[First Reprint]

ASSEMBLY, No. 2

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED JANUARY 4, 2007

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District 17 (Middlesex and Somerset)

Co-Sponsored by:
Assemblymen Mayer, Panter and Senator Kenny

SYNOPSIS

Establishes an independent Office of State Comptroller and consolidates financial audit and performance reviews of State and local government units.

CURRENT VERSION OF TEXT

As amended by the Senate on January 25, 2007.

(Sponsorship Updated As Of: 1/30/2007)

AN ACT establishing an independent Office of State Comptroller, consolidating financial audit and performance reviews of State and local government units, revising various parts of statutory law and supplementing Title 52 of the Revised Statutes.

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

1. (New section) The Legislature finds and declares that:

As the size of State and local government agencies and authorities have grown over the last several decades to meet growing demands for governmental assistance and programs to meet new and growing societal needs, the State's ability to manage the various governmental systems of public financial control and accountability have not matched the State Government's responsibility to subject governmental financial activities to uniform, meaningful, and systematic public scrutiny;

Meeting the responsibility for overseeing and promoting the professional conduct of internal audits, providing assurance on the adequacy of internal financial controls within agencies of government, including assessing the adequacy of controls over financial management, contracting, financial reporting and the delivery of government programs and activities with due regard to efficiency, effectiveness and economy is a fundamental duty of governmental officials to the taxpayers and public whom they serve;

The Governor has the responsibility to manage the operations of the Executive branch of State government, including oversight of all entities exercising executive branch authority, public institutions of higher education, units of local government and boards of education, efficiently and effectively supported by audit and oversight functions that strengthen public accountability with the goal of increasing public trust and confidence that every tax dollar collected by government is spent wisely and well;

There is a compelling need for State government to put into practice the presumption that there will be independence and integrity in the financial oversight of the discharge of its duties and responsibilities carried out in a manner and under a structure that safeguards the fiscal resources with which it has been entrusted; and

There is a need, therefore, to establish an independent Office of the State Comptroller which will report directly to the Governor, to ensure that these responsibilities are met.

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

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate floor amendments adopted January 25, 2007.

2. (New section) a. There is established an Office of the State Comptroller. The office shall be established in the Executive Branch of the State government and for the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the office shall be allocated in, but not of, the Department of the Treasury. Notwithstanding this allocation, the office shall be independent of any supervision or control by the State Treasurer, or the department or by any division, board, office, or other officer thereof.

b. The State Comptroller shall report directly to the Governor.

c. The State Comptroller shall submit requests for the budget of the office directly to the Governor who shall review the requests and forward them to Division of Budget and Accounting in the Department of the Treasury.

3. (New section) a. The Office of the State Comptroller shall be administered by the State Comptroller. The State Comptroller shall be appointed by the Governor with the advice and consent of the Senate. The State Comptroller shall be a person qualified by education, training, and prior work experience to direct the work of the office and to perform the duties and functions and fulfill the responsibilities of the position.

b. The State Comptroller shall serve for a term of six years and until a successor is appointed and has qualified. No person who has served as State Comptroller for two successive terms, including an unexpired term, shall again be eligible to serve in the Office of the State Comptroller or in that position until the expiration of six years following the second successive term served by that person.

c. The State Comptroller shall devote full time to the duties and responsibilities of the office and shall receive a salary as shall be provided pursuant to law.

d. During the term of office, the State Comptroller may be removed by the Governor only for cause upon notice and opportunity to be heard.

e. A vacancy in the position of State Comptroller due to a cause other than the expiration of the term shall be filled for the unexpired term only in the same manner as the original appointment.

4. (New section) a. A person who holds the position of State Comptroller shall not be a candidate for, or hold, elective public office for a period of two years immediately following the termination of that person's service as State Comptroller.

b. No person who holds the position of State Comptroller, or any position of employment as professional staff in the Office of State Comptroller, while holding any such office or position, shall: (1) be a candidate for election to, or hold, any elective public office or any office or position with any political party or club, or (2) in

connection with another individual's candidacy for public office, sign or authorize the use of that person's name in connection with political or campaign literature or material, or print, publish or distribute such political or campaign literature or material.

5. (New section) a. The Office of the State Comptroller shall be responsible for conducting[1], in accordance with section 8 of this act,[1] routine, periodic and random audits of the Executive branch of State government, including all entities exercising executive branch authority, public institutions of higher education, independent State authorities, units of local government and boards of education and for conducting assessments of the performance and management of programs of the Executive branch of State government, including all entities exercising executive branch authority, public institutions of higher education, independent State authorities, units of local government and boards of education and the extent to which they are achieving their goals and objectives. The Office of the State Comptroller shall also serve as the office in which the Office of the State Inspector General, which shall be responsible for all the duties assigned pursuant to P.L.2005, c.119 (C.52:15B-1 et seq.), is allocated within the Department of the Treasury.

b. (1) The State Comptroller shall establish the internal organizational structure of the office and the bureaus therein in a manner appropriate to carrying out the duties and functions, and fulfilling the responsibilities, of the office. The State Comptroller shall have the power to appoint, employ, promote, and remove such assistants, employees, and personnel as the State Comptroller deems necessary for the efficient and effective administration of the office. All such assistants, employees and personnel shall be deemed confidential employees for purposes of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) and shall serve in the unclassified service of the Civil Service.

(2) The Office of the State Inspector General shall be allocated within the Office of the State Comptroller, and the individual first appointed State Inspector General under P.L.2005, c.119, shall continue as State Inspector General for the first full term to which that individual was appointed pursuant to P.L.2005, c.119, and shall be eligible to serve in that position thereafter.

c. Within the limits of funds appropriated for such purposes, the State Comptroller may obtain the services of certified public accountants, qualified management consultants, and other professionals necessary to independently perform the duties and functions of the office.

6. (New section) The State Comptroller is authorized to call upon any department, office, division, agency or independent authority of State government to provide such information, resources, or other assistance deemed necessary to discharge the

duties and functions and to fulfill the responsibilities of the State Comptroller under this act. Each department, office, division, agency or independent authority of this State shall cooperate with the State Comptroller and furnish the office with the assistance necessary to accomplish the purposes of this act.

7. (New section) The State Comptroller shall consolidate within the Office of the State Comptroller the coordination of the internal and external audit functions, including but not limited to economy and efficiency audits in the Executive branch of State government, including all entities exercising executive branch authority, public institutions of higher education, independent State authorities, units of local government and boards of education. The State Comptroller is authorized to:

a. establish a full-time program of audit and performance review<u>, in accordance with section 8 of this act,</u> designed to provide increased accountability, integrity, and oversight of the Executive branch of State government, including all entities exercising executive branch authority, public institutions of higher education, independent State authorities, units of local government and boards of education; and

b. audit and monitor the process of soliciting proposals for, and the process of awarding, contracts made by the Executive branch of State government, including all entities exercising executive branch authority, public institutions of higher education, independent State authorities, units of local government and boards of education that involve a significant consideration or expenditure of funds or are comprised of complex or unique components, or both, as determined by the State Comptroller; provided however, for the purposes of the duties of the Office of the State Comptroller, "contract" or "contracts" shall not include public employer-employee labor collective bargaining agreements.

8. (New section) a. The State Comptroller shall have all the powers necessary to carry out the duties and functions and to fulfill the responsibilities described in this act, including the power to conduct audits [[, evaluations, inspections,]] and [[other]] reviews and propose and enforce remediation plans for the Executive branch of State government, including all entities exercising executive branch authority, public institutions of higher education, independent State authorities, units of local government and boards of education that are found by the State Comptroller to have deficient practices or procedures. The State Comptroller shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to effectuate the purposes of this act.

b. The State Comptroller and the Office of <u>the</u> State Comptroller shall conduct audits and [[performance]] reviews in

accordance with prevailing national and professional standards, rules, and practices relating to such audits and reviews in government environments, ¹including the standards for performance reviews utilized by the United States Government Accountability Office or its successor,¹ and the State Comptroller shall ensure that the office remains in compliance with such standards, rules, and practices.

c. ¹(1) As to entities that are not required by law to undergo periodic certified financial audits, the State Comptroller shall determine the frequency with which financial audits shall be conducted of such entities by the State Comptroller by establishing objective criteria, which criteria shall weigh relevant risk factors, including, but not limited to, the size of the entity's budget and the entity's past performance.

(2) As to entities that are required by law to undergo periodic certified financial audits, the State Comptroller shall undertake analysis and review of the certified financial audits of such entities and of the procedures used to conduct those audits. When the State Comptroller's analysis and review identifies weaknesses, inadequacies or failures in the entity's financial controls or concerns about the quality or independence of the audits, the State Comptroller shall be authorized to undertake a financial audit or such other steps as the State Comptroller deems appropriate. In determining when to proceed with a financial audit, the State Comptroller may also take into account information obtained pursuant to section 10 of this act; referrals or recommendations from Executive branch departments or agencies; or assessments or evaluations of the entity's management, performance or financial condition from federal or State government agencies, such as those undertaken as part of the New Jersey Quality Single Accountability Continuum for school districts.

(3)¹ The State Comptroller shall establish ¹objective¹ criteria for ¹[determining the frequency of financial audits and] undertaking¹ performance ¹and other¹ reviews ¹authorized by this act¹, which criteria shall weigh relevant risk factors, ¹[such as] including, but not limited to: (a)¹ the size of the ¹entity's¹ budget ¹[and], (b) the entity's¹ past performance ¹[of], (c) the frequency, scope, and quality of any audits or reviews that have been performed regarding the entity's financial condition or performance, (d) assessments or evaluations of the entity's management, performance or financial condition such as those undertaken as part of the New Jersey Quality Single Accountability Continuum for school districts, and (e) other credible information which suggests the necessity of a review.

(4) For purposes of this subsection, "entity" means any unit in¹ the Executive branch of State government, including all entities exercising executive branch authority, public institutions of higher

education, independent State authorities, units of local government and boards of education or their vendors. ¹[Notwithstanding the criteria, the State Comptroller shall perform financial audits at least every two years for any unit in the Executive branch of State government, including any entity exercising executive branch authority, public institution of higher education, independent State authority, unit of local government and board of education that has expended in excess of $100,000,000 in an immediately preceding annual budget cycle.] For purposes of this subsection, "certified financial audits" does not include audits conducted by the State Auditor.¹

d. ¹[The State Comptroller shall conduct performance reviews of units in the Executive branch of State government at the request of the Governor and financial audits of units in the Executive branch of State government, independent State authorities, public institutions of higher education, units of local government and boards of education at the request of the Governor or the Speaker of the General Assembly or the President of the Senate.

e.]¹The State Comptroller shall provide guidance to units in the Executive branch of State government, independent State authorities, units of local government and boards of education units that are required to engage outside auditors regarding procurement of their services, the rotation of the providers of such services, and the avoidance of possible conflicts of interest in the hiring of outside auditors.

¹e. In carrying out the duties, functions and responsibilities of the Office of the State Comptroller under this act, the State Comptroller shall not charge any costs incurred by the office against a unit of local government or board of education.¹

9. (New section) a. The State Comptroller shall establish a system that shall ensure that any officers and employees of the Office of the Inspector General, the Department of Law and Public Safety, the Department of Education, the Department of the Treasury, the Department of Transportation, the Division of Local Government Services in the Department of Community Affairs, the Local Finance Board, and the Office of the State Auditor who perform audits, investigations, and performance reviews similar or identical to those authorized to be performed by the State Comptroller shall conduct their audits, investigations and reviews with the consultation of, and in coordination and cooperation with, the State Comptroller.

b. For the purpose of establishing and maintaining this system, the State Comptroller shall meet at periodic intervals, but at least four times annually, with the Attorney General, the State Treasurer, the State Inspector General, the Commissioner of Education, the Commissioner of Transportation, the Director of the Division of

Local Government Services in the Department of Community Affairs, staff of the Local Finance Board, the State Auditor, and any other public officers or employees deemed necessary who perform audits, investigations, and performance reviews. The responsibility of all parties during these meetings shall be to: facilitate communication and exchange information on completed, current, and future audits, investigations, and reviews; avoid duplication and fragmentation of efforts; optimize the use of resources; avoid divisiveness and organizational uncertainty; promote effective working relationships; and avoid the unnecessary expenditure of public funds.

c. To further ensure the consultation of, and coordination and cooperation with, the State Comptroller, the Commissioner of Education, the Director of the Division of Local Government Services in the Department of Community Affairs, and the staff of the Local Finance Board shall promptly notify the State Comptroller of any local audits that have been submitted to them that reveal any significant deficiencies.

10. (New section) a. In furtherance of the duty of the State Comptroller to audit and monitor the process of soliciting proposals for, and the process of awarding, contracts by contracting units which contracts involve a significant consideration or expenditure of funds, a contracting unit shall provide notice to the State Comptroller no later than 20 business days after the award of a contract involving consideration or an expenditure of more than $2,000,000 but less than $10,000,000.

As used in this section, "contracting unit" means the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, any independent State authority, commission, instrumentality and agency, and any State college or university, any county college, and any unit of local government including a county, municipality, board of education and any board, commission, committee, authority or agency, thereof which has administrative jurisdiction over any project or facility, included or operating in whole or in part, within the territorial boundaries of any county, municipality or board of education which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts for the provision or performance of goods or services.

[1]As used in this section, "contract" shall not include developers agreements entered into in conjunction with an approval granted under the "Municipal Land Use Law," P.L.1975, c. 291 (C.40:55D-1 et seq.), redevelopment agreements entered into under the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), financial agreements entered into under the "Long Term

Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.), agreements entered into under the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), agreements entered into under section 7 of P.L.1989, c.207 (C.54:4-3.145), agreements entered into under sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31), and agreements entered into under the "Municipal Landfill Site Closure, Remediation and Redevelopment Act," P.L.1996, c.124 (C.13:1e-116.1 et seq.).[1]

b. (1) A contracting unit shall inform the State Comptroller in writing, in a form to be determined by the State Comptroller, of the commencement of any procurement process involving consideration or an expenditure of $10,000,000 or more at the earliest time practicable as the contracting unit commences the procurement process, but no later than the time the contracting unit commences preparation of: any bid specification or request for proposal; concession offering; proposal to purchase, sell, or lease real estate; or other related activities and contracts.

(2) Unless waived by the State Comptroller upon request of the contracting unit, at least 30 days shall elapse from the time the contracting unit informs the State Comptroller pursuant to paragraph (1) of this subsection and the time the contracting unit may issue any public advertising, notice of availability of a request for proposals or any other public or private solicitation of a contract for a procurement that is subject to this subsection in order that the State Comptroller may complete a review that may be undertaken pursuant to paragraph (4) of this subsection.

(3) At any time during that 30 days, or on a date thereafter, but no later than 15 business days before the date of a planned issuance of any public advertising, notice of availability of a request for proposals or any other public or private solicitation of a contract involving consideration or an expenditure of $10,000,000 or more, the contracting unit shall provide notice to the State Comptroller, in a form to be determined by the State Comptroller and to include such documents and information as determined by the State Comptroller, of the planned action.

(4) Upon receipt of the notice and any accompanying documents and information required pursuant to paragraph (3) of this subsection, the State Comptroller may review such submission and provide a written determination to the contracting unit regarding whether the procurement process complies with applicable public contracting laws, rules, and regulations. The State Comptroller’s review is not for the purpose of reviewing the contracting unit’s decision to undertake the procurement or to otherwise supplant the contracting unit’s authority to create or implement public policy. If the State Comptroller determines that the procurement process does not comply with applicable public contracting laws, rules, and regulations, the State Comptroller shall direct the contracting unit not to proceed with the procurement. In such an instance, the State

Comptroller shall state the reasons for such determination and may include in its determination guidance to the contracting unit regarding an appropriate procurement process. A contracting unit may proceed with a planned procurement that is subject to this subsection after the expiration of the 30 day period or the granting of a waiver as provided in paragraph (2), unless it receives a written determination not to proceed from the State Comptroller within 15 business days of the date the contracting unit provided written notice to the State Comptroller pursuant to paragraph (3) of this subsection.

(5) Information communicated by or between a contracting unit and the State Comptroller pursuant to this subsection shall be considered advisory, consultative, or deliberative material for purposes of P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented, except for written determinations designated by the State Comptroller as public records.

c. Provided however, that the notice and review provided for in subsection b. of this section shall not apply to the award of any contract issued pursuant to section 6 of P.L.1971, c.198 (C.40A:11-6) or N.J.S.18A:18A-7, or under a public exigency requiring the immediate delivery of articles or performance of service under a contract issued pursuant to section 5 of P.L.1954, c.48 (C.52:34-10), or issued pursuant to any similar provisions of law and regulations thereunder applicable for a respective contracting unit. Notice of the award of any such contract shall be provided to the State Comptroller no later than 30 business days after the award.

d. The State Comptroller, in consultation with the Department of the Treasury, shall, no later than March 1, 2010, and March 1 of every fifth year thereafter, adjust the threshold amounts set forth in subsections a. and b. of this section, or the threshold amounts resulting from any adjustment under this subsection, in direct proportion to the rise or fall of the index rate as that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall round the adjustment to the nearest $100,000. The State Comptroller shall, no later than June 1, 2010, and June 1 of every fifth year thereafter, notify contracting units of the adjustment. The adjustment shall become effective on July 1 of the year in which it is made.

11. (New section) a. The State Comptroller shall report the findings of audits and reviews performed by the office, and issue recommendations for corrective or remedial action, to the Governor, the President of the Senate and the Speaker of the General Assembly and to the unit in the Executive branch of State government, including any entity exercising executive branch authority, independent State authority , public institution of higher education, or unit of local government or board of education at issue. The unit in the Executive branch of State government, independent State authority, public institution of higher education,

or unit of local government or board of education shall fully cooperate with the State Comptroller to develop recommendations for a corrective or remedial action plan. The State Comptroller shall monitor the implementation of those recommendations and shall conduct a subsequent review to determine whether there has been full implementation and continued compliance with those recommendations.

b. The State Comptroller shall report promptly to the Governor, the President of the Senate and the Speaker of the General Assembly if a unit in the Executive branch of State government, independent State authority, public institution of higher education, or unit of local government or board of education refuses to cooperate in development of a corrective or remediation plan or to comply with a plan.

c. The State Comptroller shall recommend that the Governor initiate disciplinary proceedings against any official or employee of a unit in the Executive branch of State government, including any entity exercising executive branch authority, or independent State authority who impedes an audit, or who fails or refuses to cooperate in the development of a corrective or remedial action plan or to comply with a plan. The Governor may cause an investigation to be made of the conduct of any such official or employee and may require such official to submit to the Governor a written statement or statements, under oath, of such information as the Governor may call for relating to the official's or the employee's conduct alleged by the State Comptroller. After notice, the service of charges and an opportunity to be heard at public hearing, the Governor may remove any such official or employee for cause. Such official or employee shall have the right of judicial review, on both the law and the facts, in such manner as may be provided by law.

d. If the State Comptroller is advised by the Commissioner of Education, the Director of the Division of Local Government Services in the Department of Community Affairs, staff of the Local Finance Board, or the State Auditor that a unit of local government or board of education or any official or employee thereof has impeded an audit, or has failed or refused to cooperate in the development of a corrective or remedial action plan or to comply with a plan recommended by such State official or employee thereof, the State Comptroller is authorized to recommend that the Governor (1) withhold the expenditure of State funds that may be due to be paid to that unit of local government or board of education, and (2) request the Commissioner of Education, the Director of the Division of Local Government Services in the Department of Community Affairs, or staff of the Local Finance Board, as may be appropriate for that unit of local government or board of education, to impose a corrective or remedial action plan that may include the prior approval by the State Comptroller of that local unit's or board's contracts and expenditures.

e. The State Comptroller shall provide periodic reports to the Governor, and shall issue an annual report to the Governor and submit that report to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), which shall be available to the public. The reports shall include but shall not be limited to the reporting of any programmatic deficiencies and weaknesses that the State Comptroller's audits, investigations, and reviews have found, and detailing the efforts by, or the failure of, any unit in the Executive branch of State government, including any entity exercising executive branch authority, independent State authority or unit of local government or board of education to implement a recommended plan for corrective or remedial action.

12. (New section) The State Comptroller is authorized to refer findings that may constitute alleged criminal conduct to the Attorney General or other appropriate prosecutorial authority. In the course of conducting audits and performance reviews, the State Comptroller may refer matters for investigation to the State Inspector General or to the Attorney General or other appropriate authorities for further civil or administrative action, with recommendations to initiate actions to recover monies, to terminate contracts, or temporarily or permanently debar any person from contracting with or receiving funds from any unit in the Executive branch of State government, including any entity exercising executive branch authority, independent State authority or unit of local government or board of education.

13. (New section) a. When the State Comptroller or the State Inspector General refers a complaint alleging criminal conduct to the Attorney General or other appropriate prosecutorial authority and the Attorney General or prosecutorial authority decides not to investigate or prosecute the matter, the Attorney General or the prosecutorial authority shall promptly notify the State Comptroller and the State Inspector General. The Attorney General or the prosecutorial authority shall inform the State Comptroller and the State Inspector General as to whether an investigation is ongoing with regard to any matter so referred. The State Comptroller and the State Inspector General shall preserve the confidentiality of the existence of any ongoing criminal investigation.

If the Attorney General or the prosecutorial authority decides not to investigate or act upon the matter referred by the State Comptroller or the State Inspector General, the State Comptroller shall refer the matter to the State Inspector General after the receipt of such a notice.

Upon completion of an investigation or, in a case where the investigation leads to prosecution, upon completion of the prosecution, the Attorney General or the prosecutorial authority shall report promptly the findings and results to the State

Comptroller and the State Inspector General. In the course of informing the State Comptroller and the State Inspector General, the Attorney General or prosecutorial authority shall give full consideration to the authority, duties, functions, and responsibilities of the State Comptroller and the State Inspector General, the public interest in disclosure, and the need for protecting the confidentiality of complainants and informants.

b. With respect to referrals to the State Inspector General, the State Inspector General shall report to the State Comptroller promptly when a final determination is made to not investigate or act upon the matter referred, or promptly upon completion of the investigation or action taken. The State Inspector General shall inform the State Comptroller as to whether an investigation is ongoing with regard to any matter so referred.

In the course of informing the State Comptroller, the State Inspector General shall give full consideration to the authority, duties, functions, and responsibilities of the State Comptroller, the public interest in disclosure, and the need for protecting the confidentiality of complainants and informants.

If the State Inspector General decides not to investigate or act upon the matter referred, the State Comptroller is authorized to continue an investigation after the receipt of such a notice.

c. The State Comptroller shall maintain a record of all matters referred and the responses received and shall be authorized to disclose information received as appropriate and as may be necessary to resolve the matter referred, to the extent consistent with the public interest in disclosure and the need for protecting the confidentiality of complainants and informants and preserving the confidentiality of ongoing criminal investigations.

14. (New section) a. All units in the Executive branch of State government, including entities exercising executive branch authority, independent State authorities, public institutions of higher education, units of local government and boards of education and their employees shall provide full assistance and cooperation with any audit, performance review or contract review by the State Comptroller.

b. The State Comptroller shall have complete access to all "government records" of "public agencies," as those terms are defined pursuant to section 1 of P.L.1995,c.23 (C.47:1A-1.1), including all information listed as confidential and specifically excluded as a "government record," in section 1 of P.L.1995,c.23 (C.47:1A-1.1). Provided however, that any information listed as confidential and specifically excluded as a "government record," in that section, to which the State Comptroller shall have access, shall directly relate to a program or expenditure that is the subject of an audit, performance review or contract review by the State Comptroller, and provided further that if a public agency provides

the State Comptroller with access to information that is subject to a confidentiality agreement, the public agency shall promptly notify the parties to the agreement that the information being provided to the State Comptroller.

c. Whenever a person requests access to a government record that the State Comptroller or the State Inspector General, during the course of an audit, investigation, performance review or contract review obtained from another public agency, which record was open for public inspection, examination or copying before the audit, investigation or review commenced, the public agency from which the State Comptroller or the State Inspector General obtained the record shall comply with the request if made pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), provided that the request does not in any way identify the record sought by means of a reference to the State Comptroller's audit or review or to an investigation by the State Inspector General or any other public agency, including, but not limited to, a reference to a subpoena issued pursuant to such investigation.

d. Private vendors or other persons contracting with or receiving funds from a unit in the Executive branch of State government, including an entity exercising executive branch authority, independent State authority, public institution of higher education, or unit of local government or board of education shall upon request by the State Comptroller provide the State Comptroller with prompt access to all relevant documents and information as a condition of the contract and receipt of public monies. The State Comptroller shall not disclose any document or information to which access is provided that is confidential or proprietary. If the State Comptroller finds that any person receiving funds from a unit in the Executive branch of State government, including an entity exercising executive branch authority, independent State authority, public institution of higher education, or unit of local government or board of education refuses to provide information upon the request of the State Comptroller, or otherwise impedes or fails to cooperate with any audit or performance review, the State Comptroller may recommend to the contracting unit that the person be subject to termination of their contract, or temporarily or permanently debarred from contracting with the contracting unit.

15. (New section) The State Comptroller shall provide technical assistance and training to units in the Executive branch of State government, including entities exercising executive branch authority, independent State authorities, public institutions of higher education, and units of local government and boards of education regarding best practices in developing and implementing financial management systems that will strengthen internal control procedures and prevent the misuse of public funds.

16. Section 1 of P.L.2005, c.119 (C.52:15B-1) is amended to read as follows:

1. The Legislature finds and declares that:

the State of New Jersey expends more than $28 billion in taxpayer funds each year, and agencies at other levels of government expend billions more;

it is fundamental that all government officials be publicly accountable for such expenditures;

promoting integrity in the administration and operations of government and improving public accountability are the cornerstones of government;

one of the remedial actions that can be taken to improve such accountability is to identify areas where State spending is wasteful or inefficient;

the Governor has the responsibility to ensure a balanced budget, manage the operations of State government effectively and efficiently, and maintain necessary government programs and assistance to the public;

it is the duty of the Governor to guard against extravagance, waste, or fiscal mismanagement in the administration of any State appropriation;

it is critically important that public officers and employees, at all levels of government, discharge their duties and responsibilities in a lawful and ethical manner, while conserving the fiscal resources that have been entrusted to the government's care by the taxpayers;

there is a compelling need to centralize the responsibility for **[**reviewing, auditing, evaluating, and overseeing**]** investigating allegations of the improper discharge of these duties and responsibilities concerning the expenditure of State funds by, and the procurement process of, all State departments and agencies, independent authorities, county and municipal governments, and boards of education; and

there is a need, therefore, to create the Office of the Inspector General, which will report directly to the Governor, to ensure that these responsibilities are met.

(cf: P.L.2005, c.119, s.1)

17. Section 7 of P.L.2005, c.119 (C.52:15B-7) is amended to read as follows:

7. The Inspector General is authorized to**[**:**]** establish a full-time program of **[**audit,**]** investigation **[**, and performance review**]**, to receive and investigate complaints concerning alleged fraud, waste, abuse, or mismanagement of State funds, designed to provide increased accountability, integrity, and oversight of:

all recipients of State funds, including, but not limited to, State departments and agencies, independent authorities, county and municipal governments, and boards of education**[**.

audit and monitor**]**;

the awarding and the execution of contracts awarded by the State, or any of its independent authorities, commissions, boards, agencies, or instrumentalities, which contracts involve a significant expenditure of public funds or are comprised of complex or unique components, or both, as determined by the Inspector General**[**.

investigate**]**; and

the performance of governmental officers, employees, appointees, functions, and programs in order to promote efficiency, to identify cost savings, and to detect and prevent misconduct within the programs and operations of any governmental agency funded by, or disbursing, State funds.

[receive and investigate complaints concerning alleged fraud, waste, abuse, or mismanagement of State funds.**]**

(cf: P.L.2005, c.119, s.7)

18. Section 8 of P.L.2005, c.119 (C.52:15B-8) is amended to read as follows:

8. a. The Inspector General shall have all the powers necessary to carry out the duties and functions and to fulfill the responsibilities described in this act, including the power to conduct investigations, **[**audits,**]** and in pursuit thereof, evaluations, inspections, and other reviews.

b. The Inspector General and the office shall conduct **[**audits,**]** investigations **[**, and performance reviews**]** in accordance with prevailing national and professional standards, rules, and practices relating to such **[**audits,**]** investigations **[**, and reviews**]** in government environments, and the Inspector General shall ensure that the office remains in compliance with such standards, rules, and practices.

c. In furtherance of an investigation, the Inspector General may compel at a specific time and place, by subpoena, the appearance and sworn testimony of any person whom the Inspector General reasonably believes may be able to give information relating to a matter under investigation. For this purpose, the Inspector General is empowered to administer oaths and examine witnesses under oath, and compel any person to produce at a specific time and place, by subpoena, any documents, books, records, papers, objects, or other evidence that the Inspector General reasonably believes may relate to a matter under investigation.

If any person to whom such subpoena is issued fails to appear or, having appeared, refuses to give testimony, or fails to produce the books, papers or other documents required, the Inspector General may apply to the Superior Court and the court may order the person to appear and give testimony or produce the books, papers or other documents, as applicable. Any person failing to obey the court's order may be punished by the court as for contempt.

d. A person compelled to appear by the Inspector General and provide sworn testimony shall have the right to be accompanied by counsel, who shall be permitted to advise the witness of his or her rights. A witness compelled to appear and testify shall be accorded all due process rights.
(cf: P.L.2005, c.119, s.8)

19. Section 15 of P.L.2005, c.119 (C.52:15B-15) is amended to read as follows:

15. The Inspector General shall report the findings of **[**audits,**]** investigations **[**, and reviews**]** performed by the office, and issue recommendations for corrective or remedial action, to the Governor, the President of the Senate and the Speaker of the General Assembly and to the entity at issue. The Inspector General shall monitor the implementation of those recommendations.
(cf: P.L.2005, c.119, s.15)

20. Section 70 of P.L.2000, c.72 (C.18A:7G-43) is amended to read as follows:

70. There is established in the Office of the Attorney General the Office of Fiscal Integrity in School Construction. The office shall perform its duties under the direction of the Attorney General and shall cooperate and coordinate the performance its duties with the Office of the State Comptroller. The Attorney General or his representative, in cooperation and coordination with the State Comptroller or his representatives, may investigate, examine, and inspect the activities of the authority and districts related to the financing and construction of school facilities and the implementation of the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.). The Attorney General and the State Comptroller may require the submission of duly verified reports from the authority and districts, which include such information in such form as the Attorney General and the State Comptroller may require. The Attorney General or the State Comptroller or **[**his**]** a representative of either, may also consult with the authority on issues and procedures related to the exercise of its duties and responsibilities under P.L.2000, c.72 (C.18A:7G-1 et al.). The Legislature shall annually appropriate such funds as may be necessary to finance the operations of the office.
(cf: P.L.2005, c.155, s.105)

21. Section 4 of P.L.2006, c.15 (C.18A:7A-57) is amended to read as follows:

4. a. The Office of the State Auditor, or the Office of the State Comptroller, in cooperation with the State Auditor, shall conduct a forensic audit of the fiscal operations of any school district which has a year-end general fund deficit and also meets one of the other criteria in subsection a. of section 2 of this act. The audit shall be

of the fiscal year in which the general fund deficit occurred and shall be in addition to the audit required of school districts pursuant to N.J.S.18A:23-1.

b. Notwithstanding the provisions of R.S.52:24-1 et seq., or any other law to the contrary, the Office of the State Auditor or the Office of the State Comptroller shall submit the audit to the commissioner, the Governor, and the Legislature. The Office of the State Auditor or the Office of the State Comptroller shall also present the audit to the district's board of education and the public at the board's next regularly scheduled monthly meeting.

c. The Office of the State Auditor or the Office of the State Comptroller shall forward any findings of fraudulent activities discovered as a result of the audit to the appropriate law enforcement agency.

d. Within 30 days of the presentation of the audit by the Office of the State Auditor or the Office of the State Comptroller to the board of education, the board shall submit to the commissioner a plan that addresses all of the findings, conclusions, and recommendations of the Office of the State Auditor or the Office of the State Comptroller which have not been previously addressed by the school district.

(cf: P.L.2006, c.15, s.4)

22. R.S.52:14-3 is amended to read as follows:

52:14-3. When such an agreement has been made between two departments, the heads thereof shall, from time to time, certify to the **[**state comptroller**]** Director of the Division of Budget and Accounting the sum or sums due from the one to the other on account of such work, and the **[**state comptroller**]** director shall thereupon cause to be paid such sum or sums to the creditor department. Payment may be by check, as other state bills are paid, or by a system of debits and credits, as the **[**state comptroller**]** director may determine. All sums so received by or credited to any department shall be added to the current appropriation made for the support of said department, to the end that its appropriation may not be depleted by reason of the work done for another department.

(cf: R.S.52:14-3)

23. R.S.52:14-4 is amended to read as follows:

52:14-4. Two or more departments may unite in co-operative work in lines germane to the duties of said departments, and the heads thereof may agree between themselves for the distribution of the expense to be incurred. The agreement may include the payment or transfer from one department to another of a lump sum, and the payment, by the department receiving the same, of all expenses incurred in such co-operative work. The **[**state comptroller**]** Director of the Division of Budget and Accounting shall, upon due notification of the agreement, make the necessary

payments, or credits and debits, from sums not otherwise under requisition by the co-operating departments.
(cf: R.S.52:14-4)

24. Section 7 of P.L.1948, c.92 (C.52:18A-7) is amended to read as follows:

7. The office of State Comptroller, also designated and referred to as "Comptroller of the Treasury," **[**is**]** as continued **[**, but such office is hereby**]** and transferred to and constituted an office within the Division of Budget and Accounting in the Department of the Treasury **[**established hereunder.**]** pursuant to the "Department of the Treasury Act of 1948, P.L.1948, c.92 (C.52:18A-1 et seq.), is abolished, **[**The**]** and the Director of the Division of Budget and Accounting **[**is hereby constituted the State Comptroller and comptroller of the treasury and, as such,**]** shall exercise the powers and perform the functions and duties concerning accounting and financial management vested in, or imposed upon, the **[**State Comptroller or**]** comptroller of the treasury, as may be established by law.
(cf: P.L.1948, c.92, s.7)

25. Section 12 of P.L.1948, c.92 (C.52:18A-12) is amended to read as follows:

12. Wherever a provision of law relating to the presentation of claims or bills for approval, the drawing of warrants, the countersigning of receipts and checks, the administration of petty cash funds, the apportionment of taxes on railroad and canal property, **[**applies**]** applied to the Comptroller, or to the State Commissioner of Taxation and Finance from July 1, 1948, the effective date of the "Department of the Treasury Act of 1948," P.L.1949, c.92 (C.52:18A-1 et seq.), until the effective date of P.L. , c. (C.)(now pending before the Legislature as this bill), such provision of law **[**shall when this act takes effect apply**]** shall be construed as having applied instead to the director of the Division of Budget and Accounting.
(cf: P.L.1948, c.92, s.12)

26. Section 13 of P.L.1948, c.92 (C.52:18A-13) is amended to read as follows:

13. The Secretary of State shall, when the offices of State Treasurer **[**and**]** or director of the Division of Budget and Accounting **[**and State Comptroller or either of them**]** shall become vacant or the officers or either of them shall no longer be authorized to act as such, respectively, give written notice forthwith to all national banks located in this State and institutions authorized by the State to carry on a banking business of such vacancy or termination of power. No bank shall thereafter pay any check or

draft of the State Treasurer, signed or countersigned by any person after his office shall become vacant or after he shall no longer be authorized to act.
(cf: P.L.1948, c.92, s.13)

27. Section 46 of P.L.1948, c.92 (C.52:18A-46) is amended to read as follows:

46. Whenever the term "State Treasurer" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the State Treasurer designated as the head of the Department of the Treasury established hereunder.

Whenever the term "State Director of the United New Jersey Railroad and Canal Company" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the State Treasurer designated as the head of the Department of the Treasury established hereunder.

Whenever the term "State Comptroller" or "Comptroller of the Treasury" occurs or any reference is made thereto in any law, contract or document, the same, from July 1, 1948, the effective date of the "Department of the Treasury Act of 1948," P.L.1949, c.92 (C.52:18A-1 et seq.), until the effective date of P.L. , c. (C.) (now pending before the Legislature as this bill), shall be deemed to mean or refer to the Director of the Division of Budget and Accounting in the Department of the Treasury established ⟦hereunder⟧ pursuant to P.L.1949, c.92 (C.52:18A-1 et seq.).

Whenever the term "Division of Purchase and Property in the State Department of Taxation and Finance" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Division of Purchase and Property in the Department of the Treasury established hereunder.

Whenever the term "Director of the Division of Purchase and Property in the State Department of Taxation and Finance" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Director of the Division of Purchase and Property in the Department of the Treasury established hereunder.

Whenever the term "Division of Local Government in the State Department of Taxation and Finance" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Division of Local Government Services in the Department of Community Affairs established hereunder.

Whenever the term "Director of the Division of Local Government in the State Department of Taxation and Finance" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the

Director of the Division of Local Government Services in the Department of Community Affairs.

Whenever the term "Local Government Board of the Division of Local Government in the State Department of Taxation and Finance" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs.

Whenever the term "Division of Taxation in the State Department of Taxation and Finance" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Division of Taxation in the Department of the Treasury established hereunder.

Whenever the term "Director of the Division of Taxation in the State Department of Taxation and Finance" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Director of the Division of Taxation in the Department of the Treasury established hereunder.

Whenever the term "New Jersey Racing Commission" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the New Jersey Racing Commission constituted the Division of the New Jersey Racing Commission established hereunder in the Department of the Treasury.

Whenever the term "State Commission of Taxation and Finance" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the State Treasurer designated as the head of the Department of the Treasury established hereunder.

(cf: P.L.1983, c.36, s.8)

28. R.S.52:19-10 is amended to read as follows:

52:19-10. The **[**state comptroller**]** State Treasurer shall:

a. Superintend the collection of the revenue;

b. Take general charge and supervision of all rights, interest and property of the state;

c. Institute and direct prosecution against delinquent officers of the revenue, and for just claims and debts due to the state; and

d. Draw all warrants on the treasurer in favor of such public officers as receive salaries from the state and for the payment of all moneys directed by law to be paid out of the treasury, and such warrants shall designate the purpose for which they are drawn.

(cf: R.S.52:19-10)

29. R.S.52:20-1 is amended to read as follows:

52:20-1. The State House Commission shall consist of the Governor, who shall be the presiding officer, the State Treasurer, and the **[**Comptroller**]** Director of the Division of Budget and

Accounting in the Department of the Treasury, or the persons upon whom shall devolve by law the powers, duties and emoluments of said offices respectively, for the time being, and 2 members of the Senate appointed by the President thereof and 2 members of the General Assembly appointed by the Speaker thereof, no more than one of either group of 2 being of the same political party. The members of the commission shall serve without pay in connection with all such duties as are prescribed in this chapter. The appointed members of the commission shall serve as members thereof for terms co-extensive with their respective terms as members of the Houses of the Legislature from which they were appointed.
(cf: P.L.1963, c.180, s.1)

30. Section 1 of P.L.1940, c.35 (C.52:22-16.1) is amended to read as follows:

1. The **[**Comptroller**]** Director of the Division of Budget and Accounting in the Department of the Treasury is hereby authorized to transfer by debit and credit, upon request in writing for that purpose by the head of any department or spending agency of the State government, monies appropriated to any such department or spending agency, to enable any such department or spending agency to pay telephone, telegraph, postage and rent charges.
(cf: P.L.1940, c.35, s.1)

31. Section 2 of P.L.1940, c.35 (C.52:22-16.2) is amended to read as follows:

2. Whenever it is necessary so to do, the **[**Comptroller**]** Director of the Division of Budget and Accounting in the Department of the Treasury is hereby authorized to transfer and make the necessary credit directly to the State House Commission.
(cf: P.L.1940, c.35, s.2)

32. R.S.52:19-2 is amended to read as follows:

52:19-2. The **[**State Comptroller**]** Director of the Division of Budget and Accounting in the Department of the Treasury, before entering upon the duties of his office, shall take an oath before one of the justices of the Supreme Court, that he will well, faithfully and impartially discharge all the duties required of him by law, and that he will not allow any claim, charge or account against the State unless satisfied that the same is justly due. Such oath shall be filed in the office of the Secretary of State.
(cf: R.S.52:19-2)

33. (New section) Whenever the term "State Comptroller" or "Comptroller of the Treasury" occurs or any reference is made thereto, in any law enacted, or in any contract or document executed, before the effective date of this P.L. , c. (C.) (pending before the Legislature as this bill), the same shall be

deemed to mean or refer to the Director of the Division of Budget and Accounting in the Department of the Treasury.

34. This act shall take effect on the first day of the sixth month following enactment.