WHEREAS, The problem of drug abuse is adversely affecting the lives and safety of our citizens; and

WHEREAS, The abuse of drugs in the workplace, among other things, reduces job efficiency, increases absenteeism and sick leave, and, most importantly, jeopardizes the lives and safety of fellow employees and citizens; and

WHEREAS, The State of New Jersey has a vital interest in promoting a safe and drug-free workplace and in ensuring our citizens that public safety employees do not threaten life and limb due to the abuse of drugs; and

WHEREAS, The Federal Drug-Free Workplace Act of 1988, Public Law 100-690, Title V, Subtitle D, conditions receipt of federal grant funds upon the grantee’s agreement to provide a drug-free workplace; and

WHEREAS, The Federal Drug-Free Workplace Act requires a grantee to prohibit the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, to specify actions that may be taken against employees who violate the prohibition, to establish a drug-free awareness program for employees, and to require employees and employers to give notice of any conviction for a drug offense committed in the workplace; and

WHEREAS, The citizens of this State greatly benefit from the State government’s participation in federally-funded programs;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The following “Policy for a Drug-Free Workplace in New Jersey State Government” shall apply to all principal executive departments in New Jersey State Government, the Office of the Governor, and all agencies that are in, but not of, principal executive departments.

This Policy establishes minimum standards for the imposition of discipline and for participation in drug abuse treatment programs in the limited context of convictions for drug offenses committed in the workplace. Nothing in this Policy precludes the application of other more comprehensive or more stringent provisions governing
drug offenses committed by State employees. In fact, the Cabinet Task Force on Drug Testing in the Workplace, which was created in Executive Order No. 191, will formulate a more comprehensive State policy regarding drug abuse and the workplace in the near future.

2. The State of New Jersey is committed to maintaining a drug-free workplace for all State employees in order to protect the health and safety of State employees and the public.

3. The unlawful manufacture, distribution, dispensation, possession or use of a drug in the workplace is prohibited.

4. In addition to any other applicable civil or criminal penalty, any employee convicted of illegal manufacture, distribution, dispensation, possession or use of a drug in the workplace shall be subject to the following consequences:

   a. The State Forfeiture of Public Office statute (N.J.S.2C:51-2) requires forfeiture of public office or employment upon conviction of a crime of the third degree or higher. All convictions of crimes of the third degree or higher listed in the Comprehensive Drug Enforcement Act of 1987, and all convictions for equivalent federal and out-of-State drug offenses, require forfeiture of public office or employment.

   b. The Forfeiture of Public Office statute also requires forfeiture of public office or employment upon conviction for an offense involving dishonesty or upon conviction for an offense involving or touching upon the convicted person's public employment irrespective of the degree of the offense. Consequently, convictions for any drug offense occurring in the workplace (including fourth degree, disorderly persons and petty disorderly persons offenses) which are determined to involve or touch upon the office or employment of an individual may result in the statutory forfeiture of public office or employment.

   c. In the case of a drug conviction for an offense occurring in the workplace that does not result in statutory forfeiture of public office or employment, disciplinary action shall be taken. The extent of disciplinary action shall be determined by the appointing authority. In addition, in the case of any disciplinary action other than removal, an employee shall be required to satisfactorily participate in a program for the treatment of drug abuse approved by both the appointing authority and any federal or State agency responsible for the approval or licensure of such programs.

   d. Each department head, agency head, or their designee who
receives notice of a drug offense conviction shall, within 30 days of receipt of notice, take the administrative action necessary for removal where statutory forfeiture is required, and where statutory forfeiture is not required, take the administrative action necessary to impose discipline and require satisfactory participation in an approved program for drug abuse where appropriate.

5. An employee who is convicted of a drug offense committed in the workplace must, within five days, report the conviction to his or her supervisor.

6. Each supervisor who receives a report of a conviction for a drug offense in the workplace must immediately report the conviction, according to departmental or agency procedures, to the department head, agency head, or their designee.

7. Within 10 days of the supervisor's receipt of notice of a conviction for a drug offense, the department head, agency head, or their designee shall ensure that notification of such conviction is provided to any federal agency providing funds for a program in which the convicted employee is employed.

8. Each department head, agency head, or their designee must develop and implement procedures to ensure that reports, which are received by supervisors, concerning convictions for drug offenses in the workplace are reported promptly to the department head, agency head, or their designee.

9. Each department head, agency head, or their designee must maintain records that contain the following information on each conviction for a drug offense committed in the workplace by an employee:

   a. Date of conviction;
   b. Disciplinary action taken;
   c. Whether the employee is one whose duties involve the performance of a federal grant; and
   d. Date federal grantor was notified of the conviction, if applicable.

10. Each department head, agency head, or their designee will distribute an Employee Notice and this Executive Order to each current employee. Each department head, agency head, or their designee shall distribute these documents to any employee who joins
the work force after the initial distribution. A program entitled “Drug-Free Awareness” is being developed, and upon completion will be provided to all employees.

11. Definitions for purpose of this policy:

a. “Conviction” means a finding of guilt, or a plea of guilty, before a court of competent jurisdiction, and, where applicable, a plea of nolo contendere. A conviction is deemed to occur at the time the plea is accepted or verdict returned. It does not include entry into and successful completion of a pre-trial intervention program, pursuant to N.J.S.2C:43-12 et seq., or a conditional discharge, pursuant to N.J.S.2C:36A-1.

b. “Drug” means a controlled dangerous substance, analog, or immediate precursor as listed in Schedules I through V in the New Jersey Controlled Dangerous Substances Act, C.24:21-1 et seq., and as modified in any regulation issued by the Commissioner of Health. It also includes controlled substances in Schedules I through V of Section 202 of the Federal Controlled Substance Act of 1970 (21 U.S.C. § 812). The term shall not include tobacco or tobacco products or distilled spirits, wine, or malt beverages as they are defined or used in R.S.33:1-1 et seq.

c. “Employee” means all employees of the Office of the Governor or a department or agency within the scope of this Policy, whether full- or part-time, and whether in the career, senior executive or unclassified service.

d. “Workplace,” for the purposes of this Policy only, means the physical area of operations of a department or agency including buildings, grounds and parking facilities provided by the State. It includes any field location or site at which an employee is engaged, or authorized to engage, in work activity, and includes any travel between such sites.

12. This Policy is effective March 18, 1989 and shall remain in effect until superseded by statute, regulation or Executive Order.

Issued March 14, 1989.