

SENATE BILL NO. 2220
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 2220 (First Reprint) with my recommendations for reconsideration.

This bill addresses the payment to public employees of so-called "supplemental compensation" for unused sick days at the time of retirement, as well as the accumulation of vacation leave and the undocumented use of sick leave during the twelve months prior to a public employee's retirement.

I start with this simple, common sense proposition: sick leave is to be used when you are sick, not as a supplemental retirement fund paid for by the taxpayers for people who already have taxpayer funded pensions. While I recognize the sponsors' efforts to address public employee benefits, this bill does not sufficiently remedy the gaps in current law that require taxpayers to continually fund unreasonable payouts to public employees. Moreover, I believe the safeguards established in the bill to ensure that sick leave is used only for legitimate health absences should be expanded to apply to all public employees. I am, therefore, recommending a number of common sense changes to strengthen the bill's provisions and provide greater relief to New Jersey taxpayers.

As currently drafted, the bill would establish a \$15,000 cap on payments for accumulated unused sick leave to current and future officers and employees of local governments and school districts. I supported this type of reform when I signed legislation earlier this year establishing a \$15,000 cap on supplemental compensation payments for unused sick leave to newly hired local and school employees. State employees have

been subject to a cap on such "supplemental compensation" for years, and this bill would close the current loopholes so that all local government and school district employees are subject to the same cap.

But truly reforming the current practice of paying unlimited "supplemental compensation" requires that we go further than this legislation does in its current form. Whatever rationale once justified paying public employees cash for unused sick days at retirement, the time has come for the practice to end. Sick days provide time off for employees who are sick, and do not represent an additional form of compensation for employees who are fortunate enough to remain healthy. These cash payouts can be substantial and oftentimes overwhelm municipal budgets. Indeed, a number of municipalities have resorted to issuing bonds in order to pay "supplemental compensation" to retiring public employees.

Accordingly, I recommend that the practice of distributing cash payouts for unused sick leave be phased out by prohibiting supplemental compensation for sick days that accumulate after the effective date of the act. The law should apply equally to State employees and those employed by local governments and school districts. Employees will still be able to accumulate sick days, but those days could be used only for a proper medical purpose, not as a retirement benefit. Further, to assist in reducing supplemental compensation payouts, the bill should provide that any sick leave accrued prior to the effective date of the act must be used before sick leave accrued after.

The bill would also impose limits on the use of sick leave by a State, local government, or school district employee. In its current form, the bill would prohibit the use of six or more

consecutive days of accumulated sick leave without medical necessity verified in writing by a physician. To enforce this requirement, the bill would allow an employer to require the officer or employee to submit to an examination by a physician selected by the employer to verify the claimed medical necessity. Critically, however, the bill only would impose these limitations on employees hired after its effective date, and then only in the twelve months before the employee's retirement.

While I believe the limitations proposed by the bill are arguably reasonable to insure that sick leave abuse is not encouraged, there is no sensible reason why these requirements should not also apply to current employees. Similarly, in light of the potential for frivolous claims of sick leave to occur at any time during an employee's service, it makes no sense to limit the bill's provisions to the twelve months prior to retirement; rather, the bill should apply to the entirety of a public employee's tenure.

The bill also addresses unused vacation leave, allowing all public employees to carry forward one year of unused time after the effective date. While it is reasonable to allow this limited one year carryover, the bill should provide that vacation leave accrued prior to the effective date of the act must be used before newly accrued vacation time.

Finally, it is essential that the bill address the issue of supplemental compensation for employees who have, or may have, abused the public trust. Recently, a school district employee retired while under indictment for corruption related to his position and press accounts indicate that he will be paid for his unused leave. To avoid such an inequitable result, my recommendations would require the payment of compensation be

suspended for an employee under indictment for a crime that involves or touches his or her office. If convicted of that crime, any supplemental compensation would be forfeited.

Accordingly, I herewith return Senate Bill No. 2220 (First Reprint) and recommend that it be amended as follows:

- Page 2, Title, Lines 2-3: Delete "P.L.2010, c.3
[,N.J.S.40A:4-53,]¹ and
N.J.S.11A:6-5,"
- Page 2, Title, Line 4: Delete "Titles 18A and
40A of the New Jersey
Statutes" and insert
"various parts of the
statutory law"
- Page 2, Section 1, Line 11: After "3." insert "a."
- Page 2, Section 1, Lines 13-14: Delete "for accumulated
unused sick leave in an
amount in excess of
\$15,000" and insert "for
unused sick leave
accumulated after the
effective date of P.L
c. (pending before
the Legislature as this
bill) or after the
expiration of a
collective negotiations
agreement or contract of
employment applicable to
that officer or employee
in effect on that date"
- Page 2, Section 1, Line 29: Delete ", upon
retirement,"
- Page 2, Section 1, Line 30: Delete "for any unused
leave not more than"
- Page 2, Section 1, Line 31: Delete "or not more than
\$15,000, whichever is
greater." and insert ";
provided, however that
any sick leave
accumulated prior to the
effective date of P.L
c. (pending before
the Legislature as this
bill) or before the
expiration of a
collective negotiations
agreement or contract of
employment applicable to
that officer or employee
in effect on that date
shall be used before
sick leave accrued after
the effective date of
P.L c. (pending
before the Legislature
as this bill) or after

the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date.

b. (1) Payment of supplemental compensation for accumulated unused sick leave shall be suspended if an officer or employee has been indicted for a crime that involves or touches such office or employment as defined in section 6 of P.L.2007, c.49 (C.2C:43-6.5).

(2) Supplemental compensation for accumulated unused sick leave shall be forfeited if an officer or employee is convicted of a crime that subjects the officer or employee to the provisions of section 6 of P.L.2007, c.49, or for a substantially similar offense under the laws of another state or the United States which would have been such a crime under the laws of this State."

Page 2, Section 2, Line 36:

After "5." insert "a."

Page 3, Section 2, Line 12:

After "vacation leave" insert "; provided, however that any vacation leave accumulated prior to the effective date of P.L. c. (pending before the Legislature as this bill) or before the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date shall be used before vacation leave accrued after the effective date of P.L. c. (pending before the Legislature as this bill) or after the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date.

b. (1) Payment of supplemental compensation to any officer or employee for accumulated unused vacation leave shall be suspended if an officer or employee has been indicted for a crime that involves or touches such office or employment as defined in section 6 of P.L.2007, c.49 (C.2C:43-6.5).

(2) Supplemental compensation for accumulated unused vacation leave shall be forfeited if an officer or employee is convicted of a crime that subjects the officer or employee to the provisions of section 6 of P.L.2007, c.49, or for a substantially similar offense under the laws of another state or the United States which would have been such a crime under the laws of this State"

Page 3, Section 3, Line 17:

After "2." Insert "a."

Page 3, Section 3, Lines 21-22:

Delete "accumulated unused sick leave in an amount in excess of \$15,000" and insert "unused sick leave accumulated after the effective date of P.L c. (pending before the Legislature as this bill) or after the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date"

Page 3, Section 3, Line 37:

Delete ", upon retirement"

Page 3, Section 3, Line 38:

Delete "for any unused leave not more than"

Page 3, Section 3, Line 39:

Delete "or not more than \$15,000, whichever is greater." and insert "provided, however that any sick leave accumulated prior to the effective date of P.L c. (pending before the Legislature as this bill) or before the

expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date shall be used before sick leave accrued after the effective date of P.L. c. (pending before the Legislature as this bill) or after the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date.

b. (1) Payment of supplemental compensation for accumulated unused sick leave shall be suspended if an officer or employee has been indicted for a crime that involves or touches such office or employment as defined in section 6 of P.L.2007, c.49 (C.2C:43-6.5).

(2) Supplemental compensation for accumulated unused sick leave shall be forfeited if an officer or employee is convicted of a crime that subjects the officer or employee to the provisions of section 6 of P.L.2007, c.49, or for a substantially similar offense under the laws of another state or the United States which would have been such a crime under the laws of this State."

Page 3, Section 4, Line 44:

After "4." insert "a."

Page 4, Section 4, Line 18:

After "vacation leave" insert "; provided, however that any vacation leave accumulated prior to the effective date of P.L. c. (pending before the Legislature as this bill) or before the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date shall be used before vacation leave accrued

after the effective date of P.L. c. (pending before the Legislature as this bill) or after the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date.

b. (1) Payment of supplemental compensation to any officer or employee for accumulated unused vacation leave shall be suspended if an officer or employee has been indicted for a crime that involves or touches such office or employment as defined in section 6 of P.L.2007, c.49 (C.2C:43-6.5).

(2) Supplemental compensation for accumulated unused vacation leave shall be forfeited if an officer or employee is convicted of a crime that subjects the officer or employee to the provisions of section 6 of P.L.2007, c.49, or for a substantially similar offense under the laws of another state or the United States which would have been such a crime under the laws of this State"

Page 4, Line 20:

Insert new sections 5 through 9:

5. Section 42 of P.L.2007, c.92 (C.11:6-19.1) is amended to read as follows:

42. a. Notwithstanding any law, rule or regulation to the contrary, a political subdivision of the State, or an agency, authority or instrumentality thereof, that has adopted the provisions of Title 11A of the New Jersey Statutes, shall not pay supplemental compensation to any officer or employee for [accumulated unused sick leave in an amount in excess of \$15,000] unused sick leave accumulated after the

effective date of P.L
c. (pending before
the Legislature as this
bill) or after the
expiration of a
collective negotiations
agreement or contract of
employment applicable to
that officer or employee
in effect on that date,
 except that an officer
 or employee who: (1) on
 the effective date of
 P.L.2007, c.92
 (C.43:15C-1 et al.), or
 upon the expiration of a
 collective negotiations
 agreement or contract of
 employment applicable to
 that officer or employee
 in effect on that date
 has accrued supplemental
 compensation based upon
 accumulated unused sick
 leave shall, upon
 retirement, be eligible
 to receive for any
 unused leave not more
 than the amount so
 accumulated or not more
 than \$15,000, whichever
 is greater; or (2)
 becomes an officer or
 employee after the
 effective date of
 P.L.2007, c.92
 (C.43:15C-1 et al.) and
 has previously accrued
 supplemental
 compensation based upon
 accumulated unused sick
 leave shall, upon
 retirement, be eligible
 to receive for any
 unused leave not more
 than the amount so
 previously accumulated
 or not more than
 \$15,000, whichever is
 greater. Supplemental
 compensation shall be
 payable only at the time
 of retirement from a
 State-administered or
 locally-administered
 retirement system based
 on the leave credited on
 the date of retirement;
provided, however that
any sick leave
accumulated prior to the
effective date of P.L
c. (pending before
the Legislature as this
bill) or before the
expiration of a
collective negotiations
agreement or contract of
employment applicable to

that officer or employee in effect on that date shall be used before sick leave accrued after the effective date of P.L. c. (pending before the Legislature as this bill) or after the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date.

As used in this section, "officer or employee" means an elected official; or a person appointed by the Governor with the advice and consent of the Senate, or appointed by the Governor to serve at the pleasure of the Governor only during his or her term of office; or a person appointed by an elected public official or elected governing body of a political subdivision of the State, with the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted ordinance or resolution, pursuant to guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs, but not including a person who is employed or appointed in the regular or normal course of employment or appointment procedures and consented to or approved in a general or routine manner appropriate for and followed by the political subdivision, or the agency, authority or instrumentality of a subdivision, or a person who holds a professional

license or certificate to perform and is performing as a certified health officer, tax assessor, tax collector, municipal planner, chief financial officer, registered municipal clerk, construction code official, licensed uniform subcode inspector, qualified purchasing agent, or certified public works manager.

b. (1) Payment of supplemental compensation for accumulated unused sick leave shall be suspended if an officer or employee has been indicted for a crime that involves or touches such office or employment as defined in section 6 of P.L.2007, c.49 (C.2C:43-6.5).

(2) Supplemental compensation for accumulated unused sick leave shall be forfeited if an officer or employee is convicted of a crime that subjects the officer or employee to the provisions of section 6 of P.L.2007, c.49, or for a substantially similar offense under the laws of another state or the United States which would have been such a crime under the laws of this State.

(cf: P. L.2007, c.92, s.42)

6. Section 43 of P.L.2007, c.92 (C.40A:9-10.2) is amended to read as follows:

43. a. Notwithstanding any law, rule or regulation to the contrary, a political subdivision of the State, or an agency, authority or instrumentality thereof, that has not adopted the provisions of Title 11A of the New Jersey Statutes, shall not pay supplemental compensation to any officer or employee [for

accumulated unused sick leave in an amount in excess of \$15,000] for unused sick leave accumulated after the effective date of P.L. c. (pending before the Legislature as this bill) or after the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date, except that an officer or employee who: (1) on the effective date of P.L.2007, c.92 (C.43:15C-1 et al.), or upon the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date has accrued supplemental compensation based upon accumulated unused sick leave shall, upon retirement, be eligible to receive for any unused leave not more than the amount so accumulated or not more than \$15,000, whichever is greater; or (2) becomes an officer or employee after the effective date of P.L.2007, c.92 (C.43:15C-1 et al.) and has previously accrued supplemental compensation based upon accumulated unused sick leave shall, upon retirement, be eligible to receive for any unused leave not more than the amount so previously accumulated or not more than \$15,000, whichever is greater.

Supplemental compensation shall be payable only at the time of retirement from a State-administered or locally-administered retirement system based on the leave credited on the date of retirement; provided, however that any sick leave accumulated prior to the effective date of P.L. c. (pending before

the Legislature as this bill) or before the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date shall be used before sick leave accrued after the effective date of P.L. c. (pending before the Legislature as this bill) or after the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date.

As used in this section, "officer or employee" means an elected official; or a person appointed by the Governor with the advice and consent of the Senate, or appointed by the Governor to serve at the pleasure of the Governor only during his or her term of office; or a person appointed by an elected public official or elected governing body of a political subdivision of the State, with the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted ordinance or resolution, pursuant to guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs, but not including a person who is employed or appointed in the regular or normal course of employment or appointment procedures and consented to or approved in a general or routine manner appropriate for and

followed by the political subdivision, or the agency, authority or instrumentality of a subdivision, or a person who holds a professional license or certificate to perform and is performing as a certified health officer, tax assessor, tax collector, municipal planner, chief financial officer, registered municipal clerk, construction code official, licensed uniform subcode inspector, qualified purchasing agent, or certified public works manager.

b. (1) Payment of supplemental compensation for accumulated unused sick leave shall be suspended if an officer or employee has been indicted for a crime that involves or touches such office or employment as defined in section 6 of P.L.2007, c.49 (C.2C:43-6.5).

(2) Supplemental compensation for accumulated unused sick leave shall be forfeited if an officer or employee is convicted of a crime that subjects the officer or employee to the provisions of section 6 of P.L.2007, c.49, or for a substantially similar offense under the laws of another state or the United States which would have been such a crime under the laws of this State.

(cf: P.L.2007, c.92, s.43.)

7. Section 44 of P.L.2007, c.92 (C.18A:30-3.5) is amended to read as follows:

44. a. Notwithstanding any law, rule or regulation to the contrary, a board of education, or an agency or instrumentality thereof, shall not pay supplemental

compensation to any officer or employee for [accumulated unused sick leave in an amount in excess of \$15,000] unused sick leave accumulated after the effective date of P.L. c. (pending before the Legislature as this bill) or after the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date, except that an officer or employee who:

(1) on the effective date of P.L.2007, c.92 (C.43:15C-1 et al.), or upon the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date has accrued supplemental compensation based upon accumulated unused sick leave shall, upon retirement, be eligible to receive for any unused leave not more than the amount so accumulated or not more than \$15,000, whichever is greater; or

(2) becomes an officer or employee after the effective date of P.L.2007, c.92 (C.43:15C-1 et al.) and has previously accrued supplemental compensation based upon accumulated unused sick leave shall, upon retirement, be eligible to receive for any unused leave not more than the amount so previously accumulated or not more than \$15,000, whichever is greater.

Supplemental compensation shall be payable only at the time of retirement from a State-administered or locally-administered retirement system based on the leave credited on the date of retirement; provided, however that any sick leave accumulated prior to the

effective date of P.L. c. (pending before the Legislature as this bill) or before the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date shall be used before sick leave accrued after the effective date of P.L. c. (pending before the Legislature as this bill) or after the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date.

As used in this section, "officer or employee" means an elected official; or a person appointed by the Governor with the advice and consent of the Senate, or appointed by the Governor to serve at the pleasure of the Governor only during his or her term of office; or a person appointed by an elected public official or elected governing body of the political subdivision, with the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted resolution, pursuant to guidelines or policy that shall be established by the Department of Education, but not including a person who is employed or appointed in the regular or normal course of employment or appointment procedures and consented to or approved in a general or routine manner appropriate for and followed by the

political subdivision,
or the agency or
instrumentality thereof.

b. (1) Payment of
supplemental
compensation for
accumulated unused sick
leave shall be suspended
if an officer or
employee has been
indicted for a crime
that involves or touches
such office or
employment as defined in
section 6 of P.L.2007,
c.49 (C.2C:43-6.5).

(2) Supplemental
compensation for
accumulated unused sick
leave shall be forfeited
if an officer or
employee is convicted of
a crime that subjects
the officer or employee
to the provisions of
section 6 of P.L.2007,
c.49, or for a
substantially similar
offense under the laws
of another state or the
United States which
would have been such a
crime under the laws of
this State.

(cf: P.L.2007, c.92,
s.44)

8. Section 45 of
P.L.2007, c.92 (C.40A:9-
10.3) is amended to read
as follows:

45. a. Notwithstanding
any law or any rule or
regulation to the
contrary, an officer or
employee of a political
subdivision of the
State, or an agency,
authority, or
instrumentality of a
subdivision, that has
not adopted the
provisions of Title 11A,
Civil Service, of the
New Jersey Statutes, who
does not take vacation
leave that accrues on or
after the effective date
of P.L.2007, c.92
(C.43:15C-1 et al.), or
on or after the date on
which the person becomes
an officer or employee,
in a given year because
of business demands
shall be granted that
accrued leave only
during the next
succeeding year.

However, vacation leave not taken in a given year because of duties directly related to a state of emergency declared by the Governor may accumulate at the discretion of the appointing authority until, pursuant to a plan established by the officer or employee's appointing authority, the leave is used or the employee or officer is compensated for that leave, which shall not be subject to collective negotiation or collective bargaining.

A person who (1) is an officer or employee on the effective date of P.L.2007, c.92 (C.43:15C-1 et al.), or (2) becomes an officer or employee after that effective date, and has previously accrued vacation leave shall be eligible and shall be permitted to retain and use that accrued vacation leave; provided, however that any vacation leave accumulated prior to the effective date of P.L. c. (pending before the Legislature as this bill) or before the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date shall be used before vacation leave accrued after the effective date of P.L. c. (pending before the Legislature as this bill) or after the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date.

As used in this section, "officer or employee" means an elected official; or a person appointed by the Governor with the advice and consent of the Senate, or appointed by the Governor to serve at the pleasure of the

Governor only during his or her term of office; or a person appointed by an elected public official or elected governing body of a political subdivision of the State, with the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted ordinance or resolution, pursuant to guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs, but not including a person who is employed or appointed in the regular or normal course of employment or appointment procedures and consented to or approved in a general or routine manner appropriate for and followed by the political subdivision, or the agency, authority or instrumentality of a subdivision, or a person who holds a professional license or certificate to perform and is performing as a certified health officer, tax assessor, tax collector, municipal planner, chief financial officer, registered municipal clerk, construction code official, licensed uniform subcode inspector, qualified purchasing agent, or certified public works manager.

b. (1) Payment of supplemental compensation to any officer or employee for accumulated unused vacation leave shall be suspended if an officer or employee has been

indicted for a crime that involves or touches such office or employment as defined in section 6 of P.L.2007, c.49 (C.2C:43-6.5).

(2) Supplemental compensation for accumulated unused vacation leave shall be forfeited if an officer or employee is convicted of a crime that subjects the officer or employee to the provisions of section 6 of P.L.2007, c.49, or for a substantially similar offense under the laws of another state or the United States which would have been such a crime under the laws of this State.

(cf: P.L.2007, c.92, s.45)

9. Section 46 of P.L.2007, c.92 (C.18A:30-9) is amended to read as follows:

46. a. Notwithstanding any law, rule or regulation to the contrary, an officer or employee of a board of education, or an agency or instrumentality thereof, who does not take vacation leave that accrues on or after the effective date of P.L.2007, c.92 (C.43:15C-1 et al.), or on or after the date on which the person becomes an officer or employee, in a given year because of business demands shall be granted that accrued leave only during the next succeeding year.

However, vacation leave not taken in a given year because of duties directly related to a state of emergency declared by the Governor may accumulate at the discretion of the appointing authority until, pursuant to a plan established by the officer or employee's appointing authority, the leave is used or the employee or officer is compensated for that

leave, which shall not be subject to collective negotiation or collective bargaining.

A person who (1) is an officer or employee on the effective date of P.L.2007, c.92 (C.43:15C-1 et al.), or (2) becomes an officer or employee after that effective date, and has previously accrued vacation leave shall be eligible and shall be permitted to retain and use that accrued vacation leave; provided, however that any vacation leave accumulated prior to the effective date of P.L. c. (pending before the Legislature as this bill) or before the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date shall be used before vacation leave accrued after the effective date of P.L. c. (pending before the Legislature as this bill) or after the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date.

As used in this section, "officer or employee" means an elected official; or a person appointed by the Governor with the advice and consent of the Senate, or appointed by the Governor to serve at the pleasure of the Governor only during his or her term of office; or a person appointed by an elected public official or elected governing body of the political subdivision, with the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the

Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted resolution, pursuant to guidelines or policy that shall be established by the Department of Education, but not including a person who is employed or appointed in the regular or normal course of employment or appointment procedures and consented to or approved in a general or routine manner appropriate for and followed by the political subdivision, or the agency or instrumentality thereof.

b. (1) Payment of supplemental compensation to any officer or employee for accumulated unused vacation leave shall be suspended if an officer or employee has been indicted for a crime that involves or touches such office or employment as defined in section 6 of P.L.2007, c.49 (C.2C:43-6.5).

(2) Supplemental compensation for accumulated unused vacation leave shall be forfeited if an officer or employee is convicted of a crime that subjects the officer or employee to the provisions of section 6 of P.L.2007, c.49, or for a substantially similar offense under the laws of another state or the United States which would have been such a crime under the laws of this State.

(cf: P.L.2007, c.92, s.46)"

Page 4, Section 5, Line 21:

Delete "5." Insert "10."

Page 4, Section 5, Line 23:

After "1." Insert "a."

Page 4, Section 5, Lines 27-28:

Delete "accumulated unused sick leave in an amount in excess of \$15,000" and insert "sick leave accumulated after the effective date"

of P.L. c. (pending before the Legislature as this bill) or after the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date"

Page 4, Section 5, Line 43:

Delete ", upon retirement,"

Page 4, Section 5, Line 44:

Delete "for any unused leave not more than the amount"

Page 4, Section 5, Line 45:

Delete "or not more than \$15,000, whichever is greater." and insert "; provided, however that any sick leave accumulated prior to the effective date of P.L. c. (pending before the Legislature as this bill) or before the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date shall be used before sick leave accrued after the effective date of P.L. c. (pending before the Legislature as this bill) or after the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date.

b. (1) Payment of supplemental compensation for accumulated unused sick leave shall be suspended if an officer or employee has been indicted for a crime that involves or touches such office or employment as defined in section 6 of P.L.2007, c.49 (C.2C:43-6.5).

(2) Supplemental compensation for accumulated unused sick leave shall be forfeited if an officer or employee is convicted of a crime that subjects the officer or employee to the provisions of section 6 of P.L.2007, c.49, or for a

substantially similar offense under the laws of another state or the United States which would have been such a crime under the laws of this State."

Page 4, Line 47:

Insert new sections 11 - 13:

"11. N.J.S.11A:6-16 is amended to read as follows:

11A:6-16. a. Supplemental compensation upon retirement in State employment. No supplemental compensation upon retirement shall be paid to any officer or employee for unused sick days accumulated after the effective date of P.L. c. (pending before the Legislature as this bill) or after the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date.

b. State employees in the career service, and those in the senior executive and unclassified services who have been granted sick leave under terms and conditions similar to career service employees, shall be entitled upon retirement from a State-administered retirement system to receive a lump sum payment as supplemental compensation as calculated pursuant to N.J.S. 11A:19-6 for each full day of [accumulated sick leave which is credited on the effective date of retirement] unused accumulated sick leave credited on the effective date of P.L.2010, c. (pending before the Legislature as this bill); provided, however that any sick leave accumulated prior to the effective date of P.L. c. (pending before the Legislature

as this bill) or before the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date shall be used before sick leave accrued after the effective date of P.L. c. (pending before the Legislature as this bill) or after the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date.

c. (1) Payment of supplemental compensation for accumulated unused sick leave shall be suspended if an officer or employee has been indicted for a crime that involves or touches such office or employment as defined in section 6 of P.L.2007, c.49 (C.2C:43-6.5).

(2) Supplemental compensation for accumulated unused sick leave shall be forfeited if an officer or employee is convicted of a crime that subjects the officer or employee to the provisions of section 6 of P.L.2007, c.49, or for a substantially similar offense under the laws of another state or the United States which would have been such a crime under the laws of this State.

(cf: N.J.S.11A:6-16)

12. Section 6 of P.L.2007, c.49 (C.2C:42-6.5) is amended to read as follows:

6. a. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6 and except as otherwise provided in subsection c. of this section, a person who serves or has served as a public officer or employee under the government of this State, or any political subdivision

thereof, who is convicted of a crime that involves or touches such office or employment as set forth in subsection b. of this section, shall be sentenced to a mandatory minimum term of imprisonment without eligibility for parole as follows: for a crime of the fourth degree, the mandatory minimum term shall be one year; for a crime of the third degree, two years; for a crime of the second degree, five years; and for a crime of the first degree, 10 years; unless the provisions of any other law provide for a higher mandatory minimum term. As used in this subsection, "a crime that involves or touches such office or employment" means that the crime was related directly to the person's performance in, or circumstances flowing from, the specific public office or employment held by the person.

b. Subsection a. of this section applies to a conviction of any of the following crimes:

- (1) Paragraph (4) of subsection a. of N.J.S.2C:13-5, criminal coercion;
- (2) N.J.S.2C:20-4, theft by deception, if the amount involved exceeds \$10,000;
- (3) Subsection d. of N.J.S.2C:20-5, theft by extortion;
- (4) N.J.S.2C:20-9, theft by failure to make required disposition of property received, if the amount involved exceeds \$10,000;
- (5) N.J.S.2C:21-10, commercial bribery;
- (6) Section 3 of P.L.1994, c.121 (C.2C:21-25), money laundering;
- (7) Section 97 of P.L.1999, c.440 (C.2C:21-34), false contract payment claims;

(8) N.J.S.2C:27-2,
bribery in official
matters;

(9) N.J.S.2C:27-3,
threats and other
improper influence in
official and political
matters;

(10) Section 100 of
P.L.1999, c.440
(C.2C:27-9), unlawful
official business
transaction where
interest is involved;

(11) Section 5 of
P.L.2003, c.255
(C.2C:27-10), acceptance
or receipt of unlawful
benefit by public
servant for official
behavior;

(12) Section 6 of
P.L.2003, c.255
(C.2C:27-11), offer of
unlawful benefit to
public servant for
official behavior;

(13) N.J.S.2C:28-1,
perjury;

(14) N.J.S.2C:28-5,
tampering with
witnesses;

(15) N.J.S.2C:28-7,
tampering with public
records or information;

(16) N.J.S.2C:29-4,
compounding;

(17) N.J.S.2C:30-2,
official misconduct;

(18) N.J.S.2C:30-3,
speculating or wagering
on official action or
information; or

(19) Section 3 of
P.L.2003, c.31 (C.2C:30-
7), pattern of official
misconduct.

c. (1) On motion by the
prosecutor stating that
the defendant has
provided substantial
assistance in a criminal
investigation or
prosecution of another
person, the court may
waive or reduce the
mandatory minimum term
of imprisonment required
by subsection a. of this
section. The appropriate
waiver or reduction
shall be determined by
the court for reasons
stated that may include,
but are not limited to,
consideration of the
following:

(i) the court's
evaluation of the

significance and usefulness of the defendant's assistance, giving substantial weight to the prosecutor's evaluation of the assistance rendered;

(ii) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant;

(iii) the nature and extent of the defendant's assistance;

(iv) any injury suffered, or any danger or risk of injury to the defendant or his family resulting from his assistance;

(v) the timeliness of the defendant's assistance.

In making such a determination, the court shall give substantial weight to the prosecutor's evaluation of the extent of the defendant's assistance, particularly where the extent and value of the assistance are difficult to ascertain.

(2) If the court finds by clear and convincing evidence that extraordinary circumstances exist such that imposition of a mandatory minimum term would be a serious injustice which overrides the need to deter such conduct in others, the court may waive or reduce the mandatory minimum term of imprisonment required by subsection a. of this section. In making any such finding, the court must state with specificity its reasons for waiving or reducing the mandatory minimum sentence that would otherwise apply.

(3) If, pursuant to paragraph (1) or (2) of this subsection, the court waives or reduces the mandatory minimum term required by subsection a. of this section, such sentence

shall not become final for 10 days in order to permit the appeal of the sentence by the prosecution.

d. (1) A prosecutor shall not recommend the admission into or consent to the referral to a pretrial intervention program of a person who serves or has served as a public officer or employee under the government of this State, or any political subdivision thereof, who is charged with a crime that involves or touches such office or employment as set forth in subsection b. of this section, without the prior approval of the Attorney General.

(2) A person who serves or has served as a public officer or employee under the government of this State, or any political subdivision thereof, who is convicted of a crime that involves or touches such office or employment as set forth in subsection b. of this section shall be ineligible for participation in any program of intensive supervision during any period of parole ineligibility.

e. The Attorney General shall develop guidelines to ensure the uniform exercise of discretion in making determinations regarding the waiver or reduction of a mandatory minimum term of imprisonment pursuant to paragraph (1) of subsection c. of this section and participation in a pretrial intervention program pursuant to paragraph (1) of subsection d. of this section.

f. The Attorney General shall develop guidelines or establish a procedure designed to provide a State agency as defined in section 2 of

P.L.1971, c.182
(C.52:13D-13), a local
government agency as
defined in section 3 of
P.L.1991, c.29 (C.40A:9-
22.3), a school district
as defined in section 3
P.L.1991, c.393
(C.18A:12-23) or other
public employer, as
appropriate, with notice
of any indictment or
conviction of any active
or former officer or
employee of such entity
for a crime that
involves or touches such
office or employment as
set forth in subsection
b. of this section that
will subject the officer
or employee to
sentencing under the
provisions of this
section.
(cf: P.L.2007, c.49,
s.6)

13. (New Section) a.
The provisions of
P.L.2007, c.92,
P.L.2010, c. 3 and
N.J.S.11A:6-16 as
amended by P.L. c.
(pending before the
Legislature as this
bill) regarding the
suspension of payment of
supplemental
compensation for unused
sick or vacation leave
to an officer or
employee who has been
indicted for a crime
that involves or touches
such office or
employment as defined in
section 6 of P.L.2007, .
c.49 (C. 2C:43-6.5)
shall be prospective in
application for any
crime or offense
committed after the
effective date of P.L.
c. (pending before the
Legislature as this
bill).
b. The provisions of
P.L.2007, c.92,
P.L.2010, c. 3 and
N.J.S.11A:6-16 as
amended by P.L. c.
(pending before the
Legislature as this
bill) providing for the
forfeiture of
supplemental
compensation for unused
sick or vacation leave

of an officer or employee who has been convicted of a crime that involves or touches such office or employment as defined in section 6 of P.L.2007, c.49 (C.2C:43-6.5) shall be prospective in application for any crime or offense committed after the effective date of P.L. c. (pending before the Legislature as this bill)."

Page 5, Section 6, Line 29:

Delete "6." And insert "14."

Page 5, Section 6, Lines 38-42:

Delete "in the twelve months prior to retirement by an employee who commences employment with the State or a political subdivision on or after the effective date of P.L. , c. (pending before the Legislature as this bill) in anticipation of that retirement"

Page 5, Section 6, Lines 48-49:

Delete "The employer shall (1) impose a fine and issue a reprimand against the employee found to be in violation of this"

Page 6, Section 6, Lines 1-8:

Delete in their entirety and insert "For the first violation of this subsection, the employer shall treat the time taken as unpaid leave and impose a minimum disciplinary penalty of a fine in an amount equivalent to one and one-half times the daily rate of compensation for each day of violation. For the second violation of this subsection, in addition to treating the time taken as unpaid leave, the employer shall impose a minimum disciplinary penalty of a fine in an amount equivalent to three times the daily rate of compensation for each day of violation. For the third violation of this subsection, in addition to treating the

time taken as unpaid leave, the employer shall have good cause for termination of the employee. The minimum penalties set forth for the first and second violations may be increased at the discretion of the employer based upon the prior record of the employee. The time converted to unpaid leave under this subsection shall also be deducted from the number of unused accumulated sick leave days credited on the effective date of retirement upon which supplemental compensation, if any, for the employee at the time of retirement is calculated."

Page 6, Section 7, Line 11:

Delete "7." And insert "15."

Page 6, Section 7, Line 27:

Delete "The"

Page 6, Section 7, Lines 28-37:

Delete in their entirety and insert "For the first violation of this subsection, the employer shall treat the time taken as unpaid leave and impose a minimum disciplinary penalty of a fine in an amount equivalent to one and one-half times the daily rate of compensation for each day of violation. For the second violation of this subsection, in addition to treating the time taken as unpaid leave, the employer shall impose a minimum disciplinary penalty of a fine in an amount equivalent to three times the daily rate of compensation for each day of violation. For the third violation of this subsection, in addition to treating the time taken as unpaid leave, the employer shall have good cause for termination of the employee. The minimum penalties set forth for the first and second violations may be increased at the

discretion of the employer based upon the prior record of the employee. The time converted to unpaid leave under this subsection shall also be deducted from the number of unused accumulated sick leave days credited on the effective date of retirement upon which supplemental compensation, if any, for the employee at the time of retirement is calculated."

Page 6, Section 8, Line 39:

Delete "8." And insert "16."

Page 7, Section 8, Line 5:

Delete "The employer shall (1) impose a fine and issue a"

Page 7, Section 8, Lines 6-15:

Delete in their entirety and insert "For the first violation of this subsection, the employer shall treat the time taken as unpaid leave and impose a minimum disciplinary penalty of a fine in an amount equivalent to one and one-half times the daily rate of compensation for each day of violation. For the second violation of this subsection, in addition to treating the time taken as unpaid leave, the employer shall impose a minimum disciplinary penalty of a fine in an amount equivalent to three times the daily rate of compensation for each day of violation. For the third violation of this subsection, in addition to treating the time taken as unpaid leave, the employer shall have good cause for termination of the employee. The minimum penalties set forth for the first and second violations may be increased at the discretion of the employer based upon the prior record of the employee. The time converted to unpaid leave under this subsection shall also be

deducted from the number of unused accumulated sick leave days credited on the effective date of retirement upon which supplemental compensation, if any, for the employee at the time of retirement is calculated. No monetary penalty imposed under this section shall be construed to be a reduction in compensation under applicable employee tenure laws."

Page 7, Section 9, Lines 17-22:

Delete in their entirety.

Page 7, Section 10, Line 24:

Delete "10." and insert "17."; delete "immediately" and insert "on the first day of the third month following enactment"

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attest:

/s/ Jeffrey S. Chiesa

Chief Counsel to the Governor