32 Jersey from which the mover or warehouseman conducts his daily  
33 business and where records are kept;

34 n. "Property" means all of the articles in the definition of  
35 household goods, office goods or special commodities;

36 o. "Public highway" or "highway" means any public street,  
37 road, thoroughfare, bridge and way in this State open to the use of  
38 the public as a matter of right for purposes of motor vehicular  
39 travel, including those that impose toll charges;

40 p. "Public mover" or "mover" means any person who engages  
41 in the transportation of household goods, office goods or special  
42 commodities by motor vehicle for compensation in intrastate  
43 commerce between points in this State, including the moving of  
44 household goods, office goods or special commodities from one  
45 location to another at a single address, and any person who engages  
46 in the performance of accessorial services; except that the term  
47 "public mover" or "mover" shall not apply to an owner-operator, or  
48 any person who engages in, or holds himself out to the general

1 public as engaging in, the transportation of special commodities  
2 when such commodities are not transported by virtue of a removal,  
3 in whole or in part, and who does not engage, nor hold himself out  
4 to the general public as engaging in, the transportation of household  
5 or office goods;

6 q. "Special commodities" means uncrated or unboxed works of  
7 art, fixtures, appliances, business machines, electronic equipment,  
8 displays, exhibits, home, office, store, theatrical or show equipment,  
9 musical instruments, or other articles being put into storage or being  
10 moved, and which require the use of equipment and personnel  
11 usually furnished or employed by warehousemen or public movers,  
12 except that the provisions of P.L.1981, c.311 (C.45:14D-1 et seq.)  
13 shall not apply to any person engaged in the transportation or  
14 storage of special commodities when these commodities are not  
15 transported by virtue of a removal, in whole or in part;

16 r. "Storage" means the safekeeping of property in a depository  
17 for compensation;

18 s. "Tariff" means a schedule of rates and charges for the  
19 storage or transportation of property in intrastate commerce on file  
20 with the **[board]** director, which shall be used, except in the use of  
21 binding estimates by movers, in computing all charges on the  
22 storage or transportation of property as of the date of the time in  
23 storage or transportation;

24 t. "Warehouseman" means a person engaged in the business of  
25 storage;

26 u. "Removal" means the physical relocation, in whole or in  
27 part, of either household goods, office goods or special  
28 commodities from one location to another location, including  
29 internal relocations within the same room or facility, for  
30 compensation;

31 v. "Bill of lading" means "bill of lading" as defined by  
32 paragraph (6) of N.J.S.12A:1-201;

33 w. "Consumer" means a person who contracts with a public  
34 mover for mover's services;

35 x. "Contracting public mover" means a licensed public mover  
36 who contracts with an owner-operator to provide any mover's  
37 service of the licensed public mover, and is liable for any mover's  
38 services performed or agreed to be performed by the owner-  
39 operator pursuant to that contract;

40 y. "Director" means the Director of the Division of Consumer  
41 Affairs in the Department of Law and Public Safety;

42 z. "Owner-operator" means a person who owns, leases, or rents  
43 one or more motor vehicles and who uses the vehicles to provide  
44 mover's services for a contracting public mover.

45 (cf: P.L.2007, c.50, s.1)

46

47 27. Section 6 of P.L.1981, c.311 (C.45:14D-6) is amended to  
48 read as follows:

- 1       6. The **[board]** director shall, in addition to such other powers  
2 and duties as **[it]** the director may possess by law:
- 3       a. Administer and enforce the provisions of this act;
- 4       b. Adopt and promulgate rules and regulations, pursuant to the  
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
6 seq.), to effectuate the purposes of this act;
- 7       c. Examine and pass on the qualifications of all applicants for  
8 license under this act, and issue a license to each qualified  
9 applicant;
- 10      d. Establish professional standards for persons licensed under  
11 this act;
- 12      e. Conduct hearings pursuant to the "Administrative Procedure  
13 Act," P.L.1968, c.410 (C.52:14B-1 et seq.); except that the **[board]**  
14 director shall have the right to administer oaths to witnesses, and  
15 shall have the power to issue subpoenas for the compulsory  
16 attendance of witnesses and the production of pertinent books,  
17 papers, or records;
- 18      f. Conduct proceedings before any board, agency or court of  
19 competent jurisdiction for the enforcement of the provisions of this  
20 act;
- 21      g. Annually publish a list of the names, addresses and tariffs of  
22 all persons who are licensed under this act;
- 23      h. Establish reasonable requirements with respect to proper and  
24 adequate movers' and warehousemen's services and the furnishing  
25 of estimates, and prescribe a uniform system of accounts, records  
26 and reports;
- 27      i. Adopt and promulgate rules and regulations to protect the  
28 interests of the consumer, including, but not limited to, regulations  
29 concerning the contents of information brochures which a mover or  
30 warehouseman shall give to a customer prior to the signing of a  
31 contract for moving or storage services.  
32 (cf: P.L.1993, c.365, s.3)
- 33
- 34      28. Section 7 of P.L.1981, c.311 (C.45:14D-7) is amended to  
35 read as follows:
- 36      7. The **[board]** director may, after notice and opportunity for a  
37 hearing, revoke, suspend or refuse to renew or issue any license  
38 issued pursuant to this act upon a finding that the applicant or  
39 holder of a license:
- 40      a. Has obtained a license by means of fraud, misrepresentation  
41 or concealment of material facts;
- 42      b. Has engaged in the use or employment of dishonesty, fraud,  
43 deception, misrepresentation, false promise or false pretense;
- 44      c. Has engaged in gross negligence or gross incompetence;
- 45      d. Has engaged in repeated acts of negligence or incompetence;
- 46      e. Has repeatedly failed to discharge contractual obligations to  
47 any person contracting for moving or storage services;
- 48      f. Has engaged in occupational misconduct;

1 g. Has been convicted of any crime involving moral turpitude  
2 or any crime relating adversely to the activities regulated by  
3 P.L.1981, c.311 (C.45:14D-1 et seq.). For the purpose of this  
4 subsection, a plea of guilty, non vult, nolo contendere or any other  
5 similar disposition of alleged criminal activity shall be deemed a  
6 conviction;

7 h. Has had his authority to engage in the activities regulated by  
8 P.L.1981, c.311 (C.45:14D-1 et seq.) revoked or suspended by any  
9 other state, agency or authority for reasons consistent with that act;  
10 or

11 i. Has violated or failed to comply with the provisions of  
12 P.L.1981, c.311 (C.45:14D-1 et seq.) or any regulation adopted  
13 thereunder.

14 The licensee or applicant shall be furnished with an official  
15 statement of the reasons for the **[board's]** director's proposed action  
16 and shall be afforded an opportunity for a hearing.

17 (cf: P.L.1993, c.365, s.4)

18

19 29. Section 8 of P.L.1981, c.311 (C.45:14D-8) is amended to  
20 read as follows:

21 8. The **[board]** director may, after one year from the date of  
22 the revocation of any license, restore the license.

23 (cf: P.L.1993, c.365, s.5)

24

25 30. Section 9 of P.L.1981, c.311 (C.45:14D-9) is amended to  
26 read as follows:

27 9. a. It shall be unlawful for any person to engage in the  
28 business of public moving or storage unless he shall have obtained  
29 from the **[board]** director a license to engage in the business and  
30 shall have a permanent place of business in this State;

31 b. Application for a license shall be made in writing to the  
32 **[board]** director, be verified under oath by the agent in charge and  
33 shall contain the following information: (1) the name and location  
34 of the applicant; (2) description of the applicant's moving vehicles  
35 and storage facilities; (3) identification of the issuer and amount of  
36 any insurance or surety bonds maintained by the applicant. A  
37 license shall be issued to a qualified applicant if it is found that the  
38 applicant is fit, willing and able to perform the service of a mover  
39 or warehouseman, and to conform to the provisions of this act;

40 c. Every person advertising moving or storage services shall  
41 include in any advertisement the number of his license, and his New  
42 Jersey business address and telephone number;

43 d. No license shall be issued to an applicant if the applicant  
44 has: (1) committed any act which if committed by a licensee would  
45 be grounds for suspension or revocation; (2) misrepresented any  
46 material fact on his application; (3) not registered each vehicle  
47 which will be performing intrastate moves in New Jersey, except on  
48 vehicles which have been rented or leased and are operated by a

1 public mover licensed under this act; (4) not established or  
2 maintained a place of business in New Jersey;

3 e. A copy of the license shall be carried on each truck, tractor,  
4 trailer or semitrailer or combination thereof at all times when the  
5 vehicle is being used in operations subject to this act.

6 (cf: P.L.1993, c.365, s.6)

7

8 31. Section 11 of P.L.1981, c.311 (C.45:14D-11) is amended to  
9 read as follows:

10 11. Every warehouseman or mover shall provide safe, proper  
11 and adequate service and shall observe the **【board's】** director's  
12 rules and regulations concerning the storage or transportation of  
13 property.

14 (cf: P.L.1993, c.365, s.7)

15

16 32. Section 14 of P.L.1981, c.311 (C.45:14D-14) is amended to  
17 read as follows:

18 14. a. Public movers and warehousemen shall file their tariffs  
19 with the **【board】** director semiannually;

20 b. Except in the use of binding estimates provided for in  
21 section 6 of P.L.1998, c.60 (C.45:14D-29), no public mover or  
22 warehouseman shall charge, demand, collect or receive a greater  
23 compensation for his service than specified in the tariff.

24 (cf: P.L.1998, c.60, s.2)

25

26 33. Section 15 of P.L.1981, c.311 (C.45:14D-15) is amended to  
27 read as follows:

28 15. a. The **【board】** director shall by rule or regulation establish,  
29 prescribe or change the fees for licenses, renewals of licenses or  
30 other services. Licenses shall expire one year from the date of issue  
31 unless the holder thereof shall, 30 days before such expiration, pay  
32 to the **【board】** director a renewal fee accompanied by a renewal  
33 application on a form prescribed by the **【board】** director.

34 b. The **【board's】** director's fees established, prescribed or  
35 changed pursuant to this section shall be established, prescribed or  
36 changed to such extent as shall be necessary to defray all proper  
37 expenses incurred by the **【board】** director and any staff employed  
38 to administer this act; but such fees shall not be fixed at a level that  
39 will raise amounts in excess of the amount estimated to be so  
40 required.

41 c. All fees and any fines imposed by the **【board】** director shall  
42 be paid to the **【board】** director and shall be forwarded by the  
43 **【board】** director to the State Treasurer and become part of the  
44 General Fund.

45 d. There shall be annually appropriated to the Department of  
46 Law and Public Safety for the use of the **【board】** director such sums

1 as shall be necessary to implement and effectuate the provisions of  
2 this act.

3 (cf: P.L.1993, c.365, s.9)

4

5 34. Section 16 of P.L.1981, c.311 (C.45:14D-16) is amended to  
6 read as follows:

7 16. Any person violating any provision of P.L.1981, c.311  
8 (C.45:14D-1 et seq.) shall, in addition to any other sanctions  
9 provided herein, be liable to a civil penalty of not more than  
10 \$2,500.00 for the first offense and not more than \$5,000.00 for the  
11 second and each subsequent offense. For the purpose of this  
12 section, each transaction or violation shall constitute a separate  
13 offense; except a second or subsequent offense shall not be deemed  
14 to exist unless an administrative or court order has been entered in a  
15 prior, separate and independent proceeding. In lieu of an  
16 administrative proceeding or an action in the Superior Court, the  
17 Attorney General may bring an action in the name of the **[board]**  
18 director for the collection or enforcement of civil penalties for the  
19 violation of any provision of that act. The action may be brought in  
20 a summary manner pursuant to **["the penalty enforcement law"**  
21 **(N.J.S.2A:58-1 et seq.)]** the "Penalty Enforcement Law of 1999,"  
22 P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court  
23 governing actions for the collection of civil penalties in the  
24 municipal or Special Civil Part of the Law Division of the Superior  
25 Court where the offense occurred. Process in the action may be by  
26 summons or warrant and if the defendant in the action fails to  
27 answer the action, the court shall, upon finding an unlawful act or  
28 practice to have been committed by the defendant, issue a warrant  
29 for the defendant's arrest in order to bring the person before the  
30 court to satisfy the civil penalties imposed. In an action  
31 commenced pursuant to this section, the court may order restored to  
32 any person in interest any moneys or property acquired by means of  
33 an unlawful act or practice. Any action alleging the unlicensed  
34 practice of the activities regulated by P.L.1981, c.311 (C.45:14D-1  
35 et seq.) shall be brought pursuant to this section or, where  
36 injunctive relief is sought, by an action commenced in the Superior  
37 Court. In an action brought pursuant to that act, the **[board]**  
38 director or the court may order the payment of costs for the use of  
39 the State.

40 (cf: P.L.1993, c.365, s.10)

41

42 35. Section 7 of P.L.1984, c.140 (C.45:14D-17) is amended to  
43 read as follows:

44 7. Whenever it shall appear to the **[board]** director or the  
45 Attorney General that a person has engaged in, or is engaging in,  
46 any act or practice declared unlawful by P.L.1981, c.311  
47 (C.45:14D-1 et seq.), or when the **[board]** director or the Attorney

1 General shall deem it to be in the public interest to inquire whether  
2 a violation may exist, the **[board]** director through the Attorney  
3 General, or the Attorney General acting independently, may:

4 a. Require any person to file, on a form to be prescribed, a  
5 statement or report in writing under oath, or otherwise, as to the  
6 facts and circumstances concerning the rendition of any service or  
7 conduct of any sale incidental to the discharge of any act or practice  
8 subject to that act;

9 b. Examine under oath any person in connection with any act  
10 or practice subject to that act;

11 c. Inspect any premises from which the activity regulated by  
12 that act is conducted;

13 d. Examine any goods, ware or item used in the rendition of  
14 any service by a public mover or warehouseman;

15 e. Examine any record, book, document, account or paper  
16 maintained by or for any public mover or warehouseman in the  
17 regular course of engaging in the activities regulated by that act or  
18 regulations promulgated pursuant to that act;

19 f. For the purpose of preserving evidence of an unlawful act or  
20 practice, pursuant to an order of the Superior Court, impound any  
21 record, book, document, account, paper, goods, ware, or item used  
22 or maintained by or for any public mover or warehouseman in the  
23 regular course of engaging in the activities regulated by that act or  
24 regulations promulgated pursuant to that act. When necessary, the  
25 Superior Court may, on application of the Attorney General, issue  
26 an order sealing items or material subject to this subsection.

27 In order to accomplish the objectives of P.L.1981, c.311  
28 (C.45:14D-1 et seq.) or the regulations promulgated pursuant to that  
29 act, the **[board]** director or the Attorney General may hold  
30 investigative hearings as necessary and may issue subpoenas to  
31 compel the attendance of any person or the production of books,  
32 records or papers at a hearing or inquiry.  
33 (cf: P.L.1993, c.365, s.11)  
34

35 36. Section 8 of P.L.1984, c.140 (C.45:14D-18) is amended to  
36 read as follows:

37 8. If a person fails or refuses to file any statement or report, or  
38 refuses access to premises from which activities regulated by  
39 P.L.1981, c.311 (C.45:14D-1 et seq.) are conducted in any lawfully  
40 conducted investigative matter or fails to obey a subpoena issued  
41 pursuant to that act, the **[board]** director or the Attorney General  
42 may apply to the Superior Court and obtain an order:

43 a. Adjudging that person in contempt of court and assessing  
44 civil penalties in accordance with the amounts prescribed by that  
45 act; or

46 b. Granting other relief as required; or



1 c. Suspending the license of that person until compliance with  
2 the subpoena or investigative demand is effected.

3 (cf: P.L.1993, c.365, s.12)

4

5 37. Section 10 of P.L.1984, c.140 (C.45:14D-20) is amended to  
6 read as follows:

7 10. In addition or as an alternative, as the case may be, to  
8 revoking, suspending or refusing to renew any license, the **【board】**  
9 director may, after affording an opportunity to be heard:

10 a. Assess civil penalties in accordance with P.L.1981, c.311  
11 (C.45:14D-1 et seq.);

12 b. Order that any person violating any provision of that act  
13 cease and desist from future violations thereof or take affirmative  
14 corrective action as necessary with regard to any act or practice  
15 found to be unlawful by the **【board】** director;

16 c. Order any person found to have violated any provision of  
17 that act to restore or to return to any person aggrieved by an  
18 unlawful act or practice any moneys or property, real or personal,  
19 acquired by means of that act or practice; except that the **【board】**  
20 director shall not order restoration in a dollar amount greater than  
21 those moneys received by a licensee or his agent or any other  
22 person violating that act.

23 In any administrative proceeding on a complaint alleging a  
24 violation of that act, the **【board】** director may issue subpoenas to  
25 compel the attendance of witnesses or the production of books,  
26 records, or documents at the hearing on the complaint.

27 (cf: P.L.1993, c.365, s.13)

28

29 38. Section 11 of P.L.1984, c.140 (C.45:14D-21) is amended to  
30 read as follows:

31 11. Whenever it shall appear to the **【board】** director or the  
32 Attorney General that a violation of P.L.1981, c.311 (C.45:14D-1 et  
33 seq.), including the unlicensed practice of the activities regulated  
34 therein, has occurred, is occurring, or will occur, the Attorney  
35 General, in addition to any other proceeding authorized by law, may  
36 seek and obtain in a summary proceeding in the Superior Court an  
37 injunction prohibiting the act or practice. In the proceeding the  
38 court may assess a civil penalty in accordance with the provisions  
39 of that act, order restoration to any person in interest of any moneys  
40 or property, real or personal, acquired by means of an unlawful act  
41 or practice and may enter any orders necessary to prevent the  
42 performance of an unlawful practice in the future and to remedy  
43 fully any past unlawful activity. In any action brought pursuant to  
44 this section, the court shall not suspend or revoke any license issued  
45 by the **【board】** director.

46 (cf: P.L.1993, c.365, s.14)

1       39. Section 12 of P.L.1984, c.140 (C.45:14D-22) is amended to  
2 read as follows:

3       12. Upon the failure of any person to comply within 10 days  
4 after service of any order of the **【board】** director directing payment  
5 of penalties or restoration of moneys or property, the Attorney  
6 General or the **【board】** director may issue a certificate to the Clerk  
7 of the Superior Court that the person is indebted to the State for the  
8 payment of the penalty and the moneys or property ordered  
9 restored. A copy of the certificate shall be served upon the person  
10 against whom the order was entered. Thereupon the clerk shall  
11 immediately enter upon his record of docketed judgments the name  
12 of the person so indebted and of the State, a designation of the  
13 statute under which the penalty is imposed, the amount of the  
14 penalty imposed, and amount of moneys ordered restored, a listing  
15 of property ordered restored, and the date of the certification. The  
16 entry shall have the same force and effect as the entry of a docketed  
17 judgment in the Superior Court, and the Attorney General shall  
18 have all rights and remedies of a judgment creditor, in addition to  
19 exercising any other available remedies. The entry, however, shall  
20 be without prejudice to the right of appeal to the Appellate Division  
21 of the Superior Court from the **【board's】** director's order.

22       An action to enforce the provisions of an order entered by the  
23 **【board】** director or to collect a penalty levied thereby may be  
24 brought in any municipal or Special Civil Part of the Law Division  
25 of the Superior Court or the Superior Court in a summary manner  
26 pursuant to **【"the penalty enforcement law" (N.J.S. 2A:58-1 et**  
27 **seq.)】** the "Penalty Enforcement Law of 1999," P.L.1999, c.274  
28 (C.2A:58-10 et seq.) and the rules of court governing the collection  
29 of civil penalties. Process in the action shall be by summons or  
30 warrant, and if the defendant fails to answer the action, the court  
31 shall issue a warrant for the defendant's arrest for the purpose of  
32 bringing the person before the court to satisfy any order entered.

33 (cf: P.L.1993, c.365, s.15)

34

35       40. Section 13 of P.L.1984, c.140 (C.45:14D-23) is amended to  
36 read as follows:

37       13. When it shall appear to the **【board】** director or the Attorney  
38 General that a person against whom a cease and desist order has  
39 been entered has violated the order, the **【board】** director or the  
40 Attorney General may initiate a summary proceeding in the  
41 Superior Court for the violation thereof. Any person found to have  
42 violated a cease and desist order shall pay to the State of New  
43 Jersey civil penalties in the amount of not more than \$25,000.00 for  
44 each violation of the order. If a person fails to pay a civil penalty  
45 assessed by the court for violation of a cease and desist order, the  
46 court assessing the unpaid penalty is authorized, upon application of  
47 the **【board】** director or the Attorney General, to grant any relief

1 which may be obtained under any statute or court rule governing the  
2 collection and enforcement of penalties.

3 (cf: P.L.1993, c.365, s.16)

4

5 41. Section 15 of P.L.1984, c.140 (C.45:14D-25) is amended to  
6 read as follows:

7 15. No license shall be issued to a warehouseman or mover or  
8 remain in force unless the warehouseman or mover complies with  
9 the rules or regulations that the **【board】** director shall prescribe  
10 governing policies of insurance, qualifications as a self-insurer or  
11 other securities or agreements in the amount that the **【board】**  
12 director may require.

13 (cf: P.L.1993, c.365, s.17)

14

15 42. Section 3 of P.L.1998, c.60 (C.45:14D-26) is amended to  
16 read as follows:

17 3. The **【board】** director shall notify the Board of Public  
18 Utilities of the business location and telephone number of any  
19 public mover that does not have a valid license issued by the  
20 **【board】** director.

21 (cf: P.L.1998, c.60, s.3)

22

23 43. Section 4 of P.L.1998, c.60 (C.45:14D-27) is amended to  
24 read as follows:

25 4. When notified by the **【State Board of Public Movers and**  
26 **Warehousemen】** director pursuant to section 3 of P.L.1998, c.60  
27 (C.45:14D-26), the Board of Public Utilities shall order the  
28 servicing telecommunications company to disconnect that mover's  
29 telephone number that is published in any commercial listing.

30 (cf: P.L.1998, c.60, s.4)

31

32 44. The following are repealed:

33 P.L.1979, c.443;

34 Section 9 of P.L.1999, c.156 (C.52:27D-118.30b);

35 P.L.1983, c.378 (C.52:9V-1 et seq);

36 Section 12 of P.L.1971, c.134 (C.52:17B-129);

37 Section 1 of P.L.2000, c.138 (C.18A:44-5);

38 P.L.1978, c.68;

39 Section 1 of P.L.1994, c.191;

40 Section 31 of P.L.2002, c.40 (C.54:10A-41);

41 Sections 2 through 4 of P.L.1985, c.1 (C.52:17B-77.1 through  
42 52:17B-77.3, inclusive);

43 Sections 8 through 12 of P.L.1991, c.344;

44 Section 6 of P.L.1977, c.240 (C.24:6E-5);

45 Section 37 of P.L.1993, c.139;

46 P.L.2003, c.58;

47 Section 2 of P.L.1999, c.419 (C.18A:65-87);

1 Section 2 of P.L.1995, c.419 (C.6:1-99);  
2 Section 3 of P.L.2003, c.112 (C.17B:30-43);  
3 P.L.2003, c.47;  
4 Section 5 of P.L.1998, c.37;  
5 P.L.2004, c.121;  
6 P.L.1997, J.R.7;  
7 Section 4 of P.L.2001, c.192 (C.52:9YY-4);  
8 P.L.2003, c.303;  
9 Sections 1 through 7 of P.L.1993, c.209 (C.52:16A-43 through  
10 52:16A-49, inclusive);  
11 P.L.1993, J.R.7;  
12 Section 4 of P.L.1999, c.111 (C.2A:34-12.4);  
13 Section 43 of P.L.2000, c.126;  
14 Section 5 of P.L.1991, c.235 (C.13:1D-39);  
15 Sections 1 through 17 of P.L.2001, c.262 (C.18A:71B-64  
16 through 18A:71B-80, inclusive);  
17 P.L.2004, c.85;  
18 P.L.1993, J.R.8;  
19 P.L.1998, J.R.7;  
20 Sections 18 through 20 of P.L.1983, c.315 (C.34:5A-18 through  
21 34:5A-20, inclusive);  
22 P.L.2005, c.117;  
23 Section 4 of P.L.1981, c.311 (C.45:14D-4);  
24 P.L.1984, J.R.8;  
25 P.L.1992, c.75 (C.52:9H-31 et seq.);  
26 P.L.1994, c.146;  
27 P.L.2002, c.49;  
28 P.L.2004, J.R.1;  
29 Section 3 of P.L.1969, c.95 (C.18A:61A-3); and  
30 Sections 1 through 7 of P.L.2001, c.203.

31  
32 45. This act shall take effect immediately.

33  
34

#### 35 STATEMENT

36

37 This bill eliminates the following boards, commissions,  
38 committees, councils, and task forces:

39 Agent Orange Commission (P.L.1979, c.443);

40 Camden Financial Review Board (Section 9 of P.L.1999, c.156  
41 (C.52:27D-118.30b);

42 Christopher Columbus Quincentennial Observance Commission  
43 (P.L.1983, c.378);

44 Commission on Early Childhood Education (Section 1 of  
45 P.L.2000, c.138);

46 Commission to Study Sex Discrimination in the Statutes  
47 (P.L.1978, c.68);

48 Committee to Review the State Commission of Investigation

1 (Section 1 of P.L.1994, c.191);  
2 Corporation Business Tax Study Commission (Section 31 of  
3 P.L.2002, c.40);  
4 Crime Prevention Advisory Committee (Sections 2 through 4 of  
5 P.L.1985, c.1);  
6 Delaware and Raritan Canal Transportation Safety Study  
7 Commission (Sections 8 through 12 of P.L.1991, c.344);  
8 Drug Utilization Review Council (Section 6 of P.L.1977, c.240);  
9 Environment Advisory Task Force (Section 37 of P.L.1993,  
10 c.139);  
11 Ergonomics in Education Study Commission (P.L.2003, c.58);  
12 Fisheries Information and Development Center Coordinating  
13 Board (Section 2 of P.L.1999, c.419);  
14 Governor's Air and Space Medal Nominating Committee  
15 (Section 2 of P.L.1995, c.419);  
16 Hospital Care Payment Commission (Section 3 of P.L.2003,  
17 c.112);  
18 Jewish Heritage Trail Study Commission (P.L.2003, c.47);  
19 Managed Care Task Force (Section 5 of P.L.1998, c.37);  
20 New Jersey Citizens' Clean Elections Commission (P.L.2004,  
21 c.121);  
22 New Jersey Commemorative Coin Design Commission  
23 (P.L.1997, J.R.7);  
24 New Jersey Health Data Commission (Section 4 of P.L.2001,  
25 c.192);  
26 New Jersey Obesity Prevention Task Force (P.L.2003, c.303);  
27 New Jersey Railroad and Transportation Museum Commission  
28 (Sections 1 through 7 of P.L.1993, c.209);  
29 New Jersey Uniform Securities Law Study Commission  
30 (P.L.1993, J.R.7);  
31 Parents' Education Program Advisory Committee (Section 4 of  
32 P.L.1999, c.111);  
33 Police Paperwork Reduction Task Force (Section 43 of P.L.2000,  
34 c.126);  
35 Pollution Prevention Advisory Board (Section 5 of P.L.1991,  
36 c.235);  
37 Prepaid Higher Education Expense Board and associated  
38 program in its entirety (P.L.2001, c.262 et seq.);  
39 Property Tax Convention Task Force (P.L.2004, c.85);  
40 Recreational Sports and Leisure Activities Liability Study  
41 Commission (P.L.1993, J.R.8);  
42 Regional Intergovernmental Transportation Coordinating Study  
43 Commission (P.L.1998, J.R.7);  
44 Right to Know Advisory Council, including its duties and  
45 powers (Sections 18 through 20 of P.L.1983, c.315);  
46 School Construction Review Commission (P.L.2005, c.117);  
47 State Board of Public Movers and Warehousemen (Section 4 of  
48 P.L.1981, c.311);

1 State Commission on Drunk Driving (P.L.1984, J.R.8);  
2 State Revenue Forecasting Advisory Commission (Sections 1  
3 through 3 of P.L.1992, c.75);  
4 State Review Board on Driver Education (section 21 of this bill  
5 as it amends C.27:5F-43);  
6 Task Force on New Jersey History (P.L.1994, c.146);  
7 Task Force on Workplace Violence (P.L.2002, c.49);  
8 Task Force to Study Attendance in Public Schools (P.L.2004,  
9 J.R.1);  
10 The Trustees of the New Jersey School of the Arts (Section 3 of  
11 P.L.1969, c.95); and  
12 World Language Instruction Committee (Sections 1 through 7 of  
13 P.L.2001, c.203).  
14 These boards, commissions, committees, councils, and task  
15 forces have served their purpose, been inactive for years, no longer  
16 have a role to fulfill, have completed their work, have not been  
17 convened for a long period of time, or were never organized. They  
18 are part of a list of such entities that were included in the report of  
19 the Red Tape Review Group entitled "Findings &  
20 Recommendations," April 19, 2010. Not included in this bill are  
21 those boards, commissions, committees, councils, and task forces  
22 identified in the report for elimination that were established under  
23 federal or local law, by gubernatorial executive order, or were  
24 previously eliminated by State law.

ASSEMBLY REGULATORY OVERSIGHT AND GAMING  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2851**

**STATE OF NEW JERSEY**

DATED: JUNE 10, 2010

The Assembly Regulatory Oversight and Gaming Committee reports favorably Assembly Bill No. 2851.

This bill eliminates the following boards, commissions, committees, councils, and task forces:

Agent Orange Commission (P.L.1979, c.443);

Camden Financial Review Board (Section 9 of P.L.1999, c.156 (C.52:27D-118.30b));

Christopher Columbus Quincentennial Observance Commission (P.L.1983, c.378);

Commission on Early Childhood Education (Section 1 of P.L.2000, c.138);

Commission to Study Sex Discrimination in the Statutes (P.L.1978, c.68);

Committee to Review the State Commission of Investigation (Section 1 of P.L.1994, c.191);

Corporation Business Tax Study Commission (Section 31 of P.L.2002, c.40);

Crime Prevention Advisory Committee (Sections 2 through 4 of P.L.1985, c.1);

Delaware and Raritan Canal Transportation Safety Study Commission (Sections 8 through 12 of P.L.1991, c.344);

Drug Utilization Review Council (Section 6 of P.L.1977, c.240);

Environment Advisory Task Force (Section 37 of P.L.1993, c.139);

Ergonomics in Education Study Commission (P.L.2003, c.58);

Fisheries Information and Development Center Coordinating Board (Section 2 of P.L.1999, c.419);

Governor's Air and Space Medal Nominating Committee (Section 2 of P.L.1995, c.419);

Hospital Care Payment Commission (Section 3 of P.L.2003, c.112);

Jewish Heritage Trail Study Commission (P.L.2003, c.47);

Managed Care Task Force (Section 5 of P.L.1998, c.37);

New Jersey Citizens' Clean Elections Commission (P.L.2004, c.121);

New Jersey Commemorative Coin Design Commission (P.L.1997, J.R.7);

New Jersey Health Data Commission (Section 4 of P.L.2001, c.192);

New Jersey Obesity Prevention Task Force (P.L.2003, c.303);

New Jersey Railroad and Transportation Museum Commission (Sections 1 through 7 of P.L.1993, c.209);

New Jersey Uniform Securities Law Study Commission (P.L.1993, J.R.7);

Parents' Education Program Advisory Committee (Section 4 of P.L.1999, c.111);

Police Paperwork Reduction Task Force (Section 43 of P.L.2000, c.126);

Pollution Prevention Advisory Board (Section 5 of P.L.1991, c.235);

Prepaid Higher Education Expense Board and associated program in its entirety (P.L.2001, c.262 et seq.);

Property Tax Convention Task Force (P.L.2004, c.85);

Recreational Sports and Leisure Activities Liability Study Commission (P.L.1993, J.R.8);

Regional Intergovernmental Transportation Coordinating Study Commission (P.L.1998, J.R.7);

Right to Know Advisory Council, including its duties and powers (Sections 18 through 20 of P.L.1983, c.315);

School Construction Review Commission (P.L.2005, c.117);

State Board of Public Movers and Warehousemen (Section 4 of P.L.1981, c.311);

State Commission on Drunk Driving (P.L.1984, J.R.8);

State Revenue Forecasting Advisory Commission (Sections 1 through 3 of P.L.1992, c.75);

State Review Board on Driver Education (section 21 of this bill as it amends C.27:5F-43);

Task Force on New Jersey History (P.L.1994, c.146);

Task Force on Workplace Violence (P.L.2002, c.49);

Task Force to Study Attendance in Public Schools (P.L.2004, J.R.1);

The Trustees of the New Jersey School of the Arts (Section 3 of P.L.1969, c.95); and

World Language Instruction Committee (Sections 1 through 7 of P.L.2001, c.203).

These boards, commissions, committees, councils, and task forces have served their purpose, been inactive for years, no longer have a role to fulfill, have completed their work, have not been convened for a long period of time, or were never organized. They are part of a list of such entities that were included in the report of the Red Tape Review Group entitled "Findings & Recommendations," April 19, 2010. Not included in this bill are those boards, commissions, committees, councils, and task forces identified in the report for



elimination that were established under federal or local law, by gubernatorial executive order, or were previously eliminated by State law.

This bill is identical to Senate Bill No. 1997.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &  
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 2851**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JULY 15, 2010

The Senate State Government, Wagering, Tourism & Historic Preservation Committee reports favorably and with committee amendments Assembly Bill No. 2851.

This bill eliminates the following boards, commissions, committees, councils, and task forces:

Advisory Council of the State Library (Sections 13, 15 and 16 of P.L.1969, c.158);

Agent Orange Commission (P.L.1979, c.443);

Camden Financial Review Board (Section 9 of P.L.1999, c.156 (C.52:27D-118.30b));

Christopher Columbus Quincentennial Observance Commission (P.L.1983, c.378);

Commission on Early Childhood Education (Section 1 of P.L.2000, c.138);

Commission to Study Sex Discrimination in the Statutes (P.L.1978, c.68);

Committee to Review the State Commission of Investigation (Section 1 of P.L.1994, c.191);

Corporation Business Tax Study Commission (Section 31 of P.L.2002, c.40);

Crime Prevention Advisory Committee (Sections 2 through 4 of P.L.1985, c.1);

Delaware and Raritan Canal Transportation Safety Study Commission (Sections 8 through 12 of P.L.1991, c.344);

Drug Utilization Review Council (Section 6 of P.L.1977, c.240);

Environment Advisory Task Force (Section 37 of P.L.1993, c.139);

Ergonomics in Education Study Commission (P.L.2003, c.58);

Fisheries Information and Development Center Coordinating Board (Section 2 of P.L.1999, c.419);

Governor's Air and Space Medal Nominating Committee (Section 2 of P.L.1995, c.419);

Hospital Care Payment Commission (Section 3 of P.L.2003, c.112);

Jewish Heritage Trail Study Commission (P.L.2003, c.47);  
 Managed Care Task Force (Section 5 of P.L.1998, c.37);  
 New Jersey Citizens' Clean Elections Commission (P.L.2004, c.121);  
 New Jersey Commemorative Coin Design Commission (P.L.1997, J.R.7);  
 New Jersey Health Data Commission (Section 4 of P.L.2001, c.192);  
 New Jersey Obesity Prevention Task Force (P.L.2003, c.303);  
 New Jersey Railroad and Transportation Museum Commission (Sections 1 through 7 of P.L.1993, c.209);  
 New Jersey Uniform Securities Law Study Commission (P.L.1993, J.R.7);  
 Parents' Education Program Advisory Committee (Section 4 of P.L.1999, c.111);  
 Police Paperwork Reduction Task Force (Section 43 of P.L.2000, c.126);  
 Pollution Prevention Advisory Board (Section 5 of P.L.1991, c.235);  
 Prepaid Higher Education Expense Board and associated program in its entirety (P.L.2001, c.262 et seq.);  
 Property Tax Convention Task Force (P.L.2004, c.85);  
 Recreational Sports and Leisure Activities Liability Study Commission (P.L.1993, J.R.8);  
 Regional Intergovernmental Transportation Coordinating Study Commission (P.L.1998, J.R.7);  
 Right to Know Advisory Council, including its duties and powers (Sections 18 through 20 of P.L.1983, c.315);  
 School Construction Review Commission (P.L.2005, c.117);  
 State Board of Public Movers and Warehousemen (Section 4 of P.L.1981, c.311);  
 State Commission on Drunk Driving (P.L.1984, J.R.8);  
 State Revenue Forecasting Advisory Commission (Sections 1 through 3 of P.L.1992, c.75);  
 State Review Board on Driver Education (section 21 of this bill as it amends C.27:5F-43);  
 Task Force on New Jersey History (P.L.1994, c.146);  
 Task Force on Workplace Violence (P.L.2002, c.49);  
 Task Force to Study Attendance in Public Schools (P.L.2004, J.R.1);  
 The Trustees of the New Jersey School of the Arts (Section 3 of P.L.1969, c.95); and  
 World Language Instruction Committee (Sections 1 through 7 of P.L.2001, c.203).

These boards, commissions, committees, councils, and task forces have served their purpose, been inactive for years, no longer have a role to fulfill, have completed their work, have not been convened for a long period of time, or were never organized. They are, for the most

part, part of a list of such entities that were included in the report of the Red Tape Review Group entitled "Findings & Recommendations," April 19, 2010. Not included in this bill are those boards, commissions, committees, councils, and task forces identified in the report for elimination that were established under federal or local law, by gubernatorial executive order, or were previously eliminated by State law.

This bill is identical to Senate Bill No. 1997 (1R).

#### COMMITTEE AMENDMENTS

The committee amended the bill to also eliminate the Advisory Council of the State Library and its duties concerning giving advice and making recommendations.

# SENATE, No. 1997

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MAY 27, 2010

**Sponsored by:**

**Senator JIM WHELAN**

**District 2 (Atlantic)**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Co-Sponsored by:**

**Senator Goodwin**

**SYNOPSIS**

Eliminates various inactive boards, commissions, committees, councils, and task forces.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/22/2010)**

1 AN ACT to eliminate inactive boards, commissions, committees,  
2 councils, and task forces, and amending and repealing various  
3 parts of the statutory law.

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

7  
8 1. Section 5 of P.L.1977, c.240 (C.24:6E-4) is amended to read  
9 as follows:

10 5. As used in this act unless the context clearly indicates  
11 otherwise:

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

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

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

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

41 e. **["Council" means the Drug Utilization Review Council.]**  
42 "Department" means the Department of Health and Senior Services.

43 f. "Chemical equivalents" means those drug products that  
44 contain the same amounts of the same therapeutically active

**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 ingredients in the same dosage forms and that meet present  
2 compendial standards.

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

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

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

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

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

24 l. "Interchangeable drug products" means pharmaceutical  
25 equivalents or bioequivalents that are determined to be therapeutic  
26 equivalents by the **【council】** department.

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

31 n. "Dosage form" means the physical formulation or medium in  
32 which the product is intended, manufactured and made available for  
33 use, including, but not limited to: tablets, capsules, oral solutions,  
34 aerosols, inhalers, gels, lotions, creams, ointments, transdermals  
35 and suppositories, and the particular form of the above which  
36 utilizes a specific technology or mechanism to control, enhance or  
37 direct the release, targeting, systemic absorption or other delivery of  
38 a dosage regimen in the body.

39 (cf: P.L.1993, c.256, s.1)

40

41 2. Section 7 of P.L.1977, c.240 (C.24:6E-6) is amended to read  
42 as follows:

43 7. a. The **【council】** department shall prepare a list of  
44 interchangeable drug products. This list shall be periodically  
45 reviewed in accordance with a schedule of and procedure for such  
46 review as shall be established by the **【council】** department. In  
47 development of the list, distinctions shall be made when: (1)  
48 evidence of bioequivalence is considered critical and when it is not;

1 (2) when levels of toxicity are considered critical and when they are  
2 not. The list may include interchangeable drug products used by  
3 the United States Government and its agencies, where the  
4 government or such agency has established the reliability of the  
5 drug products interchanged.

6 b. No drug products shall be included in such list until after a  
7 public hearing has been held thereon after at least 20 days notice.  
8 Such notice shall be mailed to every drug company that is  
9 authorized to do business in the State of New Jersey and to all  
10 persons who have made a timely request of the **【council】**  
11 department for advance notice of its public hearings and shall be  
12 published in the New Jersey Register.

13 c. Manufacturers shall, upon the request of the **【council】**  
14 department, be required to submit any information in their files that  
15 relates manufacturing processes and in vivo and in vitro tests to the  
16 bioavailability of any drug product. This requirement shall also  
17 apply to technical information obtained during research related to  
18 the development of new drug products, even when such information  
19 bears only an indirect relationship to the final dosage form. The  
20 **【council】** department shall not make such information public when  
21 there is a proprietary interest on the part of the manufacturer.

22 d. Any manufacturer of drug products shall have the right to  
23 request the **【council】** department to evaluate its drug products for  
24 the purpose of inclusion on the list of interchangeable drug  
25 products, or to request that the **【council】** department consider  
26 removal of any drug product from the list. Any such request shall  
27 be accompanied by such information as the **【council】** department  
28 shall require, and any drug product involved shall be evaluated in  
29 the same manner and shall be subject to the same procedures and  
30 requirements as all other drug products evaluated by the **【council】**  
31 department for inclusion on or removal from the list.

32 e. Prior to any drug product being approved by the **【council】**  
33 department, the manufacturer shall be required to demonstrate that  
34 it has complied with the standards set forth in the Current Good  
35 Manufacturing Practices of Title 21 USC or in such standards  
36 relating to drug manufacturing practices as may be promulgated by  
37 the **【Department of Health】** department from time to time and must  
38 show evidence of a satisfactory inspection by the Federal Food and  
39 Drug Administration or the **【Department of Health】** department.

40 f. The **【council】** department shall distribute copies of the list of  
41 interchangeable drug products and revisions thereof and additions  
42 thereto among physicians and other authorized prescribers and  
43 licensed pharmacists, and shall supply a copy to any person upon  
44 request, upon payment of the price established by the **【council】**  
45 department.

46 g. The **【council】** department shall be authorized to adopt  
47 reasonable rules and regulations, in accordance with the provisions



1 of the [Administrative Procedure Act, P.L.1966, c. 410 (C. 54:14B-  
2 1 et seq.)] "Administrative Procedure Act," P.L.1968, c.410  
3 (C.52:14B-1 et seq.), to carry out its functions and duties under this  
4 act and to effectuate its purposes.  
5 (cf: P.L.1977, c.240, s.7)

6  
7 3. Section 35 of P.L.1993, c.139 (C.58:10B-12) is amended to  
8 read as follows:

9 35. a. The Department of Environmental Protection shall adopt  
10 minimum remediation standards for soil, groundwater, and surface  
11 water quality necessary for the remediation of contamination of real  
12 property. The remediation standards shall be developed to ensure  
13 that the potential for harm to public health and safety and to the  
14 environment is minimized to acceptable levels, taking into  
15 consideration the location, the surroundings, the intended use of the  
16 property, the potential exposure to the discharge, and the  
17 surrounding ambient conditions, whether naturally occurring or  
18 man-made.

19 Until the minimum remediation standards for the protection of  
20 public health and safety as described herein are adopted, the  
21 department shall apply public health and safety remediation  
22 standards for contamination at a site on a case-by-case basis based  
23 upon the considerations and criteria enumerated in this section.

24 [The department shall not propose or adopt remediation  
25 standards protective of the environment pursuant to this section,  
26 except standards for groundwater or surface water, until  
27 recommendations are made by the Environment Advisory Task  
28 Force created pursuant to section 37 of P.L.1993, c.139. Until the  
29 Environment Advisory Task Force issues its recommendations and  
30 the department adopts remediation standards protective of the  
31 environment as required by this section, the department shall  
32 continue to determine the need for and the application of  
33 remediation standards protective of the environment on a case-by-  
34 case basis in accordance with the guidance and regulations of the  
35 United States Environmental Protection Agency pursuant to the  
36 "Comprehensive Environmental Response, Compensation and  
37 Liability Act of 1980," 42U.S.C. s.9601 et seq. and other statutory  
38 authorities as applicable.]

39 The department may not require any person to perform an  
40 ecological evaluation of any area of concern that consists of an  
41 underground storage tank storing heating oil for on-site  
42 consumption in a one to four family residential building.

43 b. In developing minimum remediation standards the  
44 department shall:

45 (1) base the standards on generally accepted and peer reviewed  
46 scientific evidence or methodologies;

47 (2) base the standards upon reasonable assumptions of exposure  
48 scenarios as to amounts of contaminants to which humans or other

1 receptors will be exposed, when and where those exposures will  
2 occur, and the amount of that exposure;

3 (3) avoid the use of redundant conservative assumptions. The  
4 department shall avoid the use of redundant conservative  
5 assumptions by the use of parameters that provide an adequate  
6 margin of safety and which avoid the use of unrealistic conservative  
7 exposure parameters and which guidelines make use of the guidance  
8 and regulations for exposure assessment developed by the United  
9 States Environmental Protection Agency pursuant to the  
10 "Comprehensive Environmental Response, Compensation, and  
11 Liability Act of 1980," 42U.S.C. s.9601 et seq. and other statutory  
12 authorities as applicable;

13 (4) where feasible, establish the remediation standards as  
14 numeric or narrative standards setting forth acceptable levels or  
15 concentrations for particular contaminants; and

16 (5) consider and utilize, in the absence of other standards used  
17 or developed by the Department of Environmental Protection and  
18 the United States Environmental Protection Agency, the toxicity  
19 factors, slope factors for carcinogens and reference doses for non-  
20 carcinogens from the United States Environmental Protection  
21 Agency's Integrated Risk Information System (IRIS).

22 c. (1) The department shall develop residential and  
23 nonresidential soil remediation standards that are protective of  
24 public health and safety. For contaminants that are mobile and  
25 transportable to groundwater or surface water, the residential and  
26 nonresidential soil remediation standards shall be protective of  
27 groundwater and surface water. Residential soil remediation  
28 standards shall be set at levels or concentrations of contamination  
29 for real property based upon the use of that property for residential  
30 or similar uses and which will allow the unrestricted use of that  
31 property without the need of engineering devices or any  
32 institutional controls and without exceeding a health risk standard  
33 greater than that provided in subsection d. of this section.  
34 Nonresidential soil remediation standards shall be set at levels or  
35 concentrations of contaminants that recognize the lower likelihood  
36 of exposure to contamination on property that will not be used for  
37 residential or similar uses, which will allow for the unrestricted use  
38 of that property for nonresidential purposes, and that can be met  
39 without the need of engineering controls. Whenever real property is  
40 remediated to a nonresidential soil remediation standard, except as  
41 otherwise provided in paragraph (3) of subsection g. of this section,  
42 the department shall require, pursuant to section 36 of P.L.1993,  
43 c.139 (C.58:10B-13), that the use of the property be restricted to  
44 nonresidential or other uses compatible with the extent of the  
45 contamination of the soil and that access to that site be restricted in  
46 a manner compatible with the allowable use of that property.

47 (2) The department may develop differential remediation  
48 standards for surface water or groundwater that take into account

1 the current, planned, or potential use of that water in accordance  
2 with the "Clean Water Act" (33U.S.C. s.1251 et seq.) and the  
3 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

4 d. The department shall develop minimum remediation  
5 standards for soil, groundwater, and surface water intended to be  
6 protective of public health and safety taking into account the  
7 provisions of this section. In developing these minimum health risk  
8 remediation standards the department shall identify the hazards  
9 posed by a contaminant to determine whether exposure to that  
10 contaminant can cause an increase in the incidence of an adverse  
11 health effect and whether the adverse health effect may occur in  
12 humans. The department shall set minimum soil remediation health  
13 risk standards for both residential and nonresidential uses that:

14 (1) for human carcinogens, as categorized by the United States  
15 Environmental Protection Agency, will result in an additional  
16 cancer risk of one in one million;

17 (2) for noncarcinogens, will limit the Hazard Index for any  
18 given effect to a value not exceeding one.

19 The health risk standards established in this subsection are for  
20 any particular contaminant and not for the cumulative effects of  
21 more than one contaminant at a site.

22 e. Remediation standards and other remediation requirements  
23 established pursuant to this section and regulations adopted  
24 pursuant thereto shall apply to remediation activities required  
25 pursuant to the "Spill Compensation and Control Act," P.L.1976,  
26 c.141 (C.58:10-23.11 et seq.), the "Water Pollution Control Act,"  
27 P.L.1977, c.74 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21  
28 et seq.), the "Industrial Site Recovery Act," P.L.1983, c.330  
29 (C.13:1K-6 et al.), the "Solid Waste Management Act," P.L.1970,  
30 c.39 (C.13:1E-1 et seq.), the "Comprehensive Regulated Medical  
31 Waste Management Act," sections 1 through 25 of P.L.1989, c.34  
32 (C.13:1E-48.1 et seq.), the "Major Hazardous Waste Facilities  
33 Siting Act," P.L.1981, c.279 (C.13:1E-49 et seq.), the "Sanitary  
34 Landfill Facility Closure and Contingency Fund Act," P.L.1981,  
35 c.306 (C.13:1E-100 et seq.), the "Regional Low-Level Radioactive  
36 Waste Disposal Facility Siting Act," P.L.1987, c.333 (C.13:1E-177  
37 et seq.), or any other law or regulation by which the State may  
38 compel a person to perform remediation activities on contaminated  
39 property. However, nothing in this subsection shall be construed to  
40 limit the authority of the department to establish discharge limits  
41 for pollutants or to prescribe penalties for violations of those limits  
42 pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), or to require the  
43 complete removal of nonhazardous solid waste pursuant to law.

44 f. (1) A person performing a remediation of contaminated real  
45 property, in lieu of using the established minimum soil remediation  
46 standard for either residential use or nonresidential use adopted by  
47 the department pursuant to subsection c. of this section, may submit  
48 to the department a request to use an alternative residential use or

1 nonresidential use soil remediation standard. The use of an  
2 alternative soil remediation standard shall be based upon site  
3 specific factors which may include (1) physical site characteristics  
4 which may vary from those used by the department in the  
5 development of the soil remediation standards adopted pursuant to  
6 this section; or (2) a site specific risk assessment. If a person  
7 performing a remediation requests to use an alternative soil  
8 remediation standard based upon a site specific risk assessment, that  
9 person shall demonstrate to the department that the requested  
10 deviation from the risk assessment protocol used by the department  
11 in the development of soil remediation standards pursuant to this  
12 section is consistent with the guidance and regulations for exposure  
13 assessment developed by the United States Environmental  
14 Protection Agency pursuant to the "Comprehensive Environmental  
15 Response, Compensation, and Liability Act of 1980," 42  
16 U.S.C.s.9601 et seq. and other statutory authorities as applicable. A  
17 site specific risk assessment may consider exposure scenarios and  
18 assumptions that take into account the form of the contaminant  
19 present, natural biodegradation, fate and transport of the  
20 contaminant, available toxicological data that are based upon  
21 generally accepted and peer reviewed scientific evidence or  
22 methodologies, and physical characteristics of the site, including,  
23 but not limited to, climatic conditions and topographic conditions.  
24 Nothing in this subsection shall be construed to authorize the use of  
25 an alternative soil remediation standard in those instances where an  
26 engineering control is the appropriate remedial action, as  
27 determined by the department, to prevent exposure to  
28 contamination.

29 Upon a determination by the department that the requested  
30 alternative remediation standard satisfies the department's  
31 regulations, is protective of public health and safety, as established  
32 in subsection d. of this section, and is protective of the environment  
33 pursuant to subsection a. of this section, the alternative residential  
34 use or nonresidential use soil remediation standard shall be  
35 approved by the department. The burden to demonstrate that the  
36 requested alternative remediation standard is protective rests with  
37 the person requesting the alternative standard and the department  
38 may require the submission of any documentation as the department  
39 determines to be necessary in order for the person to meet that  
40 burden.

41 (2) The department may, upon its own initiative, require an  
42 alternative remediation standard for a particular contaminant for a  
43 specific real property site, in lieu of using the established minimum  
44 residential use or nonresidential use soil remediation standard  
45 adopted by the department for a particular contaminant pursuant to  
46 this section. The department may require an alternative remediation  
47 standard pursuant to this paragraph upon a determination by the  
48 department, based on the weight of the scientific evidence, that due

1 to specific physical site characteristics of the subject real property,  
2 including, but not limited to, its proximity to surface water, the use  
3 of the adopted residential use or nonresidential use soil remediation  
4 standards would not be protective, or would be unnecessarily  
5 overprotective, of public health or safety or of the environment, as  
6 appropriate.

7 g. The development, selection, and implementation of any  
8 remediation standard or remedial action shall ensure that it is  
9 protective of public health, safety, and the environment, as  
10 applicable, as provided in this section. In determining the  
11 appropriate remediation standard or remedial action that shall occur  
12 at a site, the department and any person performing the remediation,  
13 shall base the decision on the following factors:

14 (1) Unrestricted use remedial actions, limited restricted use  
15 remedial actions and restricted use remedial actions shall be  
16 allowed except that unrestricted use remedial actions and limited  
17 restricted use remedial actions shall be preferred over restricted use  
18 remedial actions. For any remediation initiated one year after the  
19 date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.), the  
20 department shall require the use of an unrestricted use remedial  
21 action, or a presumptive remedy or an alternative remedy as  
22 provided in paragraph (10) of this subsection, at a site or area of  
23 concern where new construction is proposed for residential  
24 purposes, for use as a child care center licensed pursuant to  
25 P.L.1983, c.492 (C.30:5B-1 et seq.), or as a public school or private  
26 school as defined in N.J.S.18A:1-1, as a charter school established  
27 pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.), or where there  
28 will be a change in the use of the site to residential, child care, or  
29 public school, private school, or charter school purposes or another  
30 purpose that involves use by a sensitive population. For any  
31 remediation initiated on or after the date of enactment of P.L.2009,  
32 c.60 (C.58:10C-1 et al.), the department may require the use of an  
33 unrestricted use remedial action or a presumptive remedy as  
34 provided in guidelines adopted pursuant to paragraph (10) of this  
35 subsection for a site or area of concern that is to be used for  
36 residential, child care, or public school, private school, or charter  
37 school purposes or another purpose that involves use by a sensitive  
38 population. Except as provided in this subsection, and section 27 of  
39 P.L.2009, c.60 (C.58:10C-27), the department, however, may not  
40 disapprove the use of a restricted use remedial action or a limited  
41 restricted use remedial action so long as the selected remedial  
42 action meets the health risk standard established in subsection d. of  
43 this section, and where, as applicable, is protective of the  
44 environment. Except as provided in this subsection and section 27  
45 of P.L.2009, c.60 (C.58:10C-27), the choice of the remedial action  
46 to be implemented shall be made by the person responsible for  
47 conducting the remediation in accordance with regulations adopted  
48 by the department and that choice of the remedial action shall be

1 approved by the department if all the criteria for remedial action  
2 selection enumerated in this section, as applicable, are met. Except  
3 as provided in section 27 of P.L.2009, c.60 (C.58:10C-27), the  
4 department may not require a person to compare or investigate any  
5 alternative remedial action as part of its review of the selected  
6 remedial action. The department may disapprove the selection of a  
7 remedial action for a site on which the proposed remedial action  
8 will render the property unusable for future redevelopment or for  
9 recreational use;

10 (2) Contamination may, upon the department's approval, be left  
11 onsite at levels or concentrations that exceed the minimum soil  
12 remediation standards for residential use if the implementation of  
13 institutional or engineering controls at that site will result in the  
14 protection of public health, safety and the environment at the health  
15 risk standard established in subsection d. of this section, if the  
16 requirements established in subsections a., b., c. and d. of section 36  
17 of P.L.1993, c.139 (C.58:10B-13), and paragraphs (1) and (10) of  
18 this subsection, are met. The department may also require the  
19 treatment or removal of contaminated material that would pose an  
20 acute health or safety hazard in the event of failure of an  
21 engineering control;

22 (3) Real property on which there is soil that has not been  
23 remediated to the residential soil remediation standards, or real  
24 property on which the soil, groundwater, or surface water has been  
25 remediated to meet the required health risk standard by the use of  
26 engineering or institutional controls, may be developed or used for  
27 residential purposes, or for any other similar purpose, if (a) all areas  
28 of that real property at which a person may come into contact with  
29 soil are remediated to meet the residential soil remediation  
30 standards, (b) it is clearly demonstrated that for all areas of the real  
31 property, other than those described in subparagraph (a) above,  
32 engineering and institutional controls can be implemented and  
33 maintained on the real property sufficient to meet the health risk  
34 standard as established in subsection d. of this section, and (c) a  
35 presumptive remedy established and approved by the department  
36 pursuant to paragraph (10) of this subsection, or an alternative  
37 remedy approved by the department pursuant to paragraph (10) of  
38 this subsection, has been approved, as provided in paragraphs (1)  
39 and (10) of this subsection;

40 (4) Remediation shall not be required beyond the regional  
41 natural background levels for any particular contaminant. The  
42 department shall develop regulations that set forth a process to  
43 identify background levels of contaminants for a particular region.  
44 For the purpose of this paragraph "regional natural background  
45 levels" means the concentration of a contaminant consistently  
46 present in the environment of the region of the site and which has  
47 not been influenced by localized human activities;

- 1 (5) Remediation shall not be required of the owner or operator  
2 of real property for contamination coming onto the site from  
3 another property owned and operated by another person, unless the  
4 owner or operator is the person who is liable for cleanup and  
5 removal costs pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.);
- 6 (6) Groundwater that is contaminated shall not be required to be  
7 remediated to a level or concentration for any particular  
8 contaminant lower than the level or concentration that is migrating  
9 onto the property from another property owned and operated by  
10 another person;
- 11 (7) The technical performance, effectiveness and reliability of  
12 the proposed remedial action in attaining and maintaining  
13 compliance with applicable remediation standards and required  
14 health risk standards shall be considered. In reviewing a proposed  
15 remedial action, the department or the licensed site remediation  
16 professional shall also consider the ability of the owner or operator  
17 to implement the proposed remedial action within a reasonable time  
18 frame without jeopardizing public health, safety or the environment;
- 19 (8) The use of a remedial action for soil contamination that is  
20 determined by the department to be effective in its guidance  
21 document created pursuant to section 38 of P.L.1993, c.139  
22 (C.58:10B-14), is presumed to be an appropriate remedial action if  
23 it is to be implemented on a site in the manner described by the  
24 department in the guidance document and applicable regulations  
25 and if all of the conditions for remedy selection provided for in this  
26 section are met. The burden to prove compliance with the criteria  
27 in the guidance document is with the person responsible for  
28 conducting the remediation;
- 29 (9) (Deleted by amendment, P.L.1997, c.278);
- 30 (10) The department shall, by rule or regulation, establish  
31 presumptive remedies, use of which shall be required on any site or  
32 area of concern to be used for residential purposes, as a child care  
33 center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.), as a  
34 public school or private school as defined in N.J.S.18A:1-1, or as a  
35 charter school established pursuant to P.L.1995, c.426 (C.18A:36A-  
36 1 et seq.). The department may also issue guidelines that provide  
37 for presumptive remedies that may be required as provided in  
38 paragraph (1) of this subsection, on a site to be used for residential  
39 purposes, as a child care center, or as a public school, private school  
40 or charter school. The presumptive remedies shall be based on the  
41 historic use of the property, the nature and extent of the  
42 contamination at the site, the future use of the site and any other  
43 factors deemed relevant by the department. The department may  
44 include the use of engineering and institutional controls in the  
45 presumptive remedies authorized pursuant to this subsection. If the  
46 person responsible for conducting the remediation demonstrates to  
47 the department that the use of an unrestricted use remedial action or  
48 a presumptive remedy is impractical due to conditions at the site, or

1 that an alternative remedy would be equally protective over time as  
2 a presumptive remedy, then an alternative remedy for the site that is  
3 protective of the public health and safety may be proposed for  
4 review and approval by the department;

5 (11) The department may authorize a person conducting a  
6 remediation to divide a contaminated site into one or more areas of  
7 concern. For each area of concern, a different remedial action may  
8 be selected provided the requirements of this subsection are met and  
9 the remedial action selected is consistent with the future use of the  
10 property; and

11 (12) The construction of single family residences, public  
12 schools, private schools, or charter schools, or child care centers  
13 shall be prohibited on a landfill that undergoes a remediation if  
14 engineering controls are required for the management of landfill gas  
15 or leachate.

16 The burden to demonstrate that a remedial action is protective of  
17 public health, safety and the environment, as applicable, and has  
18 been selected in conformance with the provisions of this subsection  
19 is with the person responsible for conducting the remediation.

20 The department may require the person responsible for  
21 conducting the remediation to supply the information required  
22 pursuant to this subsection as is necessary for the department to  
23 make a determination.

24 h. (1) The department shall adopt regulations which establish a  
25 procedure for a person to demonstrate that a particular parcel of  
26 land contains large quantities of historical fill material. Upon a  
27 determination by the department that large quantities of historic fill  
28 material exist on that parcel of land, there is a rebuttable  
29 presumption that the department shall not require any person to  
30 remove or treat the fill material in order to comply with applicable  
31 health risk or environmental standards. In these areas the  
32 department shall establish by regulation the requirement for  
33 engineering or institutional controls that are designed to prevent  
34 exposure of these contaminants to humans, that allow for the  
35 continued use of the property, that are less costly than removal or  
36 treatment, which maintain the health risk standards as established in  
37 subsection d. of this section, and, as applicable, are protective of the  
38 environment. The department may rebut the presumption only upon  
39 a finding by the preponderance of the evidence that the use of  
40 engineering or institutional controls would not be effective in  
41 protecting public health, safety, and the environment. The  
42 department may not adopt any rule or regulation that has the effect  
43 of shifting the burden of rebutting the presumption. For the  
44 purposes of this paragraph "historic fill material" means generally  
45 large volumes of non-indigenous material, no matter what date they  
46 were emplaced on the site, used to raise the topographic elevation  
47 of a site, which were contaminated prior to emplacement and are in  
48 no way connected with the operations at the location of



1 emplacement and which include, but are not limited to, construction  
2 debris, dredge spoils, incinerator residue, demolition debris, fly ash,  
3 and non-hazardous solid waste. Historic fill material shall not  
4 include any material which is substantially chromate chemical  
5 production waste or any other chemical production waste or waste  
6 from processing of metal or mineral ores, residues, slags or tailings.

7 (2) The department shall develop recommendations for remedial  
8 actions in large areas of historic industrial contamination. These  
9 recommendations shall be designed to meet the health risk  
10 standards established in subsection d. of this section, and to be  
11 protective of the environment and shall take into account the  
12 industrial history of these sites, the extent of the contamination that  
13 may exist, the costs of remedial actions, the economic impacts of  
14 these policies, and the anticipated uses of these properties. The  
15 department shall issue a report to the Senate Environment  
16 Committee and to the Assembly Environment and Solid Waste  
17 Committee, or their successors, explaining these recommendations  
18 and making any recommendations for legislative or regulatory  
19 action.

20 (3) The department may not, as a condition of allowing the use  
21 of a nonresidential use soil remediation standard, or the use of  
22 institutional or engineering controls, require the owner of that real  
23 property, except as provided in section 36 of P.L.1993, c.139  
24 (C.58:10B-13), to restrict the use of that property through the filing  
25 of a deed easement, covenant, or condition.

26 i. The department may not require a remedial action workplan  
27 to be prepared or implemented or engineering or institutional  
28 controls to be imposed upon any real property unless sampling  
29 performed at that real property demonstrates the existence of  
30 contamination above the applicable remediation standards.

31 j. Upon the approval by the department or by a licensed site  
32 remediation professional of a remedial action workplan, or similar  
33 plan that describes the extent of contamination at a site and the  
34 remedial action to be implemented to address that contamination,  
35 the department may not subsequently require a change to that  
36 workplan or similar plan in order to compel a different remediation  
37 standard due to the fact that the established remediation standards  
38 have changed; however, the department may compel a different  
39 remediation standard if the difference between the new remediation  
40 standard and the remediation standard approved in the workplan or  
41 other plan differs by an order of magnitude. The limitation to the  
42 department's authority to change a workplan or similar plan  
43 pursuant to this subsection shall only apply if the workplan or  
44 similar plan is being implemented in a reasonable timeframe, as  
45 may be indicated in the approved remedial action workplan or  
46 similar plan.

47 k. Notwithstanding any other provisions of this section, all  
48 remediation standards and remedial actions that involve real

1 property located in the Pinelands area shall be consistent with the  
2 provisions of the "Pinelands Protection Act," P.L.1979, c.111  
3 (C.13:18A-1 et seq.), any rules and regulations promulgated  
4 pursuant thereto, and with section 502 of the "National Parks and  
5 Recreation Act of 1978," 16 U.S.C. s.471i; and all remediation  
6 standards and remedial actions that involve real property located in  
7 the Highlands preservation area shall be consistent with the  
8 provisions of the "Highlands Water Protection and Planning Act,"  
9 P.L.2004, c.120 (C.13:20-1 et al.), and any rules and regulations  
10 and the Highland regional master plan adopted pursuant thereto.

11 l. Upon the adoption of a remediation standard for a particular  
12 contaminant in soil, groundwater, or surface water pursuant to this  
13 section, the department may amend that remediation standard only  
14 upon a finding that a new standard is necessary to maintain the  
15 health risk standards established in subsection d. of section 35 of  
16 P.L.1993, c.139 (C.58:10B-12) or to protect the environment, as  
17 applicable. The department may not amend a public health based  
18 soil remediation standard to a level that would result in a health risk  
19 standard more protective than that provided for in subsection d. of  
20 section 35 of P.L.1993, c.139 (C.58:10B-12).

21 m. Nothing in P.L.1993, c.139 shall be construed to restrict or  
22 in any way diminish the public participation which is otherwise  
23 provided under the provisions of the "Spill Compensation and  
24 Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.).

25 n. Notwithstanding any provision of subsection a. of section 36  
26 of P.L.1993, c.139 (C.58:10B-13) to the contrary, the department  
27 may not require a person intending to implement a remedial action  
28 at an underground storage tank facility storing heating oil for on-  
29 site consumption at a one to four family residential dwelling to  
30 provide advance notice to a municipality prior to implementing that  
31 remedial action.

32 o. A person who has remediated a site pursuant to the  
33 provisions of this section, who was liable for the cleanup and  
34 removal costs of that discharge pursuant to the provisions of  
35 paragraph (1) of subsection c. of section 8 of P.L.1976, c.141  
36 (C.58:10-23.11g), and who remains liable for the discharge on that  
37 site due to a possibility that a remediation standard may change,  
38 undiscovered contamination may be found, or because an  
39 engineering control was used to remediate the discharge, shall  
40 maintain with the department a current address at which that person  
41 may be contacted in the event additional remediation needs to be  
42 performed at the site. The requirement to maintain the current  
43 address shall be made part of the conditions of the permit issued  
44 pursuant to section 19 of P.L.2009, c.60 (C.58:10C-19) and the final  
45 remediation document.

46 (cf: P.L.2009, c.60, s.47)

47

48 4. Section 1 of P.L.2003, c.112 (C.17B:30-41) is amended to

1 read as follows:

2 1. The Legislature finds and declares that:

3 a. The rising cost of hospital-based health care in this State  
4 impedes the ability of the State and insurers to provide reasonably  
5 priced, comprehensive health insurance to the citizens of the State.

6 b. Hospitals located within the State report more than \$1  
7 billion annually in debts that they are unable to collect.

8 c. The cost of covering the unpaid care represented by the debt  
9 is spread among citizens, private insurers, hospitals and the State in  
10 the form of higher bills for hospital-based care.

11 d. A significant portion of the uncollected debt is related to  
12 copayments and deductibles that are difficult for hospitals to collect  
13 efficiently.

14 e. The State's Set off of Individual Liability (SOIL) program  
15 has proven to be an administratively efficient means of collecting  
16 debts owed to State agencies.

17 f. It is, therefore, in the public interest to create a [New Jersey  
18 Hospital Care Payment Commission, the duties of which would  
19 include, but not be limited to, creating a] system for using the  
20 State's SOIL program to collect valid hospital debts.

21 (cf: P.L.2003, c.112, s.1)

22

23 5. Section 2 of P.L.2003, c.112 (C.17B:30-42) is amended to  
24 read as follows:

25 2. As used in this act:

26 "Coinsurance" means the percentage of a charge covered by a  
27 health plan that must be paid by a person covered under the health  
28 plan.

29 "Collection agency" means the Department of the Treasury and  
30 any company, agency or law firm engaged in collecting debts that  
31 the Department of the Treasury may determine to engage to assist it  
32 in collecting debts.

33 ["Commission" means the Hospital Care Payment Commission  
34 created pursuant to this act.]

35 "Debt" means money owed by a patient to a hospital, or by  
36 someone who is legally responsible for payment for a patient, and  
37 includes late payment penalties and interest thereon. It does not  
38 include monies owed to a hospital by a health plan for services  
39 provided by the hospital to a person with coverage under that plan,  
40 or amounts subject to dispute between a health plan and a hospital.

41 "Debtor" means an individual owing money to or having a  
42 delinquent account with a hospital, which obligation has not been  
43 adjudicated, satisfied by court order, set aside by court order or  
44 discharged in bankruptcy.

45 "Deductible" means the amount of covered charges under a  
46 health plan that an individual must pay for a services before a health  
47 plan begins to pay on a covered charge.

1     “Department” means the Department of Health and Senior  
2 Services.

3     "General Hospital" and "hospital" have the meanings set forth in  
4 N.J.A.C.8:43G-1.2.

5     "Health plan" means an individual or group health benefits plan  
6 that provides or pays the cost of hospital and medical expenses,  
7 dental or vision care, or prescription drugs, and is provided by or  
8 through an insurer, health maintenance organization, the Medicaid  
9 program, the Medicare program, a Medicare+Choice provider or  
10 Medicare supplemental insurer, an employer-sponsored group  
11 health benefits plan, government or church-sponsored health  
12 benefits plan or a multi-employer welfare arrangement.

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

15     "Medicare" means the program established by Pub.L.89-97 (42  
16 U.S.C. s.1395 et seq.) as amended, or its successor plan or plans.

17     "Patient" means a person who receives services in a hospital on  
18 an inpatient or outpatient basis.

19 (cf: P.L.2003, c.112, s.2)

20

21     6. Section 4 of P.L.2003, c.112 (C.17B:30-44) is amended to  
22 read as follows:

23     4. a. There is established the "New Jersey Hospital Care  
24 Payment Fund" in the Department of the Treasury.

25     b. The fund shall be comprised of monies collected from  
26 debtors of hospitals pursuant to this act, and any other monies  
27 appropriated thereto to carry out the purposes of this act.

28     c. The fund shall be a nonlapsing fund, from which costs shall  
29 be paid in the following order, for each hospital participating:

30     (1) administrative costs of the **【commission】** department to  
31 implement the provisions of P.L.2003, c.112 (C.17B:30-41 et seq.);

32     (2) administrative fees to the collection agency;

33     (3) 50% of the remainder, but only from monies collected from  
34 debtors of hospitals pursuant to this act after paragraphs (1) and (2)  
35 of this subsection are paid, shall be payable to the hospital from  
36 which the debt originated within 90 days of receipt of monies  
37 related to discharge of the assigned debt into the fund; and

38     (4) the remainder, after paragraphs (1), (2) and (3) of this  
39 subsection are paid, shall be deposited into the General Fund.

40 (cf: P.L.2003, c.112, s.4)

41

42     7. Section 5 of P.L.2003, c.112 (C.17B:30-45) is amended to  
43 read as follows:

44     5. The **【commission】** department is authorized to:

45     a. Accept assignment of debts from hospitals which have  
46 followed the procedures outlined in section 7 of this act, or such  
47 other procedures as the **【commission】** department shall adopt.

- 1       b. Pursue collection of debts pursuant to this act. The  
2 **【commission】 department** shall initiate the program in phases. The  
3 first phase may involve acceptance of assignment of debt that:  
4       (1) derives from a limited number of hospitals;  
5       (2) consists of coinsurance and deductibles that remain payable  
6 after adjudication by a health plan;  
7       (3) is assigned by a general hospital;  
8       (4) is less than two years old at the date of assignment to the  
9 **【commission】 department**, as determined by the date of discharge  
10 for inpatient services and date of service for outpatient services;  
11       (5) involves any of the above or any combination of the above,  
12 or includes such other limitations as the **【commission】 department**  
13 determines are desirable to smooth implementation of the program  
14 created by this act.
- 15       After the first phase, the **【commission】 department** may expand  
16 acceptance of assignments as it shall determine pursuant to this act.
- 17       c. Test assignment data received from the hospitals to  
18 determine whether the records are sufficient to make set-off  
19 practicable, and return records that do not pass the test to the  
20 hospitals.
- 21       d. Conduct such fact-finding, as is necessary, in preparation for  
22 making a determination as to the validity of debts.
- 23       e. Make final determinations as to the validity of debts.
- 24       f. Determine the payment to be collected from the debtor,  
25 based upon a "fairness formula" to be determined by the  
26 **【commission】 department**. For debt processed by the **【commission】**  
27 **department** during the fiscal year starting on July 1, 2003, the  
28 fairness formula shall be based upon the **【Department of Health and**  
29 **Senior Services'】 department's** report entitled "Net Patient Revenue  
30 to Charge Ratio," for the most recent year available. For debt  
31 processed by the **【commission】 department** during the fiscal year  
32 starting on July 1, 2004 and thereafter, the fairness formula shall be  
33 based upon the most recent available "Net Patient Revenue to  
34 Charge Ratio" report, or such other measure as the **【commission】**  
35 **department** determines would most fairly reimburse hospitals for  
36 treatment.
- 37       g. Offset liability for the hospital debts against the New Jersey  
38 Gross Income Tax pursuant to N.J.S.54A:1-1 et seq., including an  
39 earned income tax credit provided as a refund pursuant to P.L.2000,  
40 c.80 (C.54A:4-6 et al.), or whenever any individual is eligible to  
41 receive an NJ SAVER rebate or a homestead rebate pursuant to  
42 P.L.1990, c.61 (C.54:4-8.57 et al.) or P.L.1999, c.63 (C.54:4-8.58a  
43 et al.), and if the rebate is not required to be paid over to the  
44 municipal tax collector under the provisions of section 8 of  
45 P.L.1990, c.61 (C.54:4-8.64), and including any other financial  
46 resource authorized as a source capable of offset for any reason by  
47 section 1 of P.L.1981, c.239 (C.54A:9-8.1 et seq.).

- 1 h. Adjudicate the validity of all set-off challenges pursuant to  
2 N.J.A.C. 18:35-10.1 et seq.
- 3 i. Make such decisions as to compromise and waiver of  
4 interest, penalties, post-judgment interest and write-off as it shall  
5 deem prudent.
- 6 j. Refer assigned debts under section 7 of this act to a  
7 collection agency in the event that offsetting is not practical or is  
8 not successful in fully resolving the debt.
- 9 k. Create standards for settlement of debts through the  
10 collection agency process.
- 11 l. Determine to cease accepting debt from a hospital until such  
12 time as the hospital can demonstrate to the satisfaction of the  
13 **【commission】** department that its accuracy has improved to  
14 acceptable levels where the **【commission】** department determines  
15 that data forwarded by a hospital to the **【commission】** department  
16 has an unacceptable level of inaccuracies regarding validity or  
17 quality of the debt forwarded to the **【commission】** department.
- 18 m. Contract with other State agencies for services, including  
19 administrative services necessary to carry out the duties of the  
20 **【commission】** department.
- 21 n. Fund the cost of its operations from the fund created by  
22 section 4 of this act.
- 23 o. Adopt rules and regulations pursuant to the "Administrative  
24 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate  
25 the purposes of this act; except that, notwithstanding any provision  
26 of P.L.1968, c.410 to the contrary, the **【commission】** department  
27 may adopt, immediately upon filing with the Office of  
28 Administrative Law, such regulations as the **【commission】**  
29 department deems necessary to implement the provisions of this act,  
30 which shall be effective for a period not to exceed six months and  
31 may thereafter be amended, adopted or readopted by the  
32 **【commission】** department in accordance with the requirements of  
33 P.L.1968, c.410.  
34 (cf: P.L.2003, c.112, s.5)  
35
- 36 8. Section 6 of P.L.2003, c.112 (C.17B:30-46) is amended to  
37 read as follows:
- 38 6. Decisions of the **【commission】** department, regarding the  
39 fairness formula, the validity of debts, the adequacy of data  
40 provided to the **【commission】** department by hospitals for use in  
41 the program, and other such matters as shall arise concerning the  
42 administration of the program, shall constitute final agency action.  
43 (cf: P.L.2003, c.112, s.6)  
44
- 45 9. Section 7 of P.L.2003, c.112 (C.17B:30-47) is amended to  
46 read as follows:

1       7. a. The following procedures shall apply for those hospitals  
2 that wish to participate in the voluntary assignment program created  
3 by this act.

4       b. The hospital shall file with the **【commission】** department a  
5 notice signifying its intent to participate voluntarily and certifying  
6 the following:

7       (1) the hospital has determined that the patient is not eligible for  
8 charity care under the New Jersey Hospital Care Payment  
9 Assistance Program established by the Department of Health and  
10 Senior Services pursuant to section 10 of P.L.1992, c.160 (C.26:2H-  
11 18.60);

12       (2) the hospital has submitted a "clean claim" pursuant to  
13 P.L.1999, c.154 (C.17B:30-23 et al.) and P.L.1999, c.155  
14 (C.17B:30-26 et seq.) to the patient, a responsible party, Medicaid,  
15 Medicare or a health plan, as applicable, within a reasonable time  
16 following the patient's discharge, or in the case of outpatient  
17 service, the date of service;

18       (3) the claims have been fully adjudicated by a health plan,  
19 Medicare or Medicaid, where applicable, and a debt remains  
20 outstanding;

21       (4) the hospital has not initiated collection procedures against  
22 the patient or responsible party while a claim was pending  
23 adjudication with Medicare or a health plan, for which a debt  
24 remains outstanding;

25       (5) the hospital has notified the patient of the hospital's  
26 intention, if the account is not paid in full, or alternatively through a  
27 payment plan with the hospital, to proceed with legal action, or to  
28 turn the bill over to the **【State Hospital Care Payment Commission】**  
29 department for collection.

30       c. Nothing herein shall be deemed to create any new right to  
31 collection of hospital debts by hospitals beyond existing law; nor  
32 shall it be deemed to preclude any existing right to collection.

33       d. The **【commission】** department may determine the content of  
34 the notice required by paragraph (5) of subsection b. of this section  
35 to the patient concerning the likelihood that the account will be  
36 turned over to the **【commission】** department for collection.

37       e. The minimum amount of an unpaid bill that may be assigned  
38 to the **【commission】** department by a hospital is \$100, or such other  
39 minimum as the **【commission】** department shall determine by  
40 regulation.

41       f. Upon receipt of the voluntary assignment, the Department of  
42 the Treasury shall send, on behalf of the **【commission】** department,  
43 a notice to the person named as a debtor of the hospital, notifying  
44 the person as to receipt of the assignment by the **【commission】**  
45 department, providing the person with 30 days to challenge the  
46 validity of the debt, and providing notice that in the absence of such  
47 challenge, a Certificate of Debt will be filed with the Superior Court

1 of New Jersey. The notice shall also include a statement on the  
2 **【commission's】** department's intention to take action to set off the  
3 liability against any refund of taxes pursuant to the "New Jersey  
4 Gross Income Tax Act" including an earned income tax credit, a NJ  
5 SAVER rebate or a homestead rebate, or other such funds as may be  
6 authorized by law.

7 g. If the person named as a debtor responds within the 30-day  
8 period, the person shall be provided with an opportunity to present,  
9 either in writing or in person, evidence as to why the person does  
10 not believe he is responsible for the debt. The **【commission】**  
11 department shall provide written notice to both the person and the  
12 hospital as to its determination regarding the validity of the debt,  
13 including the imposition of collection fees and interest, if  
14 applicable.

15 h. If the person fails to respond within 30 days to the  
16 **【commission】** department, the **【commission】** department may  
17 utilize the provisions of the Set off of Individual Liability (SOIL)  
18 program established pursuant to P.L.1981, c.239 (C.54A:9-8.1 et  
19 seq.), to collect any surcharge levied under this section that is  
20 unpaid on or after the effective date of this act.

21 As additional remedies, the **【commission】** department may  
22 utilize the services of a collection agency to settle the debt and may  
23 also issue a certificate to the Clerk of the Superior Court stating that  
24 the person identified in the certificate is indebted under this law in  
25 such amount as shall be stated in the certificate. The certificate  
26 shall reference this act. Thereupon the clerk to whom such  
27 certificate shall have been issued shall immediately enter upon the  
28 record of docketed judgments: the name of the person as debtor; the  
29 State as creditor; the address of the person, if shown in the  
30 certificate; the amount of the debt so certified; a reference to this  
31 act under which the debt is assessed; and the date of making the  
32 entries. The docketing of the entries shall have the same force and  
33 effect as a civil judgment docketed in the Superior Court, and the  
34 **【commission】** department shall have all the remedies and may take  
35 all of the proceedings for the collection thereof which may be had  
36 or taken upon the recovery of a judgment in an action, but without  
37 prejudice to any right of appeal. Upon entry by the clerk of the  
38 certificate in the record of docketed judgments in accordance with  
39 this provision, interest in the amount specified by the court rules for  
40 post-judgment interest shall accrue from the date of the docketing  
41 of the certificate; however, payment of the interest may be waived  
42 by the **【commission】** department.

43 i. Any collection efforts undertaken pursuant to this act shall  
44 be undertaken in accordance with the "Health Insurance Portability  
45 and Accountability Act of 1996," Pub.L.104-191 and 45C.F.R.  
46 160.101 to 164.534, or any other similar law. The **【commission】**  
47 department and any other entity performing collection activities



1 pursuant to this act is authorized to enter into any agreements  
2 required to comply with such laws, including, but not limited to,  
3 entering into agreements with the hospitals and collection agencies  
4 to provide for appropriate safeguarding of information.

5 (cf: P.L.2003, c.112, s.7)

6

7 10. Section 1 of P.L.2001, c.192 (C.52:9YY-1) is amended to  
8 read as follows:

9 1. This act shall be known and may be cited as the "Health  
10 Data **[Commission]** Act."

11 (cf: P.L.2001, c.192, s.1)

12

13 11. Section 2 of P.L.2001, c.192 (C.52:9YY-2) is amended to  
14 read as follows:

15 2. The Legislature finds and declares that:

16 a. It is the intention of the Legislature to establish a single  
17 point of contact for members of the public to obtain health data  
18 **[through the creation of the New Jersey Health Data Commission];**

19 b. The purpose of this **[commission]** initiative is to compile  
20 health care access, quality and cost data produced within the State  
21 from public and private entities and maximize the usefulness of the  
22 data for the public without duplicating existing data collection  
23 efforts by State agencies; and

24 c. It is anticipated that the expense to the State of compiling  
25 and disseminating the available and useful health data for the  
26 benefit of the public will be minimal and will be partially offset by  
27 subscriptions to routinely published **[commission]** documents of  
28 the Department of Health and Senior Services, the purchase of  
29 special **[commission]** reports of the Department of Health and  
30 Senior Services, and the receipt of grants to provide health data  
31 information to the public.

32 (cf: P.L.2001, c.192, s.2)

33

34 12. Section 3 of P.L.2001, c.192 (C.52:9YY-3) is amended to  
35 read as follows:

36 3. As used in this act:

37 **["Commission" means the New Jersey Health Data Commission**  
38 **established pursuant to this act.]**

39 "Department" means the Department of Health and Senior  
40 Services.

41 "Disclosure" means the disclosure of health data to a person or  
42 entity outside the **[commission]** department.

43 "Health data" means any information, except vital statistics as  
44 defined in R.S.26:8-1, relating to the health status of people, the  
45 availability of health care resources and services, or the use and  
46 cost of these resources and services. Health data shall not include

1 information that is created or received by members of the clergy or  
2 others who use spiritual means alone for healing.

3 "Identifiable health data" means any item, collection or grouping  
4 of health data which makes the person supplying it or described in it  
5 identifiable.

6 "Research and statistical purposes" means the performance of  
7 certain activities relating to health data, including, but not limited  
8 to: describing the group characteristics of persons or entities;  
9 analyzing the interrelationships among various characteristics of  
10 persons or entities; the conduct of statistical procedures or studies  
11 to improve the quality of health data; the design of sample surveys  
12 and the selection of samples of persons or entities; the preparation  
13 and publication of reports describing these activities; and other  
14 related functions; but excluding the use of health data for a person  
15 or entity to make a determination directly affecting the rights,  
16 benefits or entitlements of that person or entity.

17 (cf: P.L.2001, c.192, s.3)

18

19 13. Section 5 of P.L.2001, c.192 (C.52:9YY-5) is amended to  
20 read as follows:

21 5. a. The **【commission】** department may:

22 (1) collect and maintain health data from State government  
23 agencies or other entities on:

24 (a) the extent, nature and impact of illness and disability on the  
25 population of the State;

26 (b) the determinants of health and health hazards;

27 (c) health resources, including the extent of available personnel  
28 and resources;

29 (d) utilization of health care;

30 (e) health care costs and financing; and

31 (f) other health-related matters;

32 (2) undertake and support research, demonstrations and  
33 evaluations concerning new or improved methods for obtaining  
34 current data with respect to any of the health data described in  
35 paragraph (1) of this subsection; and

36 (3) promote standards for health data that will facilitate the  
37 comparison of information and ease the burden of data preparation  
38 and reporting.

39 b. The **【commission】** department may collect health data on  
40 behalf of other entities.

41 c. The **【commission】** department shall collect health data only  
42 on a voluntary basis from persons and entities, except to the extent  
43 that specific statutory authority exists to compel the reporting of  
44 such data. When requesting health data from a person or entity, the  
45 agency shall notify the person or entity in writing as to the  
46 following:

47 (1) whether the person or entity is required to supply the health  
48 data and any sanctions which may be imposed for noncompliance;

1 (2) the purposes for which the health data is being collected; and

2 (3) if the **【commission】** department intends to disclose  
3 identifiable health data for other than research and statistical  
4 purposes, the information to be disclosed, to whom it is to be  
5 disclosed, and for what purposes.

6 d. No health data obtained by the **【commission】** department  
7 under this section may be used for any purpose other than the  
8 purpose for which they were supplied or for which the person or  
9 entity described in the data has otherwise consented.

10 e. The **【commission】** department shall:

11 (1) take such actions as may be necessary to assure that the  
12 health data which it obtains and maintains are accurate, timely and  
13 comprehensive, as well as specific, standardized and adequately  
14 analyzed and indexed; and

15 (2) publish, disseminate and otherwise make available these data  
16 on as wide a basis as practicable.

17 f. The **【commission】** department shall take such actions as are  
18 appropriate to effect the collection and compilation of health data  
19 produced within the State and to maximize the usefulness of the  
20 data collected.

21 g. The **【commission】** department shall:

22 (1) participate with federal, State and local government agencies  
23 in the design and implementation of a cooperative system of  
24 producing comparable and uniform health data at the federal, State  
25 and local levels;

26 (2) undertake and support research, development,  
27 demonstrations and evaluations concerning such a cooperative  
28 system; and

29 (3) assume its fair share of the data costs associated with  
30 implementing and maintaining such a system.

31 (cf: P.L.2001, c.192, s.5)

32

33 14. Section 6 of P.L.2001, c.192 (C.52:9YY-6) is amended to  
34 read as follows:

35 6. a. The **【commission】** department shall make no disclosure of  
36 any health data which identifies a person's health status or  
37 utilization of health care unless the person described in the data has  
38 consented to the disclosure.

39 b. A person or entity to whom the **【commission】** department  
40 has disclosed health data shall make no disclosure of any health  
41 data which identifies a person's health status or utilization of health  
42 care unless the person described in the data has consented to the  
43 disclosure.

44 c. No identifiable health data obtained by the **【commission】**  
45 department shall be subject to subpoena or similar compulsory  
46 process in a civil or criminal, judicial, administrative or legislative  
47 proceeding, nor shall a person or entity with lawful access to

1 identifiable health data pursuant to this act be compelled to testify  
2 with regard to that data; except that data pertaining to a party in  
3 litigation may be subject to subpoena or similar compulsory process  
4 in an action brought by or on behalf of that party to enforce a  
5 liability arising under this act.

6 (cf: P.L.2001, c.192, s.6  
7

8 15. Section 7 of P.L.2001, c.192 (C.52:9YY-7) is amended to  
9 read as follows:

10 7. The **[commission]** department shall take appropriate  
11 measures to protect the security of health data which it obtains,  
12 including:

- 13 a. limiting access to the data to authorized persons;
- 14 b. designating a person to be responsible for the physical  
15 security of the data;
- 16 c. developing and implementing a system for monitoring the  
17 security of the data;
- 18 d. periodically reviewing all health data to evaluate whether it  
19 is appropriate to remove identifying characteristics from the data;  
20 and
- 21 e. developing a program for the routine scheduled destruction  
22 of all forms, records or electronic files maintained by the  
23 **[commission]** department which contain identifiable health data.

24 (cf: P.L.2001, c.192, s.7)  
25

26 16. Section 8 of P.L.2001, c.192 (C.52:9YY-8) is amended to  
27 read as follows:

28 8. **[In]** To effectuate the purposes of P.L.2001, c.192  
29 (C.52:9YY-1 et seq.), and in addition to any other powers  
30 authorized by law, the **[commission]** department shall have the  
31 authority, in accordance with State law, to:

- 32 a. make and enter into contracts to purchase services and  
33 supplies and to hire consultants;
- 34 b. develop and submit a proposed budget;
- 35 c. accept gifts and charitable contributions;
- 36 d. apply for, receive and expend grants;
- 37 e. adopt regulations, pursuant to the "Administrative Procedure  
38 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the  
39 purposes of this act;
- 40 f. establish charges for and collect payment from persons and  
41 entities for the provision of services, including the dissemination of  
42 health data;
- 43 g. receive and expend appropriations;
- 44 h. enter into a reimbursable work program with other State  
45 government agencies or private entities under which funds are  
46 transferred from the other agencies or entities to the **[commission]**

1 department for the performance of activities pursuant to this act;  
2 and

3 i. provide such other services and perform such other functions  
4 as the **【commission】** department deems necessary to fulfill its  
5 responsibilities under this act.

6 (cf: P.L.2001, c.192, s.8)

7

8 17. Section 9 of P.L.2001, c.192 (C.52:9YY-9) is amended to  
9 read as follows:

10 9. a. A person or entity whom the **【commission】** department  
11 determines has violated the provisions of section 6 of **【this act】**  
12 P.L.2001, c.192 (C.52:9YY-6), regarding the disclosure of health  
13 data shall be subject, in addition to any other penalties that may be  
14 prescribed by law, to: a civil penalty of not more than \$10,000 for  
15 each such violation, but not to exceed \$50,000 in the aggregate for  
16 multiple violations; or a civil penalty of not more than \$250,000, if  
17 the **【commission】** department finds that these violations have  
18 occurred with such frequency as to constitute a general business  
19 practice.

20 The penalty shall be sued for and collected in the name of the  
21 **【commission】** department in a summary proceeding in accordance  
22 with the "Penalty Enforcement Law of 1999," P.L.1999, c.274  
23 (C.2A:58-10 et seq.).

24 b. The **【commission】** department or an entity acting on its  
25 behalf shall be liable to a person or entity injured by the intentional  
26 or negligent violation of the provisions of section 6 of **【this act】**  
27 P.L.2001, c.192 (C.52:9YY-6), in an amount equal to the damages  
28 sustained by the person or entity, together with the cost of the  
29 action and reasonable attorney's fees, as determined by the court.

30 (cf: P.L.2001, c.192, s.9)

31

32 18. Section 3 of P.L.1991, c.235 (C.13:1D-37) is amended to  
33 read as follows:

34 3. As used in this act:

35 **【"Board" means the Pollution Prevention Advisory Board**  
36 **established pursuant to section 5 of this act.】**

37 "Commissioner" means the Commissioner of the Department of  
38 Environmental Protection.

39 "Consume" means to change or alter the molecular structure of a  
40 hazardous substance within a production process.

41 "Department" means the Department of Environmental  
42 Protection.

43 "Facility" means all buildings, equipment, structures, and other  
44 property that are located on a single site or on contiguous or  
45 adjacent sites and that are owned or operated by the same person.

46 "Facility-wide permit" means a single permit issued by the  
47 department to the owner or operator of a priority industrial facility

1 incorporating the permits, certificates, registrations, or any other  
2 relevant department approvals previously issued to the owner or  
3 operator of the priority industrial facility pursuant to P.L.1970, c.39  
4 (C.13:1E-1 et seq.), P.L.1977, c.74 (C.58:10A-1 et seq.), or  
5 P.L.1954, c.212 (C.26:2C-1 et seq.), and the appropriate provisions  
6 of the pollution prevention plan prepared by the owner or operator  
7 of the priority industrial facility pursuant to section 7 and section 8  
8 of this act.

9 "Hazardous substance" means any substance on the list  
10 established by the United States Environmental Protection Agency  
11 for reporting pursuant to 42 U.S.C. s.11023, and any other  
12 substance which the department, pursuant to the provisions of  
13 subsection i. of section 8 of this act, defines as a hazardous  
14 substance for the purposes of this act.

15 "Hazardous waste" means any solid waste defined as hazardous  
16 waste by the department pursuant to P.L.1970, c.39 (C.13:1E-1 et  
17 seq.).

18 "Industrial facility" means any facility having a Standard  
19 Industrial Classification, as designated in the Standard Industrial  
20 Classification Manual prepared by the federal Office of  
21 Management and Budget, within the Major Group Numbers, Group  
22 Numbers, or Industry Numbers listed in subsection h. of section 3  
23 of P.L.1983, c.315 (C.34:5A-3) and which is subject to the  
24 regulatory requirements of P.L.1970, c.39 (C.13:1E-1 et seq.),  
25 P.L.1977, c.74 (C.58:10A-1 et seq.), or P.L.1954, c.212 (C.26:2C-1  
26 et seq.).

27 "Manufacture" means to produce, prepare, import, or compound  
28 a hazardous substance.

29 "Multimedia release" means the release of a hazardous substance  
30 to any environmental medium, or any combination of media,  
31 including the air, water or land, and shall include any release into  
32 workplaces.

33 "Nonproduct output" means all hazardous substances or  
34 hazardous wastes that are generated prior to storage, recycling,  
35 treatment, control, or disposal and that are not intended for use as a  
36 product.

37 "Office" means the Office of Pollution Prevention established in  
38 the department pursuant to section 4 of this act.

39 "Operator" means any person in control of, or exercising  
40 responsibility for, the daily operation of an industrial facility or a  
41 priority industrial facility.

42 "Owner" means any person who owns an industrial facility or a  
43 priority industrial facility.

44 "Person" means any individual, partnership, company,  
45 corporation, society, firm, consortium, joint venture, or any  
46 commercial or other legal entity.

47 "Pilot facility" means a facility or designated area of a facility  
48 used for pilot-scale development of products or processes.

1 "Pollution prevention" means: changes in production  
2 technologies, raw materials or products, that result in the reduction  
3 of the demand for hazardous substances per unit of product  
4 manufactured and the creation of hazardous products or nonproduct  
5 outputs; or changes in the use of raw materials, products, or  
6 production technologies that result in the reduction of the input use  
7 of hazardous substances and the creation of hazardous by-products  
8 or destructive results; or on-site facility changes in production  
9 processes, products, or the use of substitute raw materials that result  
10 in the reduction of the amount of hazardous waste generated and  
11 disposed of on the land or hazardous substances discharged into the  
12 air or water per unit of product manufactured prior to treatment, and  
13 that reduce or eliminate, without shifting, the risks that the use of  
14 hazardous substances at an industrial facility pose to employees,  
15 consumers, and the environment and human health. "Pollution  
16 prevention" shall include, but need not be limited to, raw material  
17 substitution, product reformulation, production process redesign or  
18 modification, in-process recycling, and improved operation and  
19 maintenance of production process equipment. "Pollution  
20 prevention" shall not include any action or change entailing a  
21 substitution of one hazardous substance, product or nonproduct  
22 output for another that results in the creation of substantial new  
23 risk, and shall not include treatment, increased pollution control,  
24 out-of-process recycling, or incineration, except as otherwise  
25 provided pursuant to subsection f. of section 7 of this act.

26 "Pollution prevention plan" means a plan required to be prepared  
27 by an industrial facility pursuant to the provisions of section 7 of  
28 this act.

29 "Pollution prevention plan progress report" means a report  
30 required to be submitted annually to the department by the owner or  
31 operator of an industrial facility pursuant to the provisions of  
32 section 7 of this act.

33 "Pollution prevention plan summary" means a summary of a  
34 pollution prevention plan required to be prepared by an industrial  
35 facility and submitted to the department pursuant to the provisions  
36 of section 7 of this act.

37 "Priority industrial facility" means any industrial facility  
38 required to prepare and submit a toxic chemical release form  
39 pursuant to 42 U.S.C. s.11023, or any other facility designated a  
40 priority industrial facility pursuant to rules and regulations adopted  
41 by the department pursuant to the provisions of subsection h. of  
42 section 8 of this act.

43 "Process" means the preparation of a hazardous substance, after  
44 its manufacture, for sale or use in the same form or physical state,  
45 or in a different form or physical state, as that in which it was  
46 received at the industrial facility where it is processed, or as part of  
47 an article or product containing the hazardous substance.

1 "Product" means a desired result of a production process that is  
2 used as a commodity in trade in the channels of commerce by the  
3 general public in the same form as it is produced.

4 "Production process" means a process, line, method, activity or  
5 technique, or a series or combination of processes, lines, methods or  
6 techniques used to produce a product or reach a planned result.

7 "Research and development laboratory" means a facility or a  
8 specially designated area of a facility used primarily for research,  
9 development, and testing activity, and not primarily involved in the  
10 production of goods for commercial sale, in which hazardous  
11 substances are used by, or under, the direct supervision of a  
12 technically qualified person.

13 "Source" means a point or location in a production process at  
14 which a nonproduct output is generated or released, provided,  
15 however, that similar, related, or identical kinds of sources may be  
16 considered a single source for the purposes of this act.

17 "Targeted production process" means any production process  
18 which significantly contributes to the use or release of hazardous  
19 substances or the generation of hazardous waste or nonproduct  
20 output, as determined by the owner or operator of an industrial  
21 facility pursuant to criteria established by the department.

22 "Targeted source" means any source which significantly  
23 contributes to the generation of nonproduct output, as determined  
24 by the owner or operator of an industrial facility pursuant to criteria  
25 established by the department.

26 "Use" means to process or otherwise use a hazardous substance.

27 "Violation of this act" means a violation of any provision of this  
28 act, or any rule or regulation, administrative order, or facility-wide  
29 permit adopted or issued pursuant thereto.

30 (cf: P.L.1991, c.235, s.3)

31

32 19. Section 21 of P.L.1983, c.315 (C.34:5A-21) is amended to  
33 read as follows:

34 21. The Department of Health and Senior Services, the  
35 Department of Environmental Protection, and the Department of  
36 Labor **【, in conjunction with the council,】** and Workforce  
37 Development shall jointly establish a procedure for annually  
38 receiving information **【, advice, testimony, and recommendations】**  
39 from the **【council, the】** public **【,】** and any other interested party,  
40 concerning **【the implementation of this act】** any revision of the  
41 workplace hazardous substance list and any revision of the  
42 environmental hazardous substance list. This procedure shall  
43 include a mechanism for revising the workplace hazardous  
44 substance list and the environmental hazardous substance list. Any  
45 revision of the workplace hazardous substance list or environmental  
46 hazardous substance list shall be based on documented scientific  
47 evidence. The Department of Health and Senior Services and the  
48 Department of Environmental Protection shall publicly announce



1 any revisions of the workplace hazardous substance list or the  
2 environmental hazardous substance list, and any such additions or  
3 revisions shall be made pursuant to the provisions of the  
4 "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et  
5 seq.).

6 (cf: P.L.1983, c.315, s.21)

7

8 20. Section 8 of P.L.1998, c.108 (C.27:5F-41) is amended to  
9 read as follows:

10 8. a. The Director of the Office of Highway Traffic Safety in  
11 the Department of Law and Public Safety, after consultation with  
12 the **【Director of the Division of Motor Vehicles】** Chief  
13 Administrator of the New Jersey Motor Vehicle Commission in, but  
14 not of, the Department of Transportation **【and the Review Board on**  
15 **Driver Education established in section 10 of P.L.1998, c.108**  
16 **(C.27:5F-43)】**, shall develop curriculum guidelines for use by  
17 teachers of approved classroom driver education courses. The  
18 course of instruction for approved courses shall be no less than 30  
19 hours in length and be designed to develop and instill the  
20 knowledge and attitudes necessary for the safe operation and  
21 driving of motor vehicles. Defensive driving, highway courtesy,  
22 accident avoidance, understanding and respect for the State's motor  
23 vehicle laws, insurance fraud and State requirements for and  
24 benefits of maintaining automobile insurance shall be emphasized.  
25 The incorporation of these curriculum guidelines in these classroom  
26 courses and the use of related instructional materials shall be a  
27 requirement for approval of the course by the **【Director of the**  
28 **Division of Motor Vehicles】** chief administrator.

29 b. The Director of the Office of Highway Traffic Safety, in  
30 consultation with the **【Director of the Division of Motor Vehicles】**  
31 Chief Administrator of the New Jersey Motor Vehicle Commission,  
32 shall produce an informational brochure for parents and guardians  
33 of beginning drivers under the age of 18 years. The **【division】**  
34 commission shall ensure that the parents or guardians of a permit  
35 holder receive these brochures at the time a permit is issued to a  
36 beginning driver. The brochures shall include, but not be limited to,  
37 the following information:

38 (1) Setting an example for the beginning driver;

39 (2) Accident and fatality statistics about beginning drivers;

40 (3) Causes of accidents among beginning drivers;

41 (4) The need to supervise vehicle operation by a beginning  
42 driver;

43 (5) Methods to coach a beginning driver on how to reduce  
44 accidents;

45 (6) A description of the graduated driver's license program; and

1 (7) Benefits of classroom and behind-the-wheel driver education  
2 under the direction of State certified or licensed driving instructors,  
3 as the case may be.  
4 (cf: P.L.2001, c.420, s.1)

5  
6 21. Section 9 of P.L.1998, c.108 (C.27:5F-42) is amended to  
7 read as follows:

8 9. a. There is created in the Department of Transportation a  
9 special non-lapsing fund to be known as the "Graduated Driver  
10 License Fund." There shall be deposited in the fund up to \$5 from  
11 each special learner's permit fee and examination permit fee for a  
12 passenger automobile that is established pursuant to R.S.39:3-13  
13 and any other monies that may be made available for graduated  
14 license program start-up costs. The **【Division of Motor Vehicles】**  
15 New Jersey Motor Vehicle Commission shall administer  
16 expenditures from this fund.

17 b. Amounts necessary to reimburse the **【Division of Motor**  
18 **Vehicles】** New Jersey Motor Vehicle Commission in, but not of,  
19 the Department of Transportation and the Office of Highway  
20 Traffic Safety in the Department of Law and Public Safety for all  
21 costs reasonably and actually incurred in the initial implementation  
22 and continuing administration of this act shall be appropriated from  
23 the fund. The **【Division of Motor Vehicles】** New Jersey Motor  
24 Vehicle Commission and the Office of Highway Traffic Safety shall  
25 certify to the State Treasurer their start-up costs to carry out their  
26 responsibilities under **【this act】** P.L.1998, c.108, and the program's  
27 costs annually thereafter. This amount shall be reimbursed to the  
28 **【Division of Motor Vehicles】** New Jersey Motor Vehicle  
29 Commission and the Office of Highway Traffic Safety from the  
30 Graduated Driver License Fund. In the event the fund's balance is  
31 insufficient to fully reimburse these costs, the State Treasurer shall  
32 provide to the Graduated Driver License Fund a loan from the  
33 General Fund in the amount needed to fully defray these costs. This  
34 loan shall be repaid to the General Fund when the balance in the  
35 Graduated Driver License Fund exceeds the amount necessary to  
36 reimburse these costs.

37 (cf: P.L.1998, c.108, s.9)

38  
39 22. Section 10 of P.L.1998, c.108 (C.27:5F-43) is amended to  
40 read as follows:

41 10. a. **【There is established a State Review Board on Driver**  
42 **Education.】** The Director of the Office of Highway Traffic Safety  
43 **【or his designee shall be ex officio the chairman of the board. The**  
44 **Governor shall appoint to the board a certified secondary school**  
45 **driver education teacher and representatives from the Department of**  
46 **Education, the Department of Transportation, the AAA Clubs of**  
47 **New Jersey, the Driving School Association of New Jersey, the**

1 Insurance Council of New Jersey, the New Jersey Association of  
2 Chiefs of Police, the New Jersey State Safety Council and the New  
3 Jersey Traffic Safety Officers Association. The board] shall make  
4 recommendations to the [Director of the Division of Motor  
5 Vehicles] Chief Administrator of the New Jersey Motor Vehicle  
6 Commission with respect to rules and regulations promulgated  
7 under [this act] P.L.1998, c.108 including, but not limited to, the  
8 development of uniform curriculum guidelines for approved  
9 classroom and behind-the-wheel driver education. [Any vacancies  
10 occurring in the membership shall be filled in the same manner as  
11 the original appointments.]

12 b. The course of instruction for behind-the-wheel driver  
13 education shall be designed to develop the skills necessary for the  
14 safe and lawful operation of a motor vehicle. Defensive driving,  
15 highway courtesy, appropriate driving behavior and attitudes,  
16 accident avoidance, safe passing and lane changing, and a general  
17 understanding of and respect for the State's motor vehicle laws shall  
18 be emphasized.

19 (cf: P.L.2001, c.420, s.2)

20

21 23. Section 4 of P.L.1969, c.95 (C.18A:61A-4) is amended to  
22 read as follows:

23 4. [The board of trustees shall organize at a meeting to be  
24 called by the Commissioner of Education and annually thereafter by  
25 election from their number of a chairman and a vice chairman and  
26 appointment of a secretary, who may but need not be a member of  
27 the board of trustees, and such other officers as the board shall  
28 determine. The meeting for the election and appointment of  
29 officers shall be held not earlier than July 1 and not later than  
30 October 1 of each year. Officers shall serve for terms of one year,  
31 and until their successors are selected and qualified. The board of  
32 trustees shall be known as "The Trustees of the New Jersey School  
33 of the Arts" and shall be a body corporate, with all the powers  
34 usually conferred upon such bodies and necessary to enable it to  
35 make contracts, and to exercise such other rights and privileges as  
36 may be necessary for carrying out the provisions and purposes of  
37 this act.] The school shall employ northern, central and southern  
38 coordinators and hire appropriate professional staff to implement  
39 programs in music, dance, visual arts and creative writing in each of  
40 the 21 counties of the State.

41 (cf: P.L.2000, c.115, s.4)

42

43 24. Section 6 of P.L.1969, c.95 (C.18A:61A-6) is amended to  
44 read as follows:

45 6. The [board of trustees of the] school shall [, within] be  
46 governed by the Commissioner of Education under the general  
47 policies and guidelines set by the State Board of Education, and the

- 1 commissioner shall have general supervision over, and shall be  
2 vested with the conduct of, the school. **【It】** The commissioner  
3 shall, within the general policies and guidelines set by the State  
4 Board of Education, have the power and duty to:
- 5 a. Determine the educational curriculum and program of the  
6 school in accordance with the arts standards, frameworks and  
7 assessments;
- 8 b. Determine policies for the organization, administration and  
9 development of the school;
- 10 c. Study the educational and financial needs of the school;  
11 annually acquaint the Governor and Legislature with the condition  
12 of the school; and prepare, and after concurrence by and jointly  
13 with the State Board of Education, present the annual budget to the  
14 Governor and Legislature, in accordance with law;
- 15 d. Subject to the provisions of P.L.1944, c.112 (C.52:27B-1 et  
16 seq.), direct and control the expenditures of the school in  
17 accordance with the provisions of the budget and the appropriations  
18 acts of the Legislature, except that with respect to transfers of funds  
19 pursuant to P.L.1944, c.112 (C.52:27B-1 et seq.), the school shall  
20 be deemed a spending agency, and as to funds received or solicited  
21 from other sources, in accordance with the terms of any applicable  
22 trusts, gifts, bequests, or other special provisions, the counsel,  
23 advice and assistance of the Division of Investment in the  
24 Department of the Treasury shall be available to the **【board of**  
25 **trustees】** commissioner in the establishment and maintenance of  
26 endowment and trust funds;
- 27 e. With the approval of the State Board of Education appoint  
28 and fix the compensation of a director of the school who shall be its  
29 executive officer and shall serve at the pleasure of the **【board of**  
30 **trustees】** commissioner;
- 31 f. Appoint members of the academic, administrative and  
32 teaching staffs as shall be required and fix their compensation and  
33 terms of employment in accordance with salary policies adopted by  
34 the State Board of Education, which salary policies shall prescribe  
35 qualifications for the education staff that may be in any given  
36 classification;
- 37 g. Appoint, remove, promote and transfer such other officers,  
38 agents or employees as may be required for carrying out the  
39 purposes of the school and assign their duties, determine their  
40 salaries and prescribe qualifications for all positions, all in  
41 accordance with the provisions of Title 11A, Civil Service, of the  
42 New Jersey Statutes;
- 43 h. Subject to the provisions of P.L.1954, c.48 (C.52:34-6 et  
44 seq.), to enter into contracts and agreements with the State or any of  
45 its political subdivisions or with the United States, or with any  
46 public body, department or other agency of the State or the United  
47 States or with any individual, firm, or corporation which are

1 deemed necessary or advisable by the **[board]** commissioner for  
2 carrying out the purposes of the school;

3 i. Adopt bylaws and make and promulgate such rules,  
4 regulations and orders, not inconsistent with the provisions of this  
5 act that are necessary and proper for the administration and  
6 operation of the school and the carrying out of its purposes;

7 j. Receive and accept private and corporate contributions for  
8 such purposes and upon such terms as the donor may prescribe  
9 consistent with the purposes of the school and general policies and  
10 guidelines set by the State Board of Education.

11 (cf: P.L.2000, c.115, s.5)

12

13 25. Section 7 of P.L.1969, c.95 (C.18A:61A-7) is amended to  
14 read as follows:

15 7. Subject to the approval of the State Board of Education or  
16 the board of education of a school district, as the case may be, the  
17 **[board of trustees]** Commissioner of Education may contract for  
18 the use of existing facilities, courses of instruction and programs in  
19 academic and other nonarts courses and instruction of other  
20 educational institutions and to employ faculty and other personnel  
21 jointly or on a co-operative or cost sharing basis with such other  
22 educational institutions.

23 (cf: P.L.1969, c.95, s.7)

24

25 26. Section 2 of P.L.1981, c.311 (C.45:14D-2) is amended to  
26 read as follows:

27 2. As used in this act:

28 a. "Accessorial service" means the preparation of articles for  
29 shipment, including, but not limited to, the packing, crating, boxing  
30 and servicing of appliances, the furnishing of containers,  
31 unpacking, uncrating and reassembling of articles, placing them at  
32 final destination and the moving or shifting of articles from one  
33 location to another within a building, or at a single address;

34 b. **["Board" means the State Board of Public Movers and**  
35 **Warehousemen established under this act;]** (Deleted by  
36 amendment, P.L. , c. )(pending before the Legislature as this bill)

37 c. (Deleted by amendment, P.L.1993, c.365).

38 d. "Department" means the Department of Law and Public  
39 Safety;

40 e. "Household goods" means personal effects, fixtures,  
41 equipment, stock and supplies or other property usually used in or  
42 as part of the stock of a dwelling, when it is put into storage or  
43 when it is transported by virtue of its removal, in whole or in part,  
44 by a householder from one dwelling to another, or from the  
45 dwelling of a householder to the dwelling of another householder,  
46 or between the dwelling of a householder and a repair or storage  
47 facility, or from the dwelling to an auction house or other place of  
48 sale. The term "household goods" shall not apply to property

1 moving from a factory or store, except property which the  
2 householder has purchased and which is transported at his request  
3 as part of the movement by the householder from one dwelling to  
4 another;

5 f. "Intrastate commerce" means commerce moving wholly  
6 between points within the State over all public highways, or at a  
7 single location;

8 g. "License" means a license issued by the **[board]** director;

9 h. "Motor vehicle" means any vehicle, machine, tractor, truck  
10 or semitrailer, or any combination thereof, propelled, driven or  
11 drawn by mechanical power, and used upon the public highways in  
12 the transportation of household goods, office goods and special  
13 commodities in intrastate commerce;

14 i. "Mover's services" means all of the services rendered by a  
15 public mover;

16 j. "Storage services" means all of the services rendered by a  
17 warehouseman;

18 k. "Office goods" means personal effects, fixtures, furniture,  
19 equipment, stock and supplies or other property usually used in or  
20 as part of the stock of any office, or commercial, institutional,  
21 professional or other type of establishment, when it is put into  
22 storage or when the property is transported by virtue of its removal,  
23 in whole or in part, from one location to another, but does not mean  
24 or include stock and supplies or other property usually used in or as  
25 part of the stock of any office, or commercial, institutional,  
26 professional or other type of establishment, when put into storage;

27 l. "Person" means any individual, copartnership, association,  
28 company, or corporation, and includes any trustee, receiver,  
29 assignee, lessee, or personal representative of any person herein  
30 defined;

31 m. "Place of business" means a business office located in New  
32 Jersey from which the mover or warehouseman conducts his daily  
33 business and where records are kept;

34 n. "Property" means all of the articles in the definition of  
35 household goods, office goods or special commodities;

36 o. "Public highway" or "highway" means any public street,  
37 road, thoroughfare, bridge and way in this State open to the use of  
38 the public as a matter of right for purposes of motor vehicular  
39 travel, including those that impose toll charges;

40 p. "Public mover" or "mover" means any person who engages  
41 in the transportation of household goods, office goods or special  
42 commodities by motor vehicle for compensation in intrastate  
43 commerce between points in this State, including the moving of  
44 household goods, office goods or special commodities from one  
45 location to another at a single address, and any person who engages  
46 in the performance of accessorial services; except that the term  
47 "public mover" or "mover" shall not apply to an owner-operator, or  
48 any person who engages in, or holds himself out to the general

1 public as engaging in, the transportation of special commodities  
2 when such commodities are not transported by virtue of a removal,  
3 in whole or in part, and who does not engage, nor hold himself out  
4 to the general public as engaging in, the transportation of household  
5 or office goods;

6 q. "Special commodities" means uncrated or unboxed works of  
7 art, fixtures, appliances, business machines, electronic equipment,  
8 displays, exhibits, home, office, store, theatrical or show equipment,  
9 musical instruments, or other articles being put into storage or being  
10 moved, and which require the use of equipment and personnel  
11 usually furnished or employed by warehousemen or public movers,  
12 except that the provisions of P.L.1981, c.311 (C.45:14D-1 et seq.)  
13 shall not apply to any person engaged in the transportation or  
14 storage of special commodities when these commodities are not  
15 transported by virtue of a removal, in whole or in part;

16 r. "Storage" means the safekeeping of property in a depository  
17 for compensation;

18 s. "Tariff" means a schedule of rates and charges for the  
19 storage or transportation of property in intrastate commerce on file  
20 with the **[board]** director, which shall be used, except in the use of  
21 binding estimates by movers, in computing all charges on the  
22 storage or transportation of property as of the date of the time in  
23 storage or transportation;

24 t. "Warehouseman" means a person engaged in the business of  
25 storage;

26 u. "Removal" means the physical relocation, in whole or in  
27 part, of either household goods, office goods or special  
28 commodities from one location to another location, including  
29 internal relocations within the same room or facility, for  
30 compensation;

31 v. "Bill of lading" means "bill of lading" as defined by  
32 paragraph (6) of N.J.S.12A:1-201;

33 w. "Consumer" means a person who contracts with a public  
34 mover for mover's services;

35 x. "Contracting public mover" means a licensed public mover  
36 who contracts with an owner-operator to provide any mover's  
37 service of the licensed public mover, and is liable for any mover's  
38 services performed or agreed to be performed by the owner-  
39 operator pursuant to that contract;

40 y. "Director" means the Director of the Division of Consumer  
41 Affairs in the Department of Law and Public Safety;

42 z. "Owner-operator" means a person who owns, leases, or rents  
43 one or more motor vehicles and who uses the vehicles to provide  
44 mover's services for a contracting public mover.

45 (cf: P.L.2007, c.50, s.1)

46

47 27. Section 6 of P.L.1981, c.311 (C.45:14D-6) is amended to  
48 read as follows:

- 1       6. The **[board]** director shall, in addition to such other powers  
2 and duties as **[it]** the director may possess by law:
- 3       a. Administer and enforce the provisions of this act;
- 4       b. Adopt and promulgate rules and regulations, pursuant to the  
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
6 seq.), to effectuate the purposes of this act;
- 7       c. Examine and pass on the qualifications of all applicants for  
8 license under this act, and issue a license to each qualified  
9 applicant;
- 10      d. Establish professional standards for persons licensed under  
11 this act;
- 12      e. Conduct hearings pursuant to the "Administrative Procedure  
13 Act," P.L.1968, c.410 (C.52:14B-1 et seq.); except that the **[board]**  
14 director shall have the right to administer oaths to witnesses, and  
15 shall have the power to issue subpoenas for the compulsory  
16 attendance of witnesses and the production of pertinent books,  
17 papers, or records;
- 18      f. Conduct proceedings before any board, agency or court of  
19 competent jurisdiction for the enforcement of the provisions of this  
20 act;
- 21      g. Annually publish a list of the names, addresses and tariffs of  
22 all persons who are licensed under this act;
- 23      h. Establish reasonable requirements with respect to proper and  
24 adequate movers' and warehousemen's services and the furnishing  
25 of estimates, and prescribe a uniform system of accounts, records  
26 and reports;
- 27      i. Adopt and promulgate rules and regulations to protect the  
28 interests of the consumer, including, but not limited to, regulations  
29 concerning the contents of information brochures which a mover or  
30 warehouseman shall give to a customer prior to the signing of a  
31 contract for moving or storage services.  
32 (cf: P.L.1993, c.365, s.3)
- 33
- 34      28. Section 7 of P.L.1981, c.311 (C.45:14D-7) is amended to  
35 read as follows:
- 36      7. The **[board]** director may, after notice and opportunity for a  
37 hearing, revoke, suspend or refuse to renew or issue any license  
38 issued pursuant to this act upon a finding that the applicant or  
39 holder of a license:
- 40      a. Has obtained a license by means of fraud, misrepresentation  
41 or concealment of material facts;
- 42      b. Has engaged in the use or employment of dishonesty, fraud,  
43 deception, misrepresentation, false promise or false pretense;
- 44      c. Has engaged in gross negligence or gross incompetence;
- 45      d. Has engaged in repeated acts of negligence or incompetence;
- 46      e. Has repeatedly failed to discharge contractual obligations to  
47 any person contracting for moving or storage services;
- 48      f. Has engaged in occupational misconduct;



1 g. Has been convicted of any crime involving moral turpitude  
2 or any crime relating adversely to the activities regulated by  
3 P.L.1981, c.311 (C.45:14D-1 et seq.). For the purpose of this  
4 subsection, a plea of guilty, non vult, nolo contendere or any other  
5 similar disposition of alleged criminal activity shall be deemed a  
6 conviction;

7 h. Has had his authority to engage in the activities regulated by  
8 P.L.1981, c.311 (C.45:14D-1 et seq.) revoked or suspended by any  
9 other state, agency or authority for reasons consistent with that act;  
10 or

11 i. Has violated or failed to comply with the provisions of  
12 P.L.1981, c.311 (C.45:14D-1 et seq.) or any regulation adopted  
13 thereunder.

14 The licensee or applicant shall be furnished with an official  
15 statement of the reasons for the **[board's]** director's proposed action  
16 and shall be afforded an opportunity for a hearing.

17 (cf: P.L.1993, c.365, s.4)

18

19 29. Section 8 of P.L.1981, c.311 (C.45:14D-8) is amended to  
20 read as follows:

21 8. The **[board]** director may, after one year from the date of  
22 the revocation of any license, restore the license.

23 (cf: P.L.1993, c.365, s.5)

24

25 30. Section 9 of P.L.1981, c.311 (C.45:14D-9) is amended to  
26 read as follows:

27 9. a. It shall be unlawful for any person to engage in the  
28 business of public moving or storage unless he shall have obtained  
29 from the **[board]** director a license to engage in the business and  
30 shall have a permanent place of business in this State;

31 b. Application for a license shall be made in writing to the  
32 **[board]** director, be verified under oath by the agent in charge and  
33 shall contain the following information: (1) the name and location  
34 of the applicant; (2) description of the applicant's moving vehicles  
35 and storage facilities; (3) identification of the issuer and amount of  
36 any insurance or surety bonds maintained by the applicant. A  
37 license shall be issued to a qualified applicant if it is found that the  
38 applicant is fit, willing and able to perform the service of a mover  
39 or warehouseman, and to conform to the provisions of this act;

40 c. Every person advertising moving or storage services shall  
41 include in any advertisement the number of his license, and his New  
42 Jersey business address and telephone number;

43 d. No license shall be issued to an applicant if the applicant  
44 has: (1) committed any act which if committed by a licensee would  
45 be grounds for suspension or revocation; (2) misrepresented any  
46 material fact on his application; (3) not registered each vehicle  
47 which will be performing intrastate moves in New Jersey, except on  
48 vehicles which have been rented or leased and are operated by a

1 public mover licensed under this act; (4) not established or  
2 maintained a place of business in New Jersey;

3 e. A copy of the license shall be carried on each truck, tractor,  
4 trailer or semitrailer or combination thereof at all times when the  
5 vehicle is being used in operations subject to this act.

6 (cf: P.L.1993, c.365, s.6)

7

8 31. Section 11 of P.L.1981, c.311 (C.45:14D-11) is amended to  
9 read as follows:

10 11. Every warehouseman or mover shall provide safe, proper  
11 and adequate service and shall observe the **【board's】** director's  
12 rules and regulations concerning the storage or transportation of  
13 property.

14 (cf: P.L.1993, c.365, s.7)

15

16 32. Section 14 of P.L.1981, c.311 (C.45:14D-14) is amended to  
17 read as follows:

18 14. a. Public movers and warehousemen shall file their tariffs  
19 with the **【board】** director semiannually;

20 b. Except in the use of binding estimates provided for in  
21 section 6 of P.L.1998, c.60 (C.45:14D-29), no public mover or  
22 warehouseman shall charge, demand, collect or receive a greater  
23 compensation for his service than specified in the tariff.

24 (cf: P.L.1998, c.60, s.2)

25

26 33. Section 15 of P.L.1981, c.311 (C.45:14D-15) is amended to  
27 read as follows:

28 15. a. The **【board】** director shall by rule or regulation establish,  
29 prescribe or change the fees for licenses, renewals of licenses or  
30 other services. Licenses shall expire one year from the date of issue  
31 unless the holder thereof shall, 30 days before such expiration, pay  
32 to the **【board】** director a renewal fee accompanied by a renewal  
33 application on a form prescribed by the **【board】** director.

34 b. The **【board's】** director's fees established, prescribed or  
35 changed pursuant to this section shall be established, prescribed or  
36 changed to such extent as shall be necessary to defray all proper  
37 expenses incurred by the **【board】** director and any staff employed  
38 to administer this act; but such fees shall not be fixed at a level that  
39 will raise amounts in excess of the amount estimated to be so  
40 required.

41 c. All fees and any fines imposed by the **【board】** director shall  
42 be paid to the **【board】** director and shall be forwarded by the  
43 **【board】** director to the State Treasurer and become part of the  
44 General Fund.

45 d. There shall be annually appropriated to the Department of  
46 Law and Public Safety for the use of the **【board】** director such sums

1 as shall be necessary to implement and effectuate the provisions of  
2 this act.

3 (cf: P.L.1993, c.365, s.9)

4

5 34. Section 16 of P.L.1981, c.311 (C.45:14D-16) is amended to  
6 read as follows:

7 16. Any person violating any provision of P.L.1981, c.311  
8 (C.45:14D-1 et seq.) shall, in addition to any other sanctions  
9 provided herein, be liable to a civil penalty of not more than  
10 \$2,500.00 for the first offense and not more than \$5,000.00 for the  
11 second and each subsequent offense. For the purpose of this  
12 section, each transaction or violation shall constitute a separate  
13 offense; except a second or subsequent offense shall not be deemed  
14 to exist unless an administrative or court order has been entered in a  
15 prior, separate and independent proceeding. In lieu of an  
16 administrative proceeding or an action in the Superior Court, the  
17 Attorney General may bring an action in the name of the **[board]**  
18 director for the collection or enforcement of civil penalties for the  
19 violation of any provision of that act. The action may be brought in  
20 a summary manner pursuant to **[**"the penalty enforcement law"  
21 (N.J.S.2A:58-1 et seq.)**]** the "Penalty Enforcement Law of 1999,"  
22 P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court  
23 governing actions for the collection of civil penalties in the  
24 municipal or Special Civil Part of the Law Division of the Superior  
25 Court where the offense occurred. Process in the action may be by  
26 summons or warrant and if the defendant in the action fails to  
27 answer the action, the court shall, upon finding an unlawful act or  
28 practice to have been committed by the defendant, issue a warrant  
29 for the defendant's arrest in order to bring the person before the  
30 court to satisfy the civil penalties imposed. In an action  
31 commenced pursuant to this section, the court may order restored to  
32 any person in interest any moneys or property acquired by means of  
33 an unlawful act or practice. Any action alleging the unlicensed  
34 practice of the activities regulated by P.L.1981, c.311 (C.45:14D-1  
35 et seq.) shall be brought pursuant to this section or, where  
36 injunctive relief is sought, by an action commenced in the Superior  
37 Court. In an action brought pursuant to that act, the **[board]**  
38 director or the court may order the payment of costs for the use of  
39 the State.

40 (cf: P.L.1993, c.365, s.10)

41

42 35. Section 7 of P.L.1984, c.140 (C.45:14D-17) is amended to  
43 read as follows:

44 7. Whenever it shall appear to the **[board]** director or the  
45 Attorney General that a person has engaged in, or is engaging in,  
46 any act or practice declared unlawful by P.L.1981, c.311  
47 (C.45:14D-1 et seq.), or when the **[board]** director or the Attorney

1 General shall deem it to be in the public interest to inquire whether  
2 a violation may exist, the **[board]** director through the Attorney  
3 General, or the Attorney General acting independently, may:

4 a. Require any person to file, on a form to be prescribed, a  
5 statement or report in writing under oath, or otherwise, as to the  
6 facts and circumstances concerning the rendition of any service or  
7 conduct of any sale incidental to the discharge of any act or practice  
8 subject to that act;

9 b. Examine under oath any person in connection with any act  
10 or practice subject to that act;

11 c. Inspect any premises from which the activity regulated by  
12 that act is conducted;

13 d. Examine any goods, ware or item used in the rendition of  
14 any service by a public mover or warehouseman;

15 e. Examine any record, book, document, account or paper  
16 maintained by or for any public mover or warehouseman in the  
17 regular course of engaging in the activities regulated by that act or  
18 regulations promulgated pursuant to that act;

19 f. For the purpose of preserving evidence of an unlawful act or  
20 practice, pursuant to an order of the Superior Court, impound any  
21 record, book, document, account, paper, goods, ware, or item used  
22 or maintained by or for any public mover or warehouseman in the  
23 regular course of engaging in the activities regulated by that act or  
24 regulations promulgated pursuant to that act. When necessary, the  
25 Superior Court may, on application of the Attorney General, issue  
26 an order sealing items or material subject to this subsection.

27 In order to accomplish the objectives of P.L.1981, c.311  
28 (C.45:14D-1 et seq.) or the regulations promulgated pursuant to that  
29 act, the **[board]** director or the Attorney General may hold  
30 investigative hearings as necessary and may issue subpoenas to  
31 compel the attendance of any person or the production of books,  
32 records or papers at a hearing or inquiry.  
33 (cf: P.L.1993, c.365, s.11)

34  
35 36. Section 8 of P.L.1984, c.140 (C.45:14D-18) is amended to  
36 read as follows:

37 8. If a person fails or refuses to file any statement or report, or  
38 refuses access to premises from which activities regulated by  
39 P.L.1981, c.311 (C.45:14D-1 et seq.) are conducted in any lawfully  
40 conducted investigative matter or fails to obey a subpoena issued  
41 pursuant to that act, the **[board]** director or the Attorney General  
42 may apply to the Superior Court and obtain an order:

43 a. Adjudging that person in contempt of court and assessing  
44 civil penalties in accordance with the amounts prescribed by that  
45 act; or

46 b. Granting other relief as required; or

47 c. Suspending the license of that person until compliance with

1 the subpoena or investigative demand is effected.  
2 (cf: P.L.1993, c.365, s.12)

3  
4 37. Section 10 of P.L.1984, c.140 (C.45:14D-20) is amended to  
5 read as follows:

6 10. In addition or as an alternative, as the case may be, to  
7 revoking, suspending or refusing to renew any license, the **[board]**  
8 director may, after affording an opportunity to be heard:

9 a. Assess civil penalties in accordance with P.L.1981, c.311  
10 (C.45:14D-1 et seq.);

11 b. Order that any person violating any provision of that act  
12 cease and desist from future violations thereof or take affirmative  
13 corrective action as necessary with regard to any act or practice  
14 found to be unlawful by the **[board]** director;

15 c. Order any person found to have violated any provision of  
16 that act to restore or to return to any person aggrieved by an  
17 unlawful act or practice any moneys or property, real or personal,  
18 acquired by means of that act or practice; except that the **[board]**  
19 director shall not order restoration in a dollar amount greater than  
20 those moneys received by a licensee or his agent or any other  
21 person violating that act.

22 In any administrative proceeding on a complaint alleging a  
23 violation of that act, the **[board]** director may issue subpoenas to  
24 compel the attendance of witnesses or the production of books,  
25 records, or documents at the hearing on the complaint.

26 (cf: P.L.1993, c.365, s.13)

27  
28 38. Section 11 of P.L.1984, c.140 (C.45:14D-21) is amended to  
29 read as follows:

30 11. Whenever it shall appear to the **[board]** director or the  
31 Attorney General that a violation of P.L.1981, c.311 (C.45:14D-1 et  
32 seq.), including the unlicensed practice of the activities regulated  
33 therein, has occurred, is occurring, or will occur, the Attorney  
34 General, in addition to any other proceeding authorized by law, may  
35 seek and obtain in a summary proceeding in the Superior Court an  
36 injunction prohibiting the act or practice. In the proceeding the  
37 court may assess a civil penalty in accordance with the provisions  
38 of that act, order restoration to any person in interest of any moneys  
39 or property, real or personal, acquired by means of an unlawful act  
40 or practice and may enter any orders necessary to prevent the  
41 performance of an unlawful practice in the future and to remedy  
42 fully any past unlawful activity. In any action brought pursuant to  
43 this section, the court shall not suspend or revoke any license issued  
44 by the **[board]** director.

45 (cf: P.L.1993, c.365, s.14)

46  
47 39. Section 12 of P.L.1984, c.140 (C.45:14D-22) is amended to

1 read as follows:

2 12. Upon the failure of any person to comply within 10 days  
3 after service of any order of the **【board】** director directing payment  
4 of penalties or restoration of moneys or property, the Attorney  
5 General or the **【board】** director may issue a certificate to the Clerk  
6 of the Superior Court that the person is indebted to the State for the  
7 payment of the penalty and the moneys or property ordered  
8 restored. A copy of the certificate shall be served upon the person  
9 against whom the order was entered. Thereupon the clerk shall  
10 immediately enter upon his record of docketed judgments the name  
11 of the person so indebted and of the State, a designation of the  
12 statute under which the penalty is imposed, the amount of the  
13 penalty imposed, and amount of moneys ordered restored, a listing  
14 of property ordered restored, and the date of the certification. The  
15 entry shall have the same force and effect as the entry of a docketed  
16 judgment in the Superior Court, and the Attorney General shall  
17 have all rights and remedies of a judgment creditor, in addition to  
18 exercising any other available remedies. The entry, however, shall  
19 be without prejudice to the right of appeal to the Appellate Division  
20 of the Superior Court from the **【board's】** director's order.

21 An action to enforce the provisions of an order entered by the  
22 **【board】** director or to collect a penalty levied thereby may be  
23 brought in any municipal or Special Civil Part of the Law Division  
24 of the Superior Court or the Superior Court in a summary manner  
25 pursuant to **【"the penalty enforcement law" (N.J.S. 2A:58-1 et**  
26 **seq.)】** the "Penalty Enforcement Law of 1999," P.L.1999, c.274  
27 (C.2A:58-10 et seq.) and the rules of court governing the collection  
28 of civil penalties. Process in the action shall be by summons or  
29 warrant, and if the defendant fails to answer the action, the court  
30 shall issue a warrant for the defendant's arrest for the purpose of  
31 bringing the person before the court to satisfy any order entered.  
32 (cf: P.L.1993, c.365, s.15)

33  
34 40. Section 13 of P.L.1984, c.140 (C.45:14D-23) is amended to  
35 read as follows:

36 13. When it shall appear to the **【board】** director or the Attorney  
37 General that a person against whom a cease and desist order has  
38 been entered has violated the order, the **【board】** director or the  
39 Attorney General may initiate a summary proceeding in the  
40 Superior Court for the violation thereof. Any person found to have  
41 violated a cease and desist order shall pay to the State of New  
42 Jersey civil penalties in the amount of not more than \$25,000.00 for  
43 each violation of the order. If a person fails to pay a civil penalty  
44 assessed by the court for violation of a cease and desist order, the  
45 court assessing the unpaid penalty is authorized, upon application of  
46 the **【board】** director or the Attorney General, to grant any relief

1 which may be obtained under any statute or court rule governing the  
2 collection and enforcement of penalties.

3 (cf: P.L.1993, c.365, s.16)

4

5 41. Section 15 of P.L.1984, c.140 (C.45:14D-25) is amended to  
6 read as follows:

7 15. No license shall be issued to a warehouseman or mover or  
8 remain in force unless the warehouseman or mover complies with  
9 the rules or regulations that the **【board】** director shall prescribe  
10 governing policies of insurance, qualifications as a self-insurer or  
11 other securities or agreements in the amount that the **【board】**  
12 director may require.

13 (cf: P.L.1993, c.365, s.17)

14

15 42. Section 3 of P.L.1998, c.60 (C.45:14D-26) is amended to  
16 read as follows:

17 3. The **【board】** director shall notify the Board of Public  
18 Utilities of the business location and telephone number of any  
19 public mover that does not have a valid license issued by the  
20 **【board】** director.

21 (cf: P.L.1998, c.60, s.3)

22

23 43. Section 4 of P.L.1998, c.60 (C.45:14D-27) is amended to  
24 read as follows:

25 4. When notified by the **【State Board of Public Movers and**  
26 **Warehousemen】** director pursuant to section 3 of P.L.1998, c.60  
27 (C.45:14D-26), the Board of Public Utilities shall order the  
28 servicing telecommunications company to disconnect that mover's  
29 telephone number that is published in any commercial listing.

30 (cf: P.L.1998, c.60, s.4)

31

32 44. The following are repealed:

33 P.L.1979, c.443;

34 Section 9 of P.L.1999, c.156 (C.52:27D-118.30b);

35 P.L.1983, c.378 (C.52:9V-1 et seq);

36 Section 12 of P.L.1971, c.134 (C.52:17B-129);

37 Section 1 of P.L.2000, c.138 (C.18A:44-5);

38 P.L.1978, c.68;

39 Section 1 of P.L.1994, c.191;

40 Section 31 of P.L.2002, c.40 (C.54:10A-41);

41 Sections 2 through 4 of P.L.1985, c.1 (C.52:17B-77.1 through  
42 52:17B-77.3, inclusive);

43 Sections 8 through 12 of P.L.1991, c.344;

44 Section 6 of P.L.1977, c.240 (C.24:6E-5);

45 Section 37 of P.L.1993, c.139;

46 P.L.2003, c.58;

47 Section 2 of P.L.1999, c.419 (C.18A:65-87);

1 Section 2 of P.L.1995, c.419 (C.6:1-99);  
2 Section 3 of P.L.2003, c.112 (C.17B:30-43);  
3 P.L.2003, c.47;  
4 Section 5 of P.L.1998, c.37;  
5 P.L.2004, c.121;  
6 P.L.1997, J.R.7;  
7 Section 4 of P.L.2001, c.192 (C.52:9YY-4);  
8 P.L.2003, c.303;  
9 Sections 1 through 7 of P.L.1993, c.209 (C.52:16A-43 through  
10 52:16A-49, inclusive);  
11 P.L.1993, J.R.7;  
12 Section 4 of P.L.1999, c.111 (C.2A:34-12.4);  
13 Section 43 of P.L.2000, c.126;  
14 Section 5 of P.L.1991, c.235 (C.13:1D-39);  
15 Sections 1 through 17 of P.L.2001, c.262 (C.18A:71B-64  
16 through 18A:71B-80, inclusive);  
17 P.L.2004, c.85;  
18 P.L.1993, J.R.8;  
19 P.L.1998, J.R.7;  
20 Sections 18 through 20 of P.L.1983, c.315 (C.34:5A-18 through  
21 34:5A-20, inclusive);  
22 P.L.2005, c.117;  
23 Section 4 of P.L.1981, c.311 (C.45:14D-4);  
24 P.L.1984, J.R.8;  
25 P.L.1992, c.75 (C.52:9H-31 et seq.);  
26 P.L.1994, c.146;  
27 P.L.2002, c.49;  
28 P.L.2004, J.R.1;  
29 Section 3 of P.L.1969, c.95 (C.18A:61A-3); and  
30 Sections 1 through 7 of P.L.2001, c.203.

31  
32 45. This act shall take effect immediately.

33  
34

35 STATEMENT

36

37 This bill eliminates the following boards, commissions,  
38 committees, councils, and task forces:

39 Agent Orange Commission (P.L.1979, c.443);

40 Camden Financial Review Board (Section 9 of P.L.1999, c.156  
41 (C.52:27D-118.30b);

42 Christopher Columbus Quincentennial Observance Commission  
43 (P.L.1983, c.378);

44 Commission on Early Childhood Education (Section 1 of  
45 P.L.2000, c.138);

46 Commission to Study Sex Discrimination in the Statutes  
47 (P.L.1978, c.68);

48 Committee to Review the State Commission of Investigation



- 1 (Section 1 of P.L.1994, c.191);
- 2 Corporation Business Tax Study Commission (Section 31 of
- 3 P.L.2002, c.40);
- 4 Crime Prevention Advisory Committee (Sections 2 through 4 of
- 5 P.L.1985, c.1);
- 6 Delaware and Raritan Canal Transportation Safety Study
- 7 Commission (Sections 8 through 12 of P.L.1991, c.344);
- 8 Drug Utilization Review Council (Section 6 of P.L.1977, c.240);
- 9 Environment Advisory Task Force (Section 37 of P.L.1993,
- 10 c.139);
- 11 Ergonomics in Education Study Commission (P.L.2003, c.58);
- 12 Fisheries Information and Development Center Coordinating
- 13 Board (Section 2 of P.L.1999, c.419);
- 14 Governor's Air and Space Medal Nominating Committee
- 15 (Section 2 of P.L.1995, c.419);
- 16 Hospital Care Payment Commission (Section 3 of P.L.2003,
- 17 c.112);
- 18 Jewish Heritage Trail Study Commission (P.L.2003, c.47);
- 19 Managed Care Task Force (Section 5 of P.L.1998, c.37);
- 20 New Jersey Citizens' Clean Elections Commission (P.L.2004,
- 21 c.121);
- 22 New Jersey Commemorative Coin Design Commission
- 23 (P.L.1997, J.R.7);
- 24 New Jersey Health Data Commission (Section 4 of P.L.2001,
- 25 c.192);
- 26 New Jersey Obesity Prevention Task Force (P.L.2003, c.303);
- 27 New Jersey Railroad and Transportation Museum Commission
- 28 (Sections 1 through 7 of P.L.1993, c.209);
- 29 New Jersey Uniform Securities Law Study Commission
- 30 (P.L.1993, J.R.7);
- 31 Parents' Education Program Advisory Committee (Section 4 of
- 32 P.L.1999, c.111);
- 33 Police Paperwork Reduction Task Force (Section 43 of P.L.2000,
- 34 c.126);
- 35 Pollution Prevention Advisory Board (Section 5 of P.L.1991,
- 36 c.235);
- 37 Prepaid Higher Education Expense Board and associated
- 38 program in its entirety (P.L.2001, c.262 et seq.);
- 39 Property Tax Convention Task Force (P.L.2004, c.85);
- 40 Recreational Sports and Leisure Activities Liability Study
- 41 Commission (P.L.1993, J.R.8);
- 42 Regional Intergovernmental Transportation Coordinating Study
- 43 Commission (P.L.1998, J.R.7);
- 44 Right to Know Advisory Council, including its duties and
- 45 powers (Sections 18 through 20 of P.L.1983, c.315);
- 46 School Construction Review Commission (P.L.2005, c.117);
- 47 State Board of Public Movers and Warehousemen (Section 4 of
- 48 P.L.1981, c.311);

1 State Commission on Drunk Driving (P.L.1984, J.R.8);  
2 State Revenue Forecasting Advisory Commission (Sections 1  
3 through 3 of P.L.1992, c.75);  
4 State Review Board on Driver Education (section 21 of this bill  
5 as it amends C.27:5F-43);  
6 Task Force on New Jersey History (P.L.1994, c.146);  
7 Task Force on Workplace Violence (P.L.2002, c.49);  
8 Task Force to Study Attendance in Public Schools (P.L.2004,  
9 J.R.1);  
10 The Trustees of the New Jersey School of the Arts (Section 3 of  
11 P.L.1969, c.95); and  
12 World Language Instruction Committee (Sections 1 through 7 of  
13 P.L.2001, c.203).  
14 These boards, commissions, committees, councils, and task  
15 forces have served their purpose, been inactive for years, no longer  
16 have a role to fulfill, have completed their work, have not been  
17 convened for a long period of time, or were never organized. They  
18 are part of a list of such entities that were included in the report of  
19 the Red Tape Review Group entitled "Findings &  
20 Recommendations," April 19, 2010. Not included in this bill are  
21 those boards, commissions, committees, councils, and task forces  
22 identified in the report for elimination that were established under  
23 federal or local law, by gubernatorial executive order, or were  
24 previously eliminated by State law.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &  
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

**SENATE, No. 1997**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JULY 15, 2010

The Senate State Government, Wagering, Tourism & Historic Preservation Committee reports favorably and with committee amendments Senate Bill No. 1997.

This bill eliminates the following boards, commissions, committees, councils, and task forces:

Advisory Council of the State Library (Sections 13, 15 and 16 of P.L.1969, c.158);

Agent Orange Commission (P.L.1979, c.443);

Camden Financial Review Board (Section 9 of P.L.1999, c.156 (C.52:27D-118.30b));

Christopher Columbus Quincentennial Observance Commission (P.L.1983, c.378);

Commission on Early Childhood Education (Section 1 of P.L.2000, c.138);

Commission to Study Sex Discrimination in the Statutes (P.L.1978, c.68);

Committee to Review the State Commission of Investigation (Section 1 of P.L.1994, c.191);

Corporation Business Tax Study Commission (Section 31 of P.L.2002, c.40);

Crime Prevention Advisory Committee (Sections 2 through 4 of P.L.1985, c.1);

Delaware and Raritan Canal Transportation Safety Study Commission (Sections 8 through 12 of P.L.1991, c.344);

Drug Utilization Review Council (Section 6 of P.L.1977, c.240);

Environment Advisory Task Force (Section 37 of P.L.1993, c.139);

Ergonomics in Education Study Commission (P.L.2003, c.58);

Fisheries Information and Development Center Coordinating Board (Section 2 of P.L.1999, c.419);

Governor's Air and Space Medal Nominating Committee (Section 2 of P.L.1995, c.419);

Hospital Care Payment Commission (Section 3 of P.L.2003,

c.112);

Jewish Heritage Trail Study Commission (P.L.2003, c.47);

Managed Care Task Force (Section 5 of P.L.1998, c.37);

New Jersey Citizens' Clean Elections Commission (P.L.2004, c.121);

New Jersey Commemorative Coin Design Commission (P.L.1997, J.R.7);

New Jersey Health Data Commission (Section 4 of P.L.2001, c.192);

New Jersey Obesity Prevention Task Force (P.L.2003, c.303);

New Jersey Railroad and Transportation Museum Commission (Sections 1 through 7 of P.L.1993, c.209);

New Jersey Uniform Securities Law Study Commission (P.L.1993, J.R.7);

Parents' Education Program Advisory Committee (Section 4 of P.L.1999, c.111);

Police Paperwork Reduction Task Force (Section 43 of P.L.2000, c.126);

Pollution Prevention Advisory Board (Section 5 of P.L.1991, c.235);

Prepaid Higher Education Expense Board and associated program in its entirety (P.L.2001, c.262 et seq.);

Property Tax Convention Task Force (P.L.2004, c.85);

Recreational Sports and Leisure Activities Liability Study Commission (P.L.1993, J.R.8);

Regional Intergovernmental Transportation Coordinating Study Commission (P.L.1998, J.R.7);

Right to Know Advisory Council, including its duties and powers (Sections 18 through 20 of P.L.1983, c.315);

School Construction Review Commission (P.L.2005, c.117);

State Board of Public Movers and Warehousemen (Section 4 of P.L.1981, c.311);

State Commission on Drunk Driving (P.L.1984, J.R.8);

State Revenue Forecasting Advisory Commission (Sections 1 through 3 of P.L.1992, c.75);

State Review Board on Driver Education (section 21 of this bill as it amends C.27:5F-43);

Task Force on New Jersey History (P.L.1994, c.146);

Task Force on Workplace Violence (P.L.2002, c.49);

Task Force to Study Attendance in Public Schools (P.L.2004, J.R.1);

The Trustees of the New Jersey School of the Arts (Section 3 of P.L.1969, c.95); and

World Language Instruction Committee (Sections 1 through 7 of P.L.2001, c.203).

These boards, commissions, committees, councils, and task forces have served their purpose, been inactive for years, no longer have a role to fulfill, have completed their work, have not been convened for

a long period of time, or were never organized. They are, for the most part, part of a list of such entities that were included in the report of the Red Tape Review Group entitled "Findings & Recommendations," April 19, 2010. Not included in this bill are those boards, commissions, committees, councils, and task forces identified in the report for elimination that were established under federal or local law, by gubernatorial executive order, or were previously eliminated by State law.

This bill is identical to Assembly Bill No. 2851 (1R).

#### COMMITTEE AMENDMENTS

The committee amended the bill to also eliminate the Advisory Council of the State Library and its duties concerning giving advice and making recommendations.