

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40A:4-45.32 and 40A:4-45.33 (Local cap law-- extend)

CHAPTER 74

Laws Of: 1987

Bill No: A3468/A3398

Sponsor(s): Kline and Penn

Date Introduced: December 8, 1986

Committee: Assembly: Municipal Government

Senate: County and Municipal Government

Amended during passage: Yes Assembly committee substitute (2nd OCR) enacted. Amendments during passage denoted by asterisks.

Date of Passage: Assembly: December 11, 1986

Senate: February 23, 1987

Date of Approval: March 11, 1987

Following statements are attached if available:

Sponsor statement: YEs Attached: Senate amendments, adopted 2-19-87 (with statement)

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

See newspaper clipping-- attached: "Kean enacts reforms in 'caps' spending law," 3-12-87 Star Ledger.

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87

[SECOND OFFICIAL COPY REPRINT]  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY Nos. 3468 and 3398**

**STATE OF NEW JERSEY**

ADOPTED DECEMBER 8, 1986

Sponsored by Assemblymen KLINE and PENN

AN ACT concerning the local spending limitations, amending and supplementing P. L. 1976, c. 68, amending *\*\*P. L. 1981, c. 279,\*\** P. L. 1983, c. 49, P. L. 1985, c. 38, P. L. 1985, c. 164, P. L. 1986, c. 3 and repealing various sections of law.

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

1 1. Section 2 of P. L. 1976, c. 68 (C. 40A:4-45.2) is amended to  
2 read as follows:

3 2. Beginning with the tax year 1977 municipalities, other than  
4 those having a municipal purposes tax rate of \$0.10 or less per  
5 \$100.00, and counties shall be prohibited from increasing their final  
6 appropriations by more than 5% or the index rate, whichever is  
7 less, over the previous year, except within the provisions set forth  
8 hereunder.

9 For the purpose of this section, in computing its final appropria-  
10 tions for the previous year, a municipality or county shall include,  
11 as part of its final appropriations:

12 a. Amounts of revenue generated by an increase in its valuations  
13 based solely on applying the preceding year's local purposes tax  
14 rate of the municipality to the assessed value of new construction  
15 or improvements, or on applying the preceding year's county tax  
16 rate to the apportionment valuation of new construction or im-  
17 provements, as may be appropriate;

**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 printed in italics *thus* is new matter.

**Matter enclosed in asterisks or stars has been adopted as follows:**

\*—Assembly amendments adopted December 8, 1986.

\*\*—Senate amendments adopted February 19, 1987.

18 b. Revenues derived in the previous year from new *construction,*  
 19 *housing, health or fire safety inspection or other* service fees, or  
 20 from any increase in any previously imposed *construction, housing,*  
 21 *health, or fire safety inspection or* service fees imposed by *State*  
 22 *law, rule or regulation or by local ordinance;*

23 c. Amounts approved by referendum, pursuant to subsection i.  
 24 of section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3) and section 1 of  
 25 P. L. 1979, c. 268 (C. 40A:4-45.3a);

26 d. Increased revenue received in the preceding year from pay-  
 27 ments in lieu of taxes on any property owned by a tax-exempt  
 28 public entity, to the extent that the payment is excepted pursuant  
 29 to subsection n. of section 3 of P. L. 1976, c. 68 (C. 40A:4-45:3).

30 In each budget year subsequent to 1981, and in the case of a  
 31 county, in each budget year subsequent to 1982, whenever any  
 32 municipality or county shall have transferred to any local public  
 33 utility, any local public authority or any special purposes district,  
 34 during the immediately preceding budget year, or at any time  
 35 during the current budget year prior to the final adoption of the  
 36 budget, any service or function funded during the immediately  
 37 preceding budget year, either partially or wholly, from appropria-  
 38 tions in the municipal or county budget, the municipality or county  
 39 shall deduct from its final appropriations upon which its permis-  
 40 sible expenditures are calculated, or upon which its permissible  
 41 county tax levy is calculated, pursuant to this section the amount  
 42 which the municipality or county expended for that service or  
 43 function during the last full budget year throughout which the  
 44 service or function so transferred was funded from appropriations  
 45 in the municipal or county budget.

1 2. Section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3) is amended to  
 2 read as follows:

3 3. In the preparation of its budget a municipality shall limit any  
 4 increase in said budget to 5% or the index rate, whichever is less,  
 5 over the previous year's final appropriations subject to the follow-  
 6 ing exceptions:

7 a. The amount of revenue generated by the increase in **[its]**  
 8 valuations\*\*,\*\* based solely on applying the preceding year's  
 9 general tax rate of the municipality to the assessed value of new  
 10 construction or improvements, *or by payments in lieu of taxes made*  
 11 *by a tax-exempt public entity to the extent that the payment received*  
 12 *for any single property exceeds the amount of property taxes*  
 13 *received on that property in the year immediately preceding the*  
 14 *acquisition of that property by the public entity, or, in the case*  
 15 *of State property subject to the provisions of P. L. 1977, c. 272*

16 (C. 54:4-2.2a et seq.), to the extent that the total State payment  
17 exceeds the amount received in 1982 budget year;

18 b. Capital expenditures\*\*, \*\* including appropriations for cur-  
19 rent capital expenditures\*\*, \*\* whether in the capital improvement  
20 fund\*\***[,]**\*\* or as a component of a line item elsewhere in the  
21 budget, provided that any such current capital expenditure would  
22 be otherwise bondable under the requirements of N. J. S. 40A:2-21  
22A and 40A:2-22;

23 c. (1) An increase based upon **[**: (1)**]** emergency temporary  
24 appropriations made pursuant to N. J. S. 40A:4-20 to meet an  
25 urgent situation or event which immediately endangers the health,  
26 safety or property of the residents of the municipality, and over  
27 which the governing body had no control and for which it could  
28 not plan **[**; (2)**]** and emergency appropriations made pursuant to  
29 N. J. S. 40A:4-46 **[**and special emergency appropriations made  
30 pursuant to N. J. S. 40A:4-53 or (3) special emergency appro-  
31 priations made pursuant to N. J. S. 40A:4-54, section 1 of P. L.  
32 1961, c. 22 (C. 40A:4-55.1) or section 1 of P. L. 1968, c. 194  
33 (C. 40A:4-55.13)**]**. Emergency temporary appropriations**[**, special  
34 emergency appropriations**]** and emergency appropriations **[**under  
35 (1) and (2) above**]** shall be approved by at least two-thirds of  
36 the governing body and by the Director of the Division of Local  
37 Government Services, and shall not exceed in the aggregate 3%  
38 of the previous year's final current operating appropriations.

39 (2) An increase based upon special emergency appropriations  
40 made pursuant to N. J. S. 40A:4-53, N. J. S. 40A:4-54, section 1 of  
41 P. L. 1961, c. 22 (C. 40A:4-55.1) or section 1 of P. L. 1968, c. 194  
42 (C. 40A:4-55.13). Special emergency appropriations **[**under (3)  
43 above**]** shall be approved by at least two-thirds of the governing  
44 body, and **[**shall not exceed in the aggregate 3% of the previous  
45 year's final current operating appropriations**]** the Director of the  
46 Division of Local Government Services. Neither approval proce-  
47 dure in paragraph (1) or (2) of this subsection shall apply to  
48 appropriations adopted for a purpose referred to in subsection d.  
49 or j. below;

50 d. All debt service, including that of Type I school district;

51 e. **[**Amounts**]** Upon the approval of the Local Finance Board in  
52 the Division of Local Government Services, amounts required for  
53 funding a preceding year's deficit;

54 f. Amounts reserved for uncollected taxes;

55 g. Expenditures mandated after the effective date of this act  
56 pursuant to State or federal law;

57 h. Expenditure of amounts derived from new or increased

58 *\*construction, housing, health or fire safety\* inspection or \*other\**  
 59 *service fees imposed by State law, rule or regulation or by local*  
 59A *ordinance, or derived from the sale of municipal assets;*

60 i. **When** *Any amount approved by any referendum or any*  
 61 *amount expended to conduct a special election required by law to be*  
 62 *held at a time other than the time of a general election or regular*  
 63 *municipal election, as appropriate;*

64 j. Amounts required to be paid pursuant to (1) any contract with  
 65 respect to use, service or provision of any project, facility or public  
 66 improvement for water, sewer, **solid waste,** parking, senior citizen  
 67 housing or any similar purpose, or payments on account of debt  
 68 service therefor, between a municipality and any other municipality,  
 69 county, school or other district, agency, authority, commission,  
 70 instrumentality, public corporation, body corporate and politic or  
 71 political subdivision of this State. With respect to the amounts  
 72 required to be paid for senior citizen housing in the above cited  
 73 political subdivisions or bodies, the exceptions shall be subject to  
 74 the review and approval of the Local Finance Board; (2) *the*  
 75 *provisions of article 9 of P. L. 1968, c. 404 (C. 13:17-60 through*  
 76 *13:17-76) by a constituent municipality to the intermunicipal*  
 77 *account; and (3) any lease of a facility owned by a county improve-*  
 78 *ment authority when the lease payment represents the propor-*  
 79 *tionate amount necessary to amortize the debt incurred by the*  
 80 *authority in providing the facility which is leased, in whole or in*  
 81 *part;*

82 **k.** Amounts required to be paid by any constituent municipality  
 83 of the Hackensack Meadowlands District established pursuant to  
 84 article 2 of the "Hackensack Meadowlands Reclamation and  
 85 Development Act" (P. L. 1968, c. 404; C. 13:17-4), to the inter-  
 86 municipal account established pursuant to article 9 of said act  
 87 (C. 13:17-60 through 13:17-76); **k.** *(Deleted by amendment;*  
 87A *P. L. . . . ., c. . . .);\*\**

88 **l.** **k.** **l.** Programs funded wholly or in part by federal  
 89 or State funds and amounts received or to be received from federal,  
 90 State or other funds in reimbursement for local expenditures. *If a*  
 91 *municipality provides matching funds in order to receive the*  
 92 *federal or State funds, only the amount of the match which is*  
 93 *required by law to be provided by the municipality shall be ex-*  
 94 *cepted;*

95 **n.** Amounts appropriated to fund any increase in public utility,  
 96 fuel oil, gasoline or heating oil charges which exceeds by more than  
 97 10% the amount produced by subtracting from the amount appro-  
 98 priated in the previous year for these purposes that amount which  
 99 was excepted pursuant to this subsection in that previous year;  
 100 **m.** *(Deleted by amendment, P. L. . . . ., c. . . .);\*\**

101 **\*\*[\*\*n.** Increased revenue from payments in lieu of taxes on any  
 102 property owned by a tax-exempt public entity, to the extent that  
 103 the payment received for any single property exceeds the amount  
 104 of real property taxes received on that property in the year im-  
 105 mediately prior to acquisition by the public entity, or, in the case  
 106 of State property subject to P. L. 1977, c. 272 (C. 54:4-2.2a et seq.),  
 107 to the extent that the total State payment exceeds the amount of  
 108 the payment received in the 1982 budget year;] **\*\*n.** *(Deleted by*  
 108A *amendment; P. L. . . . , c. . . . )*;

109 **[o.]\*\*[l.]\*\*** **\*\*o.\*\*** Any decrease in amounts received pursuant  
 110 to any federal general purposes aid program from the amounts  
 111 received in local budget year 1982, after deducting from the decrease  
 112 any amount of new or increased federal or State general purposes  
 113 aid explicitly provided for the purpose of replacing the decrease  
 114 in federal aid; **\*\*[or]\*\***

115 **[p.** Amounts expended for the conduct of a special election  
 116 required by law to be held at a time other than the time of the  
 117 general election or the time of a regular municipal election;]  
 117A **\*\*p.** *(Deleted by amendment, P. L. . . . , c. . . . )*;

118 **[q.]\*\*[m.]\*\*** **\*\*q.\*\*** Expenditures of amounts to fund the pur-  
 119 chase of vehicles used *solely for police purposes* by the municipal  
 120 police department and all equipment installed in or on the vehicles;  
 121 **[or]**

122 **[r.]\*\*[n.]\*\*** **\*\*r.\*\*** Amounts expended to fund a free public  
 123 library established pursuant to the provisions of R. S. 40:54-1  
 124 through 40:54-29, inclusive;

125 **\*\*[o.]\*\*** **\*\*s.\*\*** *Any additional expenditures for the testing of*  
 126 *water supplies pursuant to P. L. 1983, c. 443 (C. 58:12A-12 et seq.)*  
 127 *or any expenditures necessary to comply with an order or permit*  
 128 *issued by the Department of Environmental Protection for the con-*  
 129 *struction, improvement, repair or rehabilitation of public water*  
 130 *supply systems pursuant to P. L. 1981, c. 262 (C. 58:1A-1 et seq.);*

131 **\*\*[p.]\*\*** **\*\*t.\*\*** *Amounts expended in preparing and imple-*  
 132 *menting a housing element and fair share plan pursuant to the*  
 133 *provisions of P. L. 1985, c. 222 (C. 52:27D-301 et al.) and any*  
 134 *amounts received by a municipality under a regional contribution*  
 135 *agreement pursuant to section 12 of that act; **\*\*[or]\*\****

136 **\*\*[q.]\*\*** **\*\*u.\*\*** *Amounts expended to meet the standards estab-*  
 137 *lished pursuant to the "New Jersey Public Employees Occupa-*  
 138 *tional Safety and Health Act," P. L. 1983, c. 516 (C. 34:6A-25*  
 139 *et seq.) **\*\*[.]\*\****

140 **\*\*v.** *Amounts appropriated for the cost of providing insurance*  
 141 *coverage for the municipality, its departments, boards, agencies,*

142 *commissions, officers and employees, which exceed the amount ap-*  
 143 *propriated therefor, in the 1985 local budget; or*

144 *w. Amounts appropriated for expenditures resulting from the*  
 145 *impact of a hazardous waste facility as described in subsection c.*  
 146 *of section 32 of P. L. 1981, c. 279 (C. 13:1E-80).\*\**

1 3. Section 4 of P. L. 1976, c. 68 (C. 40A:4-45.4) is amended to  
 2 read as follows:

3 4. In the preparation of its budget, a county may not increase  
 4 the county tax levy to be apportioned among its constituent munici-  
 5 palities in excess of 5% or the index rate, whichever is less, of the  
 6 previous year's county tax levy, subject to the following exceptions:

7 a. The amount of revenue generated by the increase in valuations  
 8 within the county, based solely on applying the preceding year's  
 9 county tax rate to the apportionment valuation of new construction  
 10 or improvements within the county, and such increase shall be  
 11 levied in direct proportion to said valuation;

12 b. Capital expenditures, including appropriations for current  
 13 capital expenditures, whether in the capital improvement fund or  
 14 as a component of a line item elsewhere in the budget, provided  
 15 that any such current capital expenditures would be otherwise  
 16 bondable under the requirements of N. J. S. 40A:2-21 and  
 17 40A:2-22;

18 c. (1) An increase based upon **[(1)]** emergency temporary  
 19 appropriations made pursuant to N. J. S. 40A:4-20 to meet an  
 20 urgent situation or event which immediately endangers the health,  
 21 safety or property of the residents of the municipality, and over  
 22 which the governing body had no control and for which it could not  
 23 plan **[(2)]** and emergency appropriations made pursuant to  
 24 N. J. S. 40A:4-46 **[and special emergency appropriations made**  
 25 **pursuant to N. J. S. 40A:4-53 or (3) special emergency appropria-**  
 26 **tions made pursuant to N. J. S. 40A:4-54, section 1 of P. L. 1961,**  
 27 **c. 22 (C. 40A:4-55.1) or section 1 of P. L. 1968, c. 194 (C.**  
 28 **40A:4-55.13)].** Emergency temporary appropriations**[, special**  
 29 **emergency appropriations]** and emergency appropriations **[under**  
 30 **(1) and (2) above]** shall be approved by at least two-thirds of the  
 31 governing body and by the Director of the Division of Local  
 32 Government Services, and shall not exceed in the aggregate 3% of  
 33 the previous year's final current operating appropriations.

34 (2) *An increase based upon special emergency appropriations*  
 35 *made pursuant to N. J. S. 40A:4-53, N. J. S. 40A:4-54, section 1 of*  
 36 *P. L. 1961, c. 22 (C. 40A:4-55.1) or section 1 of P. L. 1968, c. 194*  
 37 *(C. 40A:4-55.13).* Special emergency appropriations **[under (3)**  
 38 **above]** shall be approved by at least two-thirds of the governing

39 body, and, where appropriate, approved by the chief executive  
 40 officer of the county, and [shall not exceed in the aggregate 3% of  
 41 the previous year's final current operating appropriations] *the*  
 42 *Director of the Division of Local Government Services*. Neither  
 43 *approval procedure in paragraph (1) or (2) of this subsection* shall  
 44 apply to appropriations adopted for a purpose referred to in  
 45 subsection d. or j. below;

46 d. All debt service;

47 e. Expenditures mandated after the effective date of this act  
 48 pursuant to State or federal law;

49 f. Amounts required to be paid pursuant to (1) any contract with  
 50 respect to use, service or provision of any project, facility or public  
 51 improvement for water, sewer, [solid waste,] parking, senior  
 52 citizen housing or any similar purpose, or payments on account  
 53 of debt service therefor, between a county, and any other county,  
 54 municipality, school or other district, agency, authority, commis-  
 55 sion, instrumentality, public corporation, body corporate and politic  
 56 or political subdivision of this State\* [ . With respect to the amounts  
 57 required to be paid for senior citizen housing in the above cited  
 58 political subdivisions or bodies, the exceptions shall be subject to  
 59 the review and approval of the Local Finance Board]\*; *and (2) any*  
 60 *lease of a facility owned by a county improvement authority when*  
 61 *the lease payment represents the proportionate amount necessary*  
 62 *to amortize the debt incurred by the authority in providing the*  
 63 *facility which is leased, in whole or in part;*

64 g. That portion of the county tax levy which represents funding  
 65 to participate in any federal or State aid program and amounts  
 66 received or to be received from federal, State or other funds in  
 67 reimbursement for local expenditures. *If a county provides match-*  
 68 *ing funds in order to receive the federal or State funds, only the*  
 69 *amount of the match which is required by law to be provided by the*  
 70 *county shall be excepted;*

71 [h. Amounts appropriated to fund any increase in public utility,  
 72 fuel oil, gasoline or heating oil charges which exceeds by more than  
 73 10% the amount produced by subtracting from the amount appro-  
 74 priated in the previous year for these purposes that amount which  
 75 was excepted pursuant to this subsection in that previous year;]

76 *\*\*h. (Deleted by amendment; P. L. . . . ., c. . . .);\*\**

77 [i. *\*\*[h.]\*\* \*\*i.\*\** Any decrease in amounts received pursuant  
 78 to any federal general purposes aid program from the amounts  
 79 received in local budget year 1982, after deducting from the decrease  
 80 any amount of new or increased federal or State general purposes  
 81 aid explicitly provided for the purpose of replacing the decrease  
 82 in federal aid; [or]

83 **[j.]** **\*\*[i.]\*\*** **\*\*j.\*\*** Amounts expended for the conduct of any  
 84 special election required by law to be held at a time other than the  
 85 time of the general election;

86 **\*\*[j.]\*\*** **\*\*k.\*\*** *Any additional expenditures for the testing of*  
 87 *water supplies pursuant to P. L. 1983, c. 443 (C. 58:12A-1 et seq.);*

88 **\*\*[or]\*\***

89 **\*\*[k.]\*\*** **\*\*l.\*\*** *Amounts expended to meet the standards estab-*  
 90 *lished pursuant to the "New Jersey Public Employees Occupa-*  
 91 *tional Safety and Health Act," P. L. 1983, c. 516 (C. 34:6A-25*  
 92 *et seq.)\*\*[.]\*\** **\*\*;** *or\*\**

93 **\*\*m.** *Amounts appropriated for the cost of providing insurance*  
 94 *coverage for the county, its departments, boards, agencies, com-*  
 95 *missions, officers and employees, which exceed the amount appro-*  
 96 *priated therefor in the 1985 local budget.\*\**

1 4. (New section) Notwithstanding the provisions of sections 3  
 2 and 4 of P. L. 1976, c. 68 (C. 40A:4-45.3 and 40A:4-45.4) to the  
 3 contrary, a county or municipality may expend the funds which  
 4 may be received as revenue as provided herein or which are  
 5 necessary to pay the following costs or to meet the following  
 6 requirements, as exceptions to the spending limitations imposed by  
 7 P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.):

8 a. Amounts necessary for any rates, fees, taxes, contract costs  
 9 or other charges, including recycling and closure costs, associated  
 10 with the collection, transportation and disposal of solid waste;

11 b. Amounts for the installation and use of scales to determine  
 12 the weight of all vehicles disposing of solid waste at a solid waste  
 13 facility as required by P. L. 1983, c. 93 (C. 13:1E-117 et seq.) and  
 14 amounts incurred by any municipality for the disposal of solid  
 15 waste as a direct result of the installation and use of those scales;  
 16 or

17 c. Expenditures of revenues received pursuant to section 5 of  
 18 P. L. 1981, c. 278 (C. 13:1E-96), section 39 of P. L. 1985, c. 38  
 19 (C. 40A:4-27.1) in the case of municipalities, section 41 of P. L.  
 20 1985, c. 38 (C. 40A:4-27.2) in the case of municipalities, or revenues  
 21 received from the sale of recyclable materials.

1 5. **\*\* (New section) \*\*** a. Any county or municipality which in the  
 2 budget years preceding budget year 1987 **\*\*[expended]\*\*** **\*\*appropri-**  
 3 **\*\*ated\*\*** funds for increases in fuel oil, gasoline or heating oil  
 4 charges as an exception to the spending limitations imposed pursu-  
 5 ant to P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.) shall include the  
 6 amount of those funds in its final appropriations for the previous  
 7 year prior to calculating the permissible increase in its tax levy or  
 8 final appropriations, as appropriate, for the 1987 budget year.

9 b. Each county and municipality shall, in budget year 1987 when  
 10 determining their final appropriations for the prior year upon  
 11 which the increase permitted under P. L. 1976, c. 68 (C. 40A:4-45.1  
 12 et seq.) is calculated, deduct from those final appropriations for the  
 13 prior year any amounts appropriated for rates, fees, taxes, contract  
 14 costs, or other charges, including recycling and closure costs,  
 15 associated with the collection, transportation and disposal of solid  
 16 waste.

1 6. Section 7 of P. L. 1983, c. 49 (C. 40A:4-45.14) is amended to  
 2 read as follows:

3 7. ***a.*** Notwithstanding the provisions of section 2, 3 or 4 of  
 4 P. L. 1976, c. 68 (C. 40A:4-45.2, 40A:4-45.3 and 40A:4-45.4) to the  
 5 contrary, in any year for which the index rate exceeds 5%, a  
 6 municipality may, by ordinance, or a county may, by ordinance or  
 7 resolution, as appropriate, provide that in the local budget year to  
 8 which the ordinance or resolution applies, the final appropriations  
 9 of the municipality, or the tax levy of the county, shall be increased  
 10 by a percentage rate greater than 5%, but not to exceed the index  
 11 rate, over the previous year's final appropriations, or county tax  
 11A levy, as the case may be.

11B ***b.*** *Notwithstanding the provisions of section 2, 3 or 4 of P. L.*  
 11C *1976, c. 68 (C. 40A:4-45.2, 40A:4-45.3 and 40A:4-45.4) to the*  
 11D *contrary, in any year in which the index rate is less than 5% a*  
 11E *municipality may, by ordinance approved by a majority vote of*  
 11F *the full membership of the governing body, or a county may, by*  
 11G *ordinance or resolution, as appropriate, approved by a majority*  
 12 *vote of the full membership of the governing body, provide that*  
 12A *in the local budget year to which the ordinance or resolution applies,*  
 12B *the final appropriations of the municipality, or the tax levy of the*  
 12C *county, shall be increased by a percentage rate greater than the*  
 12D *index rate, but not to exceed 5% over the previous year's final ap-*  
 12E *propriations, or county tax levy, as the case may be.\*\**

13 ***c.*** The ordinance or resolution, as appropriate, shall be intro-  
 14 duced after January 1 of the local budget year to which it applies and  
 15 prior to the date provided by law for the introduction and approval  
 16 of the annual budget of the municipality or county. The ordinance  
 17 or resolution shall state the greater percentage rate to be adopted  
 18 and the additional amount of increased final appropriations or tax  
 19 levy which that greater percentage rate represents over that which  
 20 the 5% rate ***or index rate, as appropriate*** represents***]***, and  
 21 the individual appropriations items to which the additional amount  
 22 applies, setting forth for each applicable appropriations item the  
 23 amount to be appropriated: a. if the greater percentage rate is

24 adopted; and b. if the greater percentage rate is not adopted】\*\*.  
 25 The ordinance or resolution may, thereafter, be adopted, after  
 26 publication and a public hearing separately afforded upon 10 days'  
 27 notice duly published, by a majority vote of the authorized member-  
 28 ship of the governing body. Any procedures provided in a form  
 29 of local government for the exercise of veto powers by a mayor or  
 30 county executive with respect to ordinances generally shall pertain.  
 31 An ordinance or resolution so adopted shall, notwithstanding any  
 32 other provision of law, take effect immediately upon adoption.

33 Upon adoption of the ordinance or resolution, the permissible  
 34 final appropriations of the municipality, or permissible county tax  
 35 levy of the county, shall be calculated for the year as provided in  
 36 section 3 or 4 of P. L. 1976, c. 68 (C. 40A:4-45.3 or 40A:4-45.4),  
 37 except that the percentage rate so adopted shall be used. The final  
 38 appropriations or county tax levy so calculated shall be used in the  
 39 immediately following year for the purposes of section 2 of P. L.  
 40 1976, c. 68 (C. 40A:4-45.2).

41 A copy of any ordinance or resolution introduced pursuant to  
 42 this section shall be filed with the Director of the Division of Local  
 43 Government Services within five days of introduction, and a copy  
 44 of the ordinance or resolution adopted shall be filed with the  
 45 director within five days of adoption.

46 In any year for which an ordinance is adopted by a municipality  
 47 pursuant to this section, no referendum shall be held in that munici-  
 48 pality pursuant to subsection i. of section 3 of P. L. 1976, c. 68 (C.  
 49 40A:4-45.3); *provided that a municipality may hold a special*  
 50 *election if required by law pursuant to that subsection.*

51 【No municipality adopting an ordinance pursuant to this section  
 52 shall, in the year for which that ordinance is adopted, be entitled to  
 53 an exception authorized pursuant to subsection m. of section 3 of  
 54 P. L. 1976, c. 68 (C. 40A:4-45.3) greater than the amount of excep-  
 55 tion to which it would otherwise have been entitled if there had been  
 56 no increase in appropriation in that year over the preceding year.

57 No county adopting an ordinance or resolution, as appropriate,  
 58 pursuant to this section shall, in the year for which that ordinance  
 59 or resolution is adopted, be entitled to an exception authorized  
 60 pursuant to subsection h. of section 4 of P. L. 1976, c. 68 (C.  
 61 40A:4-45.4), greater than the amount of exception to which it would  
 62 otherwise have been entitled if there had been no increase in appro-  
 63 priation in that year over the preceding year.】

1 7. Section 39 of P. L. 1985, c. 38 (C. 40A:4-27.1) is amended to  
 2 read as follows:

3 39. Any monies due a municipality pursuant to the provisions of  
 4 section 19 of P. L. 1975, c. 326 (C. 13:1E-28) may be anticipated by  
 5 the municipality for the purposes of preparing its annual budget.  
 6 **【The receipt and expenditure by a municipality of these monies**  
 7 **shall be exempt from the limitations on municipal expenditures**  
 8 **imposed pursuant to P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.).】**

1 8. Section 41 of P. L. 1985, c. 38 (C. 40A:4-27.2) is amended to  
 2 read as follows:

3 41. Any monies due a municipality pursuant to the provisions of  
 4 section 40 of **【this amendatory and supplementary act】** *P. L. 1985,*  
 5 *c. 38 (C. 48:13A-5.1)* may be anticipated by the municipality for  
 6 the purposes of preparing its annual budget. **【The receipt and**  
 7 **expenditure by a municipality of these moneys shall be exempt from**  
 8 **limitations on municipal expenditures imposed pursuant to P. L.**  
 9 **1976, c. 68 (C. 40A:4-45.1 et seq.).】**

1 **\*【9. Section 2 of P. L. 1985, c. 164 (C. 40A:4-45.27) is amended to**  
 2 **read as follows:**

3 2. Any costs of solid waste disposal appropriated by any mu-  
 4 nicipality as an exception to its expenditure limits pursuant to  
 5 subsection **【j. of section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3(j))】**  
 6 *h. of section 4 of P. L. , c. (C. ) (now pending*  
 7 *before the Legislature as this bill)*, in the year immediately pre-  
 8 ceding the year in which section 1 of this act first applies, may  
 9 thereafter be included in the municipality's final appropriations  
 10 for purposes of calculating its spending limits.】\*

1 **\*【10.】\* \*9.\* \*\*【Section 7 of P. L. 1976, c. 68 is amended to read**  
 1A **as follows:**

2 7. This act shall take effect immediately and be applicable to the  
 3 tax years beginning in 1977 and shall expire December 31, **【1986】**  
 4 **1989.】\*\* \*\*Section 32 of P. L. 1981, c. 279 (C. 13:1E-80) is amended**  
 5 **to read as follows:**

6 32. a. *All major hazardous waste facilities shall, for the pur-*  
 7 *poses of local property taxation, be assessed and taxed in the*  
 8 *same manner as other real property.*

9 *In the event that a major hazardous waste facility is constructed*  
 10 *or operated on a site which is exempt from local property taxation*  
 11 *by virtue of the ownership thereof by any public agency, the owner*  
 12 *or operator of the facility shall, the provisions of any law, rule,*  
 13 *regulation, ordinance, resolution or contract to the contrary not-*  
 14 *withstanding, annually pay to the affected municipality a sum*  
 15 *equal to the amount which would annually be due if the land on*  
 16 *which the facility is located and any improvements thereto were*  
 17 *assessed and taxed as real property subject to local property taxa-*

18 tion. Such payments shall be made to the chief fiscal officer of  
19 the affected municipality by December 31 of each year.

20 b. Subsequent to the effective date of this act, the owner or  
21 operator of every major hazardous waste facility shall, on or be-  
22 fore January 25 of each year, file with the chief fiscal officer of the  
23 municipality wherein the facility is located a statement, verified by  
24 oath, showing the gross receipts from all charges imposed during  
25 the preceding calendar year upon any person for the treatment,  
26 storage or disposal of hazardous waste at the facility, and shall  
27 at the same time pay to the chief fiscal officer a sum equal to 5%  
28 of those receipts.

29 c. All moneys received by any municipality pursuant to this  
30 section shall be appropriated and utilized for the following pur-  
31 poses:

32 (1) Extra police or fire costs, whether for salaries, equipment,  
33 or administrative expenses, which were necessitated by the opera-  
34 tions of the major hazardous waste facility;

35 (2) Any local inspection program costs incurred by the local  
36 board of health or the county health department, as the case may  
37 be, provided that the program is performed pursuant to the pro-  
38 visions of this act and any rule or regulation promulgated pursuant  
39 thereto;

40 (3) Road construction or repair costs necessitated by the trans-  
41 portation of hazardous waste through the municipality to the major  
42 hazardous waste facility; and

43 (4) Other expenses directly related to the impact of the major  
44 hazardous waste facility on the municipality.

45 **Any appropriation made for an expenditure covered under this**  
46 **subsection shall, for the purposes of P. L. 1976, c. 68 (C. 40A:4-45.1**  
47 **et seq.), be considered as an expenditure mandated by State law.**

48 d. Any municipality in which a major hazardous waste facility  
49 is located may petition the commission for approval to collect an  
50 amount in excess of the amount prescribed in subsection b. of this  
51 section. The commission, after affording the affected owner or  
52 operator with notice of such petition and an opportunity to be  
53 heard thereon, may grant the petition, but only if the commission  
54 is satisfied that such grant is warranted by the expenses imposed  
55 upon the municipality as a result of the operation of the major  
56 hazardous waste facility.

57 e. The commission may, upon the petition of the affected owner  
58 or operator or upon its own motion, direct that the amount to be  
59 paid pursuant to subsection b. of this section be reduced to a lower  
60 percentage if, after affording the affected municipality notice of

61 *such petition or commission intent to decrease such amount and*  
 62 *an opportunity to be heard thereon, the commission finds that such*  
 63 *lower amount is sufficient to cover the expenses imposed upon the*  
 64 *municipality as a result of the operation of the major hazardous*  
 65 *waste facility.*

66 *f. Any commission action taken pursuant to subsection d. or e.*  
 67 *of this section shall be considered to be final agency action thereon*  
 68 *for the purposes of the "Administrative Procedure Act," P. L.*  
 69 *1968, c. 410 (C. 52:14B-1 et seq.), and shall be subject only to*  
 70 *judicial review as provided in the Rules of Court.\*\**

1 \***[11.]**\* \*10.\* Section 5 of P. L. 1986, c. 3 is amended to read as  
 1A follows:

2 5. This act shall take effect immediately, shall be retroactive to  
 3 January 1, 1986 and shall **[**expire on the date P. L. 1976, c. 68  
 4 (C. 40A:4-45.1 et seq.) expires**]** *apply to each local budget year*  
 5 *thereafter.*

1 \***[12.]**\* \*11.\* The following sections of law are repealed:

2 Section 5 of P. L. 1976, c. 68 (C. 40A:4-45.5);

3 Section 10 of P. L. 1981, c. 262 (C. 58:1A-10);

4 Section 8 of P. L. 1981, c. 278 (C. 13:1E-99);

5 Section 3 of P. L. 1981, c. 306 (C. 13:1E-113);

6 Section 3 of P. L. 1981, c. 438 (C. 40A:4-45.10);

7 Section 5 of P. L. 1981, c. 460 (C. 40A:4-45.11);

8 **\*\*[**Section 10 of P. L. 1983, c. 49 (C. 40A:4-45.17);**]**\*\*

9 Section 5 of P. L. 1983, c. 93 (C. 13:1E-121);

10 Section 4 of P. L. 1983, c. 294 (C. 40A:4-45.18);

11 Section 29 of P. L. 1983, c. 315 (C. 40A:4-45.20);

12 Section 23 of P. L. 1983, c. 383 (C. 40A:4-45.21);

13 Section 7 of P. L. 1983, c. 443 (C. 40A:4-45.22);

14 Section 22 of P. L. 1983, c. 516 (C. 34:6A-47);

15 Section 10 of P. L. 1984, c. 180 (C. 40A:4-45.23);

16 Section 1 of P. L. 1984, c. 231 (C. 40A:4-45.2a);

17 Section 34 of P. L. 1985, c. 38 (C. 40A:4-45.25);

18 Section 3 of P. L. 1985, c. 153 (C. 40A:4-45.10a);

18A *\*Sections 1 and 2 of P. L. 1985, c. 164 (C. 40A:4-45.26 and*  
 18B *40A:4-45.27);\**

19 Section 27 of P. L. 1985, c. 222 (C. 52:27D-327); **\*\*[and]\*\***

20 Section 2 of P. L. 1985, c. 315 (C. 40A:4-45.28) **\*\*[.]\*\* \*\*;** *and\*\**

21 **\*\*Sections 1 and 2 of P. L. 1986, c. 3 (C. 40A:4-45.30 and**  
 22 **40A:4-45.31).\*\***

1 \***[13.]**\* \*12.\* This act shall take effect immediately and shall  
 2 **\*\*[**be applicable on and after December 31, 1986**]** **\*\*** *apply to the*  
 3 *1987 local budget year and each local budget year thereafter\*\*.*

**ASSEMBLY, No. 3398**  
**STATE OF NEW JERSEY**

INTRODUCED OCTOBER 27, 1986

By Assemblyman PENN

AN ACT concerning limitations imposed upon increases in municipal final appropriations and county tax levies, amending and supplementing P. L. 1976, c. 68 and repealing various sections of statutory law.

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

1 1. Section 7 of P. L. 1976, c. 68 is amended to read as follows:

2 7. This act shall take effect immediately and be applicable to  
3 the tax years beginning 1977 and shall expire December 31, **[1986]**  
4 **1989.**

1 2. (New section) The amounts expended by a municipality in  
2 preparing and implementing a housing element and fair share plan  
3 pursuant to the provisions of the "Fair Housing Act," P. L. 1985,  
4 c. 222 (C. 52:27D-301 et seq.) shall be considered a mandated ex-  
5 penditure exempt from the limitations imposed under the provi-  
6 sions of P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.).

1 3. (New section) The amounts any county or municipality is  
2 required to expend in order to meet the standards established  
3 pursuant to the provisions of the "New Jersey Public Employees  
4 Occupational Safety and Health Act," P. L. 1983, c. 516 (C.  
5 34:6A-25 et seq.) shall be exempt from the limitations imposed  
6 upon increases in municipal final appropriations and in county  
7 tax levies by the provisions of P. L. 1976, c. 68 (C. 40A:4-45.1  
8 et seq.).

1 4. (New section) Any additional expenditures or incremental  
2 costs necessarily and reasonably incurred by any municipality in  
3 order to install and use scales to determine the weight of all vehi-

4 cles disposing of solid waste at a solid waste facility as required  
 5 under the provisions of P. L. 1983, c. 93 (C. 13:1E-117 et seq.) and  
 6 any such additional expenditures or incremental costs necessarily  
 7 and reasonably incurred by any municipality for the disposal of  
 8 solid waste as a direct result of the installation and use of such  
 9 scales, shall be exempt from the limitations imposed upon increases  
 10 in municipal final appropriations by the provisions of P. L. 1976,  
 11 c. 68 (C. 40A:4-45.1 et seq.).

1 5. (New section) Any additional amounts a county or munici-  
 2 pality is required to appropriate in order to fund the payment  
 3 of any tax imposed pursuant to the provisions of the "Sanitary  
 4 Landfill Facility Closure and Contingency Fund Act," P. L. 1981,  
 5 c. 306 (C. 13:1E-100 et seq.) shall be exempt from the limitations  
 6 imposed upon increases in municipal final appropriations and in  
 7 county tax levies by the provisions of P. L. 1976, c. 68 (C.  
 8 40A:4-45.1 et seq.).

1 6. (New section) Any additional amounts a county or munici-  
 2 pality is required to appropriate in order to fund any tax imposed  
 3 under the provisions of the "Recycling Act," P. L. 1981, c. 278  
 4 (C. 13:1E-92 et seq.) relating to the collection and disposal of  
 5 solid waste shall be exempt from the limitations imposed on in-  
 6 creases in municipal final appropriations and county tax levies  
 7 under the provisions of P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.).

1 7. (New section) Any revenues a county or municipality shall  
 2 receive under the provisions of section 5 of the "Recycling Act,"  
 3 P. L. 1981, c. 278 (C. 13:1E-96) shall be exempt from the limita-  
 4 tions imposed on increases in municipal final appropriations and  
 5 county tax levies under the provisions of P. L. 1976, c. 68 (C.  
 6 40A:4-45.1 et seq.).

1 8. (New section) The amounts any county or municipality is  
 2 required to expend in order to comply with any order or permit  
 3 issued by the Department of Environmental Protection for the  
 4 construction, improvement, repair or rehabilitation of any public  
 5 water system under the provisions of the "Water Supply Manage-  
 6 ment Act," P. L. 1981, c. 262 (C. 58:1A-1 et seq.) shall be exempt  
 7 from the limitations imposed on increases in municipal final ap-  
 8 propriations and county tax levies under the provisions of P. L.  
 9 1976, c. 68 (C. 40A:4-45.1 et seq.).

1 9. Section 27 of P. L. 1985, c. 222 (C. 52:27D-327), section 22  
 2 of P. L. 1983, c. 516 (C. 34:6A-47), section 5 of P. L. 1983, c. 93  
 3 (C.13:1E-121), section 14 of P. L. 1981, c. 306 (C. 13:1E-113),  
 4 section 8 of P. L. 1981, c. 278 (C. 13:1E-99) and section 10 of  
 5 P. L. 1981, c. 262 (C. 58:1A-10) are repealed.

1 10. This act shall take effect immediately.

## STATEMENT

This bill extends the provisions of the "local cap law," P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.) until December 31, 1989. Presently, the law is scheduled to expire on December 31, 1986.

In an attempt to consolidate all the various existing "cap" exceptions with the provisions of the "Local Budget Law" (N. J. S. 40A:4-1 et seq.), the provisions of the bill repeal those sections of law which authorize a "cap" exception, but which have been allocated in title other than Title 40A of the New Jersey Statutes. The provisions of those repealed sections are re-enacted by the supplementary provisions of this bill.

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**LOCAL BUDGET AND FINANCE**

Extends the provisions of the "local cap law" until December 31, 1989 and consolidates various existing "cap" exceptions within Title 40A of the New Jersey Statutes.

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**ASSEMBLY, No. 3468**  
**STATE OF NEW JERSEY**

INTRODUCED NOVEMBER 13, 1986

By Assemblyman KLINE

AN ACT concerning the local budget caps, amending P. L. 1976, c. 68, P. L. 1983, c. 49 and P. L. 1986, c. 3 and repealing section 10 of P. L. 1983, c. 49 (C. 40A:4-45.17).

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

1    1. Section 7 of P. L. 1983, c. 49 (C. 40A:4-45.14) is amended to  
2    read as follows:

3    7. *a.* Notwithstanding the provisions of section 2, 3 or 4 of P. L.  
4    1976, c. 68 (C. 40A:4-45.2, 40A:4-45.3 and 40A:4-45.4) to the  
5    contrary, in any year for which the index rate exceeds 5%, a  
6    municipality may, by ordinance, or a county may, by ordinance or  
7    resolution, as appropriate, provide that in the local budget year to  
8    which the ordinance or resolution applies, the final appropriations  
9    of the municipality, or the tax levy of the county, shall be increased  
10   by a percentage rate greater than 5%, but not to exceed the index  
11   rate, over the previous year's final appropriations, or county tax  
12   levy, as the case may be.

13   *b.* Notwithstanding the provisions of section 2, 3 or 4 of P. L.  
14   1976, c. 68 (C. 40A:4-45.2, 40A:4-45.3 and 40A:4-45.4) to the con-  
15   trary, in any year for which the index rate is less than 5% a mu-  
16   nicipality may, by ordinance approved by a  $\frac{2}{3}$  vote of the full  
17   membership of the governing body, or a county may, by ordinance  
18   or resolution, as appropriate, approved by a  $\frac{2}{3}$  vote of the full  
19   membership of the governing body, provide that in the local budget  
20   year to which the ordinance or resolution applies, the final appro-  
21   priations of the municipality, or the tax levy of the county, shall

**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 printed in italics thus is new matter**

22 *be increased by a percentage rate greater than the index rate, but*  
23 *not to exceed 5% over the previous year's final appropriations, or*  
24 *county tax levy, as the case may be.*

25 c. The ordinance or resolution, as appropriate, shall be introduced  
26 after January 1 of the local budget year to which it applies and  
27 prior to the date provided by law for the introduction and approval  
28 of the annual budget of the municipality or county. The ordinance  
29 or resolution shall state the greater percentage rate to be adopted  
30 and the additional amount of increased final appropriations or tax  
31 levy which that greater percentage rate represents over that which  
32 the 5% rate *or index rate, as appropriate*, represents, and the indi-  
33 vidual appropriations items to which the additional amount applies,  
34 setting forth for each applicable appropriations item the amount  
35 to be appropriated: a. if the greater percentage rate is adopted;  
36 and b. if the greater percentage rate is not adopted. The ordinance  
37 or resolution may, thereafter, be adopted, after publication and a  
38 public hearing separately afforded upon 10 days' notice duly pub-  
39 lished, by a majority vote of the authorized membership of the  
40 governing body. Any procedures provided in a form of local gov-  
41 ernment for the exercise of veto powers by a mayor or county  
42 executive with respect to ordinances generally shall pertain. An  
43 ordinance or resolution so adopted shall, notwithstanding any other  
44 provision of law, take effect immediately upon adoption.

45 Upon adoption of the ordinance or resolution, the permissible  
46 final appropriations of the municipality, or permissible county tax  
47 levy of the county, shall be calculated for the year as provided in  
48 section 3 or 4 of P. L. 1976, c. 68 (C. 40A:4-45.3 or 40A:4-45.4),  
49 except that the percentage rate so adopted shall be used. The final  
50 appropriations or county tax levy so calculated shall be used in the  
51 immediately following year for the purposes of section 2 of P. L.  
52 1976, c. 68 (C. 40A:4-45.2).

53 A copy of any ordinance or resolution introduced pursuant to  
54 this section shall be filed with the Director of the Division of Local  
55 Government Services within five days of introduction, and a copy  
56 of the ordinance or resolution adopted shall be filed with the  
57 director within five days of adoption.

58 In any year for which an ordinance is adopted by a municipality  
59 pursuant to this section, no referendum shall be held in that munici-  
60 pality pursuant to subsection i. of section 3 of P. L. 1976, c. 68 (C.  
61 40A:4-45.3).

62 No municipality adopting an ordinance pursuant to this section  
63 shall, in the year for which that ordinance is adopted, be entitled to  
64 an exception authorized pursuant to subsection m. of section 3 of

65 P. L. 1976, c. 68 (C. 40A :4-45.3), greater than the amount of excep-  
 66 tion to which it would otherwise have been entitled if there had been  
 67 no increase in appropriation in that year over the preceding year.

68 No county adopting an ordinance or resolution, as appropriate,  
 69 pursuant to this section shall, in the year for which that ordinance  
 70 or resolution is adopted, be entitled to an exception authorized  
 71 pursuant to subsection h. of section 4 of P. L. 1976, c. 68 (C.  
 72 40A :4-45.4), greater than the amount of exception to which it would  
 74 otherwise have been entitled if there had been no increase in appro-  
 75 priation in that year over the preceding year.

1 2. Section 8 of P. L. 1983, c. 49 (C. 40A :4-45.15) is amended to  
 2 read as follows:

3 8. *a.* Notwithstanding any provisions of P. L. 1976, c. 68 (C.  
 4 40A :4-45.1 et seq.) to the contrary, a municipality or county, which,  
 5 in any year subsequent to 1982 for which the index rate is greater  
 6 than 5%, increases its final appropriations or county tax levy in an  
 7 amount less than that permitted under the 5% percentage rate,  
 8 shall be permitted to appropriate the difference between the amount  
 9 of its actual final appropriations or county tax levy and the amount  
 10 of its permitted final appropriations or county tax levy under the  
 11 5% percentage rate, as an exception to its final appropriations or  
 12 county tax levy in either of the next two succeeding years. In the  
 13 year immediately following the year in which the amount of differ-  
 14 ence is so appropriated, the amount of difference shall be added  
 15 to the final appropriations or county tax levy of the preceding  
 16 year for the purposes of section 2 of P. L. 1976, c. 68 (C.  
 17 40A :4-45.2).

18 *b.* Notwithstanding any provisions of P. L. 1976, c. 68 (C.  
 19 40A :4-45.1 et seq.) to the contrary, a municipality or county, which,  
 20 in any year subsequent to 1986 for which the index rate is less than  
 21 5%, increases its final appropriations or county tax levy in an  
 22 amount less than the index rate, shall be permitted to appropriate  
 23 the difference between the amount of its actual final appropriations  
 24 or county tax levy and the amount of its permitted final appropria-  
 25 tions or county tax levy under the index rate, as an exception to  
 26 its final appropriations or county tax levy in either of the next two  
 27 succeeding years. In the year immediately following the year in  
 28 which the amount of difference is so appropriated, the amount of  
 29 difference shall be added to the final appropriations or county tax  
 30 levy of the preceding year for the purposes of section 2 of P. L.  
 31 1976, c. 68 (C. 40A :4-45.2).

1 3. Section 7 of P. L. 1976, c. 68 is amended to read as follows:

2 7. This act shall take effect immediately and be applicable to the

3 tax years beginning in 1977 and shall expire December 31, ~~1986~~  
4 1989.

1 4. Section 5 of P. L. 1986, c. 3 is amended to read as follows:

2 5. This act shall take effect immediately, shall be retroactive to  
3 January 1, 1986 and shall ~~expire on the date P. L. 1976, c. 68~~  
4 (C. 40A:4-45.1 et seq.) expires] *apply to each local budget year*  
5 *thereafter.*

1 5. Section 10 of P. L. 1983, c. 49 (C. 40A:4-45.17) is repealed.

1 6. This act shall take effect immediately and shall be applicable  
2 on and after December 31, 1986.

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#### STATEMENT

This bill extends the provisions of the local cap law, P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.) until December 31, 1989. Currently the cap law expires on December 31, 1986.

The bill also provides that any municipality or county may, by ordinance or resolution, as appropriate, approved by a  $\frac{2}{3}$  vote of the full membership of the governing body, use a cap rate of up to 5% in any budget year in which the index rate is less than 5%. In addition, the bill includes a "banking" option for a municipality or county which increases its final appropriations or tax levy, as appropriate, by a percentage less than the index rate in any year in which the index rate is less than 5%.

Furthermore, the bill continues the provisions of a cap exception relating to insurance costs if this bill becomes effective after December 31, 1986.

Finally, the bill repeals section 10 of P. L. 1983, c. 49 (C. 40A:4-45.17) which established a commission to study the cap law.

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#### LOCAL BUDGET AND FINANCE

Extends local cap law, provides certain conditions by which the index rate may be exceeded when that rate is less than 5% and repeals section 10 of P. L. 1983, c. 49.

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ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE  
STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY Nos. 3468 and 3398**  
**STATE OF NEW JERSEY**

DATED: DECEMBER 8, 1986

The Assembly Municipal Government Committee favorably reports Assembly Committee Substitute for Assembly Bill Nos. 3468 and 3398.

The Assembly Committee Substitute extends the local cap law for three years, repeals certain cap exceptions entirely and consolidates and recodifies other cap exceptions under the new law.

Currently, the cap law expires on December 31, 1986. The provisions of this bill extend that date to December 31, 1989.

The bill also consolidates many current sections of law containing cap exceptions. The consolidation results in several cap exceptions being recodified while other exceptions are revised. In addition, certain cap exceptions are totally repealed.

The major provisions of the bill are reviewed below:

**MUNICIPALITIES:**

1. The "special emergency appropriations" exception is amended to remove the limit that prohibits special emergency appropriations from exceeding in the aggregate 3% of the previous year's final appropriations.

2. The exception for funding a preceding year's deficit is amended to require approval of the Local Finance Board before a municipality may take the exception.

3. The service fees exception is amended to include certain inspection fees and fees imposed by State rule, regulation or law. The amendment concerning the inspection fees replaces the provisions of C. 40A:4-45.21, now repealed.

4. The exception for programs funded by State or federal funds is amended to clarify that a municipality may except only the minimum amount of matching funds required to be provided by law.

5. The exception for the cost of police vehicles is amended to clarify that only the cost of those vehicles used solely for police purposes may be taken as an exception.

**COUNTIES:**

1. The "special emergency appropriations" exception is amended to remove the limit that prohibits "special emergency appropria-

tions" from exceeding in the aggregate 3% of the previous year's final appropriations.

2. The exception for programs funded by State or federal funds is amended to clarify that a municipality may except only the minimum amount of matching funds required to be provided by law.

**SOLID WASTE:**

Most current cap exceptions concerning solid waste are repealed and references to solid waste in other cap exceptions are deleted.

Instead, a cap exception for all the solid waste expenses of counties and municipalities is provided. In addition, a cap exception is provided for amounts received as revenue from resource recovery and recycling. Sections of law repealed as a result of these provisions are:

C. 13:1E-121

C. 13:1E-99

C. 13:1E-113

C. 40A:4-45.2a

C. 40A:4-45.10

C. 40A:4-45.10a

C. 40A:4-45.25

**OTHER PROVISIONS:**

Section 6. Subsection a. of this section requires counties and municipalities to add to their "cap base" the amounts previously excepted for increases in fuel oil, gasoline or heating oil charges.

Subsection b. requires counties and municipalities to deduct from their "cap base" the amounts previously included for solid waste costs.

Sections 7, 8, 9 and 10. These sections amend various sections of current law to delete or correct references to cap law or to delete cap exceptions now obsolete as a result of this bill.

Section 11. This section extends the cap law for three years.

Section 12. This section amends the effective date of a cap exception for insurance costs.

Section 13. This section repeals the various cap exceptions discussed above. The sections which are repealed and not continued are:

C. 40:4-45.5; a section that excepts emergency increases in county tax levies. The exception needed for this purpose is currently contained in the emergency appropriations exception (C. 40A:4-45.3c and C. 40A:4-45.4c).

C. 40A:4-45.17; a section that eliminates the Local Expenditure Limitations Advisory Commission.

C. 40A:4-45.18; a section that eliminates the cap exception for restoring and preserving historic cemeteries.

C. 40A:4-45.20; a section that concerns an exception for the "Worker and Community Right to Know Act." The related costs are considered a State mandate and therefore such an exception is unnecessary since the costs are covered by the provisions of C. 40:4-45.3q and C. 40A:4-45.4e.

C. 40A:4-45.23; a section that authorizes an exception for grants made under the "Prevention of Homelessness Act of 1984." The exception is unnecessary since the costs are covered by the provisions of C. 40A:4-45.3k and C. 40A:4-45.4q.

C. 40A:4-45.28; a section that eliminates the cap exception for interest collected by municipalities on performance bonds or guarantees.

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SENATE COUNTY AND MUNICIPAL GOVERNMENT  
COMMITTEE

STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY Nos. 3468 and 3398**

with Assembly amendments

**STATE OF NEW JERSEY**

DATED: DECEMBER 15, 1986

The Senate County and Municipal Government Committee reports favorably Assembly Committee Substitute for Assembly Bill Nos. 3468 and 3398 with Assembly amendments.

The Assembly Committee Substitute for Assembly Bill Nos. 3468 and 3398 with Assembly amendments extends the local cap law for three years, repeals certain cap exceptions entirely and consolidates and recodifies other cap exceptions under the new law.

Currently, the cap law expires on December 31, 1986. The provisions of this bill extend that date to December 31, 1989.

The bill also consolidates many current sections of law containing cap exceptions. The consolidation results in several cap exceptions being recodified while other exceptions are revised. Further, there are a few cap exceptions that are totally repealed.

The major provisions of the bill concerning how cap exceptions are changed are revealed below:

**MUNICIPALITIES:**

1. The special emergency appropriations exception is amended to remove the limit that prohibits special emergency appropriations from exceeding in the aggregate 3% of the previous year's final appropriations.
2. The exception for funding a preceding year's deficit is amended to require approval of the Local Finance Board before a municipality may take the exception.
3. The service fees exception is amended to include certain inspection fees and fees imposed by State rule, regulation or law. The amendment concerning the inspection fees replaces the provisions of C. 40A:4-45.21, now repealed.
4. The exception for programs funded by State or federal funds is amended to clarify that a municipality may except only the minimum amount of matching funds required to be provided by law.

5. The exception for costs incurred above a certain amount for public utility, fuel oil, gasoline or heating oil charges is repealed. The portion of those costs so excepted for solid waste expenditures is continued under new section 4 of the bill.

6. The exception for costs of police vehicles is amended to clarify that only the costs of those vehicles used solely for police purposes may be taken as an exception.

#### COUNTIES:

1. The special emergency appropriations exception is amended to remove the limit that prohibits special emergency appropriations from exceeding in the aggregate 3% of the previous year's final appropriations.

2. The exception for programs funded by State or federal funds is amended to clarify that a county may except only the minimum amount of matching funds required to be provided by law.

3. The exception for costs incurred above a certain amount for public utility, fuel oil, gasoline or heating oil charges is repealed. The portion of those costs so excepted for solid waste expenditures is continued under new section 4 of the bill.

#### SOLID WASTE:

Most current cap exceptions concerning solid waste are repealed and references to solid waste in other cap exceptions are deleted.

Instead, a cap exception for all the solid waste expenses of counties and municipalities is provided. In addition, a cap exception is provided for amounts received as revenue from resource recovery and recycling. Sections of law repealed as a result of these provisions are:

- C. 13:1E-121
- C. 13:1E-99
- C. 13:1E-113
- C. 40A:4-45.2a
- C. 40A:4-45.10
- C. 40A:4-45.10a
- C. 40A:4-45.25
- C. 40A:4-45.26
- C. 40A:4-45.27

#### OTHER PROVISIONS:

Section 6. Subsection a. of this section requires counties and municipalities to add to their "cap base" the amounts previously excepted for increases in fuel oil, gasoline or heating oil charges.

Subsection b. requires counties and municipalities to deduct from their "cap base" the amounts previously included for solid waste costs.

Sections 7, 8, 9 and 10. These sections amend various sections of current law to delete or correct references to the cap law or to delete cap exceptions now obsolete as a result of this bill.

Section 11. This section extends the cap law for three years.

Section 12. This section amends the effective date of a cap exception for insurance costs.

Section 13. This section repeals the various cap exceptions discussed above. The sections which are repealed and not continued are:

C. 40A:4-45.5; this section excepts emergency increases in county tax levies. The exception needed for this purpose is currently contained in the emergency appropriations exception (C. 40A:4-45.3c and C. 40A:4-45.4c).

C. 40A:4-45.17; eliminates the Local Expenditure Limitations Advisory Commission.

C. 40A:4-45.18; eliminates the cap exception for restoring and preserving historic cemeteries.

C. 40A:4-45.20; this section concerns an exception for the "Worker and Community Right to Know Act." The related costs are considered a State mandate and therefore covered by the provisions of C. 40A:4-45.3q and C. 40A:4-45.4e.

C. 40A:4-45.23; this section concerns an exception for grants made under the "Prevention of Homelessness Act (1984)" and the exception provided in C. 40A:4-45.3k and C. 40A:4-45.4q provides the necessary exception.

C. 40A:4-45.28; eliminates the cap exception for interest collected by municipalities on performance bonds or guarantees.

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SENATE Amendments  
(proposed by Senator Van Wagner)

to

ACS for A-3468/A-3398 OCR  
(sponsored by Assemblyman Kline and Penn)

Amend:

Page	Sec.	Line	
11	11	8	Omit line 8 in its entirety
11	11	19	Omit "and"
11	11	20	After "45.28)" omit "." insert ";" and"
11	11	After 20	After line 20 insert new line to read as follows: "Sections 1 and 2 of P.L. 1986, c. 3 (C. 40A:4-45.30 and 40A:4-45.31)."
11	12	1-2	Omit "be" on line 1; omit "applicable on and after December 31, 1986" on line 2 and insert "apply to the 1987 local budget year and each local budget year thereafter"

STATEMENT

These amendments delete the provisions of the bill which extended the effective date of the cap law and repealed the Local Cap commission; identical provisions were enacted under P.L. 1986, c. 203. In addition, the amendments recodify two more cap exceptions (insurance costs and certain costs associated with hazardous waste facilities).

NOTE TO PRINTER: Printer's Error:

4	2	81	Replace "." with ";" without asterisks or brackets
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*Original text to*



# OFFICE OF THE GOVERNOR

## NEWS RELEASE

CN-001

Contact: JOHN SAMERJAN  
609-292-8956 OR 292-6000 EXT. 207

TRENTON, N.J. 08625

Release: WED., MARCH 11, 1987

Governor Thomas H. Kean today signed legislation revising the Local Cap Law by repealing certain cap exceptions, adding new cap exceptions, and consolidating others.

The Assembly Committee Substitute for A-3468, sponsored by Assemblyman J. Edward Kline, R-Atlantic and A-3398, sponsored by Assemblyman John Penn, R-Somerset, supplements legislation signed December 31, 1986 which extended the local cap for an additional three years.

The Local Cap Law allows for local government units to increase "capped" expenditures up to five percent from the "capped" expenditures from the previous fiscal year.

This new legislation repeals the following cap exceptions: increases in utility costs over ten percent, money spent on historic cemeteries, and money spent to meet an emergency county tax levy.

Further, this bill repeals two exceptions to the Cap Law that are covered under other sections of the law: amounts spent for compliance with the Right-to-Know Law and amounts received as grants-in-aid to alleviate homelessness.

-more-

Exceptions to the cap law that are codified in this bill include the amount of revenue generated by an increase of in lieu payments made by a tax exempt public entity for new construction or improvements. Special emergency appropriations for the costs associated with revaluation and natural disasters are also exempt.

The legislation is effective immediately and applies to the 1987 local budget year and each budget year thereafter.

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